

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

FILED SENATE
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S.B. 725
PRINCIPAL CLERK

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

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

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

Referred to:

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

5
6 The General Assembly of North Carolina enacts:

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

9
10 **INTRODUCTION**

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

16
17 **TITLE OF ACT**

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

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

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

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

28

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



General Assembly of North Carolina**Session 2013**

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

General Assembly of North Carolina**Session 2013**

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

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

GENERAL FUND AVAILABILITY STATEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

10
 11 **CURRENT OPERATIONS/HIGHWAY FUND**

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

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

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

HIGHWAY FUND AVAILABILITY STATEMENT

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

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

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

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

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

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

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

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

PART V. OTHER AVAILABILITY AND APPROPRIATIONS

NORTH CAROLINA EDUCATION LOTTERY

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

"§ 18C-162. Allocation of revenues.

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

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

...."

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

"§ 18C-151. Contracts.

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

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

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

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

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

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

15 16 CIVIL FORFEITURE FUNDS

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

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

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

26 EDUCATION LOTTERY

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

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

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

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

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

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

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

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

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

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

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

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

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

30 31 **ESTABLISH SEVERANCE EXPENDITURE RESERVE**

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

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

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

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

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

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

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

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

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

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

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

15 **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

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

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

44 All these cash balances, federal funds, departmental receipts, grants, and gifts shall
45 be expended and reported in accordance with the provisions of the State Budget Act, except as
46 otherwise provided by law and this section.
47

48 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

BUDGET CODE CONSOLIDATIONS

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

BUDGET REALIGNMENT

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

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

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

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

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

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

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

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

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

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

19 **SECTION 6.11.** The Attorney General shall take all necessary actions to notify the
 20 court in action entitled State of North Carolina v. Philip Morris Incorporated. et al., 98 CVS
 21 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina,
 22 and the administrators of the State Specific Account established under the Master Settlement
 23 Agreement of this action by the General Assembly redirecting the payment set forth in Section
 24 6.10.
 25

26 **PART VI-A. INFORMATION TECHNOLOGY**

27 **INFORMATION TECHNOLOGY FUND/AVAILABILITY**

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

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

42
 43 **ESTABLISH INFORMATION TECHNOLOGY RESERVE**

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

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

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

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

18 19 **INFORMATION TECHNOLOGY OPERATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

42 43 **COORDINATION OF INFORMATION TECHNOLOGY REQUIREMENTS**

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

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

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

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

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

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

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

15 **COORDINATION OF GEOGRAPHIC INFORMATION SYSTEM REQUIREMENTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 The members of the Committee shall include the following:

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

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

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

26 ENTERPRISE GRANTS MANAGEMENT

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

30 DPI INFORMATION TECHNOLOGY OVERSIGHT CAPACITY

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

39 PART VII. PUBLIC SCHOOLS

40 FUNDS FOR CHILDREN WITH DISABILITIES

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

51 FUNDS FOR ACADEMICALLY GIFTED CHILDREN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 24 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

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

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

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

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

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

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

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

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

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

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

15 **LITIGATION RESERVE FUNDS**

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

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

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

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

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

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

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

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

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

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

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

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

10 11 **LEA BUDGET ADJUSTMENT**

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

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

20 21 **RESIDENTIAL SCHOOLS**

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

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

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

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

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

34 35 **ASSESSMENT RESULTS REPORTING**

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

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

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

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

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

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

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

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

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

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

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

21 **LEA BUDGETARY FLEXIBILITY**

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

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

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

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

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

51 **PART VIII. COMMUNITY COLLEGES**

REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE

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

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

CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS

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

BASIC SKILLS PLUS

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

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

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

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

REPEAL OF SENIOR CITIZEN TUITION WAIVER

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

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

TECHNICAL EDUCATION INFRASTRUCTURE

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

The impact on enrollment in the college's courses;

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

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

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

NC BACK-TO-WORK FUNDS

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

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

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

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

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

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

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

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

...

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

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

UNC MANAGEMENT FLEXIBILITY REDUCTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 **REDUCE UTILITY BUDGETS**

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

RESTORE THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATH TUITION GRANT

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

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

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

UNIVERSITY CANCER RESEARCH FUND

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

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

UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS

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

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

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

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

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

7
8 **DHHS INTERNAL AUDIT CAPACITY**

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

17
18 **CHILD CARE SUBSIDY RATES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **CHILD CARE FUNDS MATCHING REQUIREMENT**

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

26 **CHILD CARE REVOLVING LOAN**

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

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

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

40 **NC PRE-K**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 required private match. In order to qualify to meet the required private match, the expenses
2 shall:

- 3 (1) Be verifiable from the contractor's records.
- 4 (2) If in-kind, other than volunteer services, be quantifiable in accordance with
5 generally accepted accounting principles for nonprofit organizations.
- 6 (3) Not include expenses funded by State funds.
- 7 (4) Be supplemental to and not supplant preexisting resources for related
8 program activities.
- 9 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and
10 be necessary and reasonable for the proper and efficient accomplishment of
11 the Program's objectives.
- 12 (6) Be otherwise allowable under federal or State law.
- 13 (7) Be required and described in the contractual agreements approved by the
14 North Carolina Partnership for Children, Inc., or the local partnership.
- 15 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local
16 partnership by the contractor in the same manner as reimbursable expenses.

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

24 **SECTION 10.9.(d)** To the extent possible, the North Carolina Partnership for
25 Children, Inc., shall not reduce subsidy expenditures for the 2013-2014 fiscal year.
26

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

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

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

32 **AIDS DRUG ASSISTANCE PROGRAM PILOT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FUNDS FOR SCHOOL NURSES

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

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

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

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

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

27 **AIDS DRUG ASSISTANCE PROGRAM**

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

34 **MEN'S HEALTH**

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

44 **VACCINE INNOVATION**

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

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

4 **TRANSITIONS TO COMMUNITY LIVING INITIATIVE**

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

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

17 **HEALTH INFORMATION TECHNOLOGY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 16 **LIABILITY INSURANCE**

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

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

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

44 45 **LME/MCO RISK RESERVE**

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

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

5 **FOSTER CARE BUDGET FOR GUARDIANSHIP ASSISTANCE**

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

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

22 **REVISE DATES/TANF BENEFIT IMPLEMENTATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 24 **CHILD CARING INSTITUTIONS**

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

31 32 **ELIMINATE MEDICATION ERROR REPORTS**

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

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

37 38 **COMMUNITY CARE OF NORTH CAROLINA**

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

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

1 Division on the progress and results of implementing the quantitative, analytical, utilization,
2 quality, cost containment, and access goals and deliverables set out in the contract. NCCCN,
3 Inc., shall conduct its own analysis of the CCNC system to identify any variations from the
4 development plan for the Enhanced Primary Care Case Management System and its defined
5 goals and deliverables set out in the contract between DMA and NCCCN, Inc. Upon
6 identifying any variations, NCCCN, Inc., shall develop and implement a plan to address the
7 variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to
8 implement the plan.
9

10 **MEDICAID 1915(I) OPTION FOR BENEFICIARIES WITH**
11 **INTELLECTUAL/DEVELOPMENTAL DISABILITIES (IDD)**

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

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

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

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

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

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

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

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

3
4 **MEDICAID**

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

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

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

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

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

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

40 **SECTION 10.39.(b)** Policy. –

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

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

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

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

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

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

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

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

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

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

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

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

49
50 **CATEGORICALLY**
51 **NEEDY – WFFA***

MEDICALLY
NEEDY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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5A. Prior authorization. – The Department of Health and Human Services may impose prior authorization requirements and other restrictions on medications prescribed for Medicaid and Health Choice recipients for the treatment of HIV/AIDS and mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, and other medications prescribed for the treatment of mental illness on the Preferred Drug List (PDL). The Department of Health and Human Services, Division of Medical Assistance, may initiate prior authorization for the prescribing of drugs specified for the treatment of mental illness by providers who fail to prescribe those drugs in accordance with indications and dosage levels approved by the federal Food and Drug Administration.

6. Preferred Drug List. – The Department of Health and Human Services shall establish and implement a preferred drug list program under the Division of Medical Assistance. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL).

The pharmaceutical and therapeutics committee of the Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list, including the implementation of prior authorization on identified drugs. Members of the committee shall submit conflict of interest disclosure statements to the Department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including the following:

- I. Guidelines for the presentation and review of drugs for inclusion on the preferred drug list.
- II. The manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost-effectiveness.
- III. An appeals process for the resolution of disputes.
- IV. Such other policies and procedures as the Department deems necessary and appropriate.

The Department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except medications for treatment of human immunodeficiency virus or acquired immune deficiency syndrome shall not be subject to consideration for inclusion on the preferred drug list.

The Department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the Department's Internet Web site.

The Department shall (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for negotiated

1 discounts or rebates for all prescription drugs under the
2 medical assistance program; or (iv) effectuate any
3 combination of these options in order to achieve the lowest
4 available price for such drugs under such program.

5 The Department may negotiate supplemental rebates from
6 manufacturers that are in addition to those required by Title
7 XIX of the Social Security Act. The committee shall consider
8 a product for inclusion on the preferred drug list if the
9 manufacturer provides a supplemental rebate. The
10 Department may procure a sole source contract with an
11 outside entity or contractor to conduct negotiations for
12 supplemental rebates.

13 The Secretary of the Department of Health and Human
14 Services shall establish a Preferred Drug List (PDL) Policy
15 Review Panel to review the Medicaid PDL recommendations
16 from the Department of Health and Human Services, Division
17 of Medical Assistance, and the Physician Advisory Group
18 Pharmacy and Therapeutics (PAG P&T) Committee.

19 The Secretary shall appoint the following individuals to the
20 review panel: (i) the Director of Pharmacy for the Division of
21 Medical Assistance, (ii) a representative from the PAG P&T
22 Committee, (iii) a representative from the Old North State
23 Medical Society, (iv) a representative from the North
24 Carolina Association of Pharmacists, (v) a representative
25 from Community Care of North Carolina, (vi) a
26 representative from the North Carolina Psychiatric
27 Association, (vii) a representative from the North Carolina
28 Pediatric Society, (viii) a representative from the North
29 Carolina Academy of Family Physicians, (ix) a representative
30 from the North Carolina Chapter of the American College of
31 Physicians, (x) a representative from a research-based
32 pharmaceutical company, (xi) a representative from a
33 hospital-based pharmacy.

34 Individuals appointed to the Review Panel, except for the
35 Division's Director of Pharmacy, shall serve only a two-year
36 term.

37 After the Department, in consultation with the PAG P&T
38 Committee, publishes a proposed policy or procedure related
39 to the Medicaid PDL, the Review Panel shall hold an open
40 meeting to review the recommended policy or procedure
41 along with any written public comments received as a result
42 of the posting. The Review Panel shall provide an opportunity
43 for public comment at the meeting. After the conclusion of
44 the meeting, the Review Panel shall submit policy
45 recommendations about the proposed Medicaid PDL policy
46 or procedure to the Secretary.

47 The Department may establish a Preferred Drug List for the
48 North Carolina Health Choice for Children program and
49 pursue negotiated discounts or rebates for all prescription
50 drugs under the program in order to achieve the lowest
51 available price for such drugs under such program. The

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

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

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

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

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

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

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

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

- 1 Substance Abuse Services under this subdivision shall be established
2 by the Division of Medical Assistance.
- 3 u. Experimental/investigational medical procedures. – Coverage is
4 limited to services, supplies, drugs, or devices recognized as standard
5 medical care for the condition, disease, illness, or injury being treated
6 as determined by nationally recognized scientific professional
7 organizations or scientifically based federal organizations such as the
8 Food and Drug Administration, the National Institutes of Health, the
9 Centers for Disease Control, or the Agency for Health Care Research
10 and Quality.
- 11 v. Clinical trials. – The Division of Medical Assistance shall develop
12 clinical policy for the coverage of routine costs in clinical trial
13 services for life-threatening conditions using resources such as
14 coverage criteria from Medicare, NC State Health Plan, and the input
15 of the Physicians Advisory Group.
- 16 w. Organ transplants.
- 17 x. Mobile health screenings and assessments – In order to receive
18 reimbursement by the NC Medical Assistance program, mobile
19 providers of health and dental screenings, assessments and
20 preventive services must:
- 21 1. refer patients to an established provider of comprehensive
22 care when follow up care is required;
 - 23 2. be linked through either ownership or a legally binding
24 contract to a primary care, dental, or other provider with a
25 permanent and fixed location;
 - 26 3. have electronic technology that enables the same day
27 exchange of patient records with the provider of referral;
 - 28 4. have a service area that is limited to 100 miles in a rural
29 setting and 50 miles in an urban setting from the primary
30 provider to which they are linked.
- 31 (3) Never Events and Hospital Acquired Conditions (HACs) shall not be
32 reimbursed. Medicaid will adhere to Medicare requirements for definition of
33 events and conditions.
- 34 **SECTION 10.39.(e) Provider Performance Bonds and Visits. –**
- 35 (1) Subject to the provisions of this subdivision, the Department may require
36 Medicaid-enrolled providers to purchase a performance bond in an amount
37 not to exceed one hundred thousand dollars (\$100,000) naming as
38 beneficiary the Department of Health and Human Services, Division of
39 Medical Assistance, or provide to the Department a validly executed letter of
40 credit or other financial instrument issued by a financial institution or agency
41 honoring a demand for payment in an equivalent amount. The Department
42 may require the purchase of a performance bond or the submission of an
43 executed letter of credit or financial instrument as a condition of initial
44 enrollment, reenrollment, or reinstatement if:
- 45 a. The provider fails to demonstrate financial viability.
 - 46 b. The Department determines there is significant potential for fraud
47 and abuse.
 - 48 c. The Department otherwise finds it is in the best interest of the
49 Medicaid program to do so.
- 50 The Department shall specify the circumstances under which a performance
51 bond or executed letter of credit will be required.

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

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

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

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

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

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

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

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

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

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

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

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

22 23 **MEDICAID COST CONTAINMENT ACTIVITIES**

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

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

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

MEDICAID SPECIAL FUND TRANSFER

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

NC HEALTH CHOICE MEDICAL POLICY

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

PERSONAL CARE SERVICES/ADL ELIGIBILITY

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

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

- 1 ii. The beneficiary resides either in a private living arrangement,
2 a residential facility licensed by the State of North Carolina as
3 an adult care home, or a combination home as defined in
4 G.S. 131E-101(1a).
5 iii. The five qualifying ADLs are eating, dressing, bathing,
6 toileting, and mobility. Personal care services shall not
7 include nonmedical transportation; financial management;
8 non-hands-on assistance such as cueing, prompting, guiding,
9 coaching, or babysitting; and household chores not directly
10 related to the qualifying ADLs.
- 11 b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage
12 Policy to include up to 60 hours per month for children in accordance
13 with an independent assessment conducted by DMA or its designee
14 and a plan of care developed by the service provider and approved by
15 DMA or its designee. Additional hours may be authorized when the
16 services are required to correct or ameliorate defects and physical
17 and mental illnesses and conditions in this age group, as defined in
18 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved
19 by DMA or its designee. Personal care services shall be available for
20 up to 80 hours per month for adults in accordance with an assessment
21 conducted under subsection d of this section and a plan of care
22 developed by the service provider and approved by the Department
23 of Health and Human Services, Division of Medical Assistance, or its
24 designee.
- 25 c. Implement the following limitations and restrictions:
26 1. Additional services to children required under federal EPSDT
27 requirements shall be provided to qualified beneficiaries.
28 2. Services shall be provided in a manner that supplements,
29 rather than supplants, family roles and responsibilities.
30 3. Services shall be authorized in amounts based on assessed
31 need of each beneficiary, taking into account care and
32 services provided by the family, other public and private
33 agencies, and other informal caregivers who may be available
34 to assist the family. All available resources shall be utilized
35 fully, and services provided by such agencies and individuals
36 shall be disclosed to the DMA assessor.
37 4. Services shall be directly related to the personal care service
38 assessment and plan of care, as applicable.
39 5. Services shall not include household chores not directly
40 related to nonmedical transportation, financial management,
41 and non-hands-on assistance such as cueing, prompting,
42 guiding, coaching, or babysitting.
- 43 d. Utilize the following process for evaluation or reevaluation to
44 provide personal care services:
45 1. All assessments for personal care services, continuation of
46 service, and change of status reviews shall be performed by
47 an independent assessment entity (IAE).
48 i. The IAE shall not be an owner of a provider business
49 or provider of personal care services of any type.
50 ii. A beneficiary shall be assessed by the IAE after the
51 beneficiary's primary or attending physician provides

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

43 **TRANSFER TO OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

7 **MEDICAID PROVIDER ASSESSMENTS**

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

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

19 **HOSPITAL ASSESSMENTS**

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

21 **"§ 108A-121. Definitions.**

22 The following definitions apply in this Article:

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

36"

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

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

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

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

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

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

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

13 (d) Refund of Assessment. – If all or any part of a payment required to be made under
 14 this section is not made to one or more hospitals when due, the Secretary must promptly refund
 15 to each such hospital the corresponding assessment proceeds collected in proportion to the
 16 amount of assessment paid by that hospital."
 17

18 MEDICAID PROVIDER SCREENING

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

20 "§ 108C-3. Medicaid and Health Choice Provider Screening.

21 ...

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

24 ...

25 (16) Portable X-ray suppliers

26 (17) Religious non-medical health care institutions

27 (18) Registered dieticians

28 (19) Clearinghouses, Billing Agents and Alternate Payees

29 ...

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

32 ...

33 (14) Local Health Departments

34 (15) Non-Emergency Medical Transportation

35"

36 STATE-COUNTY SPECIAL ASSISTANCE

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

44 SECTION 10.48.(b) The maximum monthly rate for residents in
 45 Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars
 46 (\$1,515) per month per resident unless adjusted by the Department in accordance with
 47 subsection (d) of this section.

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

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

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

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

34
 35 **DHHS BLOCK GRANTS**

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

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

41
 42 Local Program Expenditures

43
 44 Division of Social Services

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

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

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

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

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

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

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

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

GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **SOCIAL SERVICES BLOCK GRANT**

32 **SECTION 10.50.(k)** The sum of thirty one million seven hundred ninety-nine
33 thousand two hundred ten dollars (\$31,799,210) appropriated in this section in the Social
34 Services Block Grant to the Department of Health and Human Services, Division of Social
35 Services, for the 2013-2014 fiscal year shall be used for County Block Grants. The Division
36 shall certify these funds in the appropriate State-level services based on prior year actual
37 expenditures. The Division has the authority to realign the authorized budget for these funds
38 among the State-level services based on current year actual expenditures.

39 **SECTION 10.50.(l)** The sum of one million three hundred thousand dollars
40 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department
41 of Health and Human Services, Division of Social Services, for the 2013-2014 fiscal year shall
42 be used to support various child welfare training projects as follows:

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

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

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

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

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

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

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

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

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

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

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

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

MATERNAL AND CHILD HEALTH BLOCK GRANT

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

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

PREVENTIVE HEALTH SERVICES BLOCK GRANT

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

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

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

PART XII. DEPARTMENT OF LABOR

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

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

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

"§ 105-187.19. Use of tax proceeds.

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

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

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

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

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

17 **WHITE GOODS DISPOSAL TAX**

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

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

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

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

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

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

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

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

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

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

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

22 23 **SOLID WASTE DISPOSAL TAX**

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

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

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

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

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

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

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

50 **SOLID WASTE MANAGEMENT TRUST FUND**

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

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

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

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

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

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

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

35"

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

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

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

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

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

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

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

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

- 1 (17) One member appointed by the General Assembly upon the recommendation
2 of the Speaker of the House of Representatives to a term that expires on 1
3 July of years that are evenly divisible by four.
- 4 (18) One member appointed by the General Assembly upon the recommendation
5 of the Speaker of the House of Representatives to a term that expires on 1
6 July of years that follow by one year those years that are evenly divisible by
7 four.
- 8 (19) One member appointed by the General Assembly upon the recommendation
9 of the Speaker of the House of Representatives to a term that expires on 1
10 July of years that follow by one year those years that are evenly divisible by
11 four.
- 12 (20) One member appointed by the General Assembly upon the recommendation
13 of the Speaker of the House of Representatives to a term that expires on 1
14 July of years that follow by two years those years that are evenly divisible by
15 four.
- 16 (21) One member appointed by the General Assembly upon the recommendation
17 of the Speaker of the House of Representatives to a term that expires on 1
18 July of years that follow by two years those years that are evenly divisible by
19 four.

20 (b1) Qualifications. – The office of Trustee is declared to be an office that may be held
21 concurrently with any other executive or appointive office, under the authority of Article VI,
22 Section 9, of the North Carolina Constitution. Persons appointed shall be knowledgeable in at
23 least one of the following areas:

- 24 (1) Acquisition and management of natural areas.
25 (2) Conservation and restoration of water quality.
26 (3) Wildlife and fisheries habitats and resources.
27 (4) Environmental management.

28 (b2) Limitation on Length of Service. – No member of the Board of Trustees shall serve
29 more than two consecutive four-year terms or a total of 10 years.

30 (c) Chair. – The Governor shall appoint one member to serve as Chair of the Board of
31 Trustees.

32 (d) Vacancies. – An appointment to fill a vacancy on the Board of Trustees created by
33 the resignation, removal, disability, or death of a member shall be for the balance of the
34 unexpired term. Vacancies in appointments made by the General Assembly shall be filled as
35 provided in G.S. 120-122.

36 (e) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year
37 and may hold special meetings at the call of the Chair or a majority of the members.

38 (e1) Quorum. – A majority of the membership of the Board of Trustees constitutes a
39 quorum for the transaction of business.

40 (f) Per Diem and Expenses. – Each member of the Board of Trustees shall receive per
41 diem and necessary travel and subsistence expenses in accordance with the provisions of
42 G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the
43 Fund.

44 (g) Staff Support and Meeting Facilities. – The Secretary of Environment and Natural
45 Resources shall provide staff support and meeting facilities for the Board of Trustees ~~and its~~
46 ~~staff as requested by the Chair."~~

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

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

51

DRINKING WATER STATE REVOLVING FUND

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

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

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

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

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

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

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

PARKS AND RECREATION TRUST FUND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACQUISITION OF LAND WITH FUNDS FROM THE NATURAL HERITAGE TRUST FUND.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "**§ 113-68. Definitions.**

25 As used in this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **"§ 113-168.4. Sale of fish.**

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

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

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

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

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

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

1 ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 ...

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

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

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

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

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

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

1 ...

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

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

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

14 (c) Authorized Commercial Gear. –

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

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

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

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

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

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

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

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

51 (j) Exemptions. –

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

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

21 **"§ 113.203. Transplanting of oysters and clams.**

22 (a) It is unlawful to transplant oysters taken from public grounds to private beds except:

- 23 (1) When lawfully taken during open season and transported directly to a private
24 bed in accordance with rules of the Marine Fisheries Commission.
- 25 (2) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.
- 26 (3) When the transplanting is done in accordance with the provisions of this
27 section and implementing rules.

28 (a1) It is lawful to transplant seed clams less than 12 millimeters in their largest
29 dimension and seed oysters less than 25 millimeters in their largest dimension and when the
30 seed clams and seed oysters originate from an aquaculture operation permitted by the Secretary.

31 (b) It is lawful to transplant to private beds oysters or clams taken from polluted waters
32 with a permit from the Secretary setting out the waters from which the oysters or clams may be
33 taken, the quantities which may be taken, the times during which the taking is permissible, and
34 other reasonable restrictions imposed by the Secretary for the regulation of transplanting
35 operations. Any transplanting operation which does not substantially comply with the
36 restrictions of the permit issued is unlawful.

37 (c) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

38 (d) It is lawful to transplant to private beds in North Carolina oysters taken from natural
39 or managed public beds designated by the Marine Fisheries Commission as seed oyster
40 management areas. The Secretary shall issue permits to all qualified individuals who are
41 residents of North Carolina without regard to county of residence to transplant seed oysters
42 from said designated seed oyster management areas, setting out the quantity which may be
43 taken, the times which the taking is permissible and other reasonable restrictions imposed to aid
44 the Secretary in the Secretary's duty of regulating such transplanting operations. Persons taking
45 such seed oysters may, in the discretion of the Marine Fisheries Commission, be required to
46 pay to the Department for oysters taken an amount to reimburse the Department in full or in
47 part for the costs of seed oyster management operations. Any transplanting operation which
48 does not substantially comply with the restrictions of the permit issued is unlawful.

49 (e) The Marine Fisheries Commission may implement the provisions of this section by
50 rules governing sale, possession, transportation, storage, handling, planting, and harvesting of
51 oysters and clams and setting out any system of marking oysters and clams or of permits or

1 receipts relating to them generally, from both public and private beds, as necessary to regulate
2 the lawful transplanting of seed oysters and oysters or clams taken from or placed on public or
3 private beds.

4 (f) The Commission may establish a fee for each permit established pursuant to this
5 subsection in an amount that compensates the Division for the administrative costs associated
6 with the permit but that does not exceed two hundred dollars (\$200.00) per permit.

7 (g) Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from
8 one permit year to the next, the Division may issue a permit prior to 1 July of the permit year
9 for which the permit is valid. Revenue that the Division receives for the issuance of a permit
10 prior to the beginning of a license year shall not revert at the end of the fiscal year in which the
11 revenue is received and shall be credited and available to the Division for the permit year in
12 which the permit is valid."

13 **SECTION 13.12.** G.S.°113-174.4 is repealed.

14 "~~§ 113-174.4. Ocean Fishing Pier Blanket CRFL.~~

15 ~~Ocean Fishing Pier Blanket CRFL.— A person who owns or operates an ocean fishing pier~~
16 ~~and who charges a fee to allow a person to engage in recreational fishing from the pier may~~
17 ~~purchase an Ocean Fishing Pier Blanket CRFL issued by the Division. An Ocean Fishing Pier~~
18 ~~Blanket CRFL authorizes all individuals who do not hold a license issued under this Article or~~
19 ~~Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters while on~~
20 ~~the pier. This license is valid for a period of one year from the date of issuance. The fee for an~~
21 ~~Ocean Fishing Pier Blanket CRFL is four dollars (\$4.00) per linear foot, to the nearest foot, that~~
22 ~~the pier extends into coastal fishing waters beyond the mean high waterline. The length of the~~
23 ~~pier shall be measured to include all extensions of the pier."~~

24 **SECTION 13.13.** G.S.°113-210 reads as rewritten:

25 "**§ 113-210. Under Dock Oyster Culture.**

26 (a) Under Dock Oyster Culture Permit. – An Under Dock Oyster Culture Permit
27 authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation containers
28 to a dock or pier owned by the permit holder.

29 (b) Application. – The owner of a dock or pier who wishes to obtain an Under Dock
30 Oyster Culture Permit shall apply to the Director of the Division of Marine Fisheries.

31 (c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under
32 Dock Oyster Culture Permit only if the Director determines all of the following:

33 (1) That the dock or pier is not located in an area that the State Health Director
34 has recommended be closed to shellfish harvest due to pollution or that has
35 been closed to harvest by statute, rule, or proclamation due to suspected
36 pollution.

37 (2) That the owner of the dock or pier has satisfied the training requirements
38 established by the Marine Fisheries Commission pursuant to subsection (j)
39 of this section.

40 (3) That the attachment of the oyster cultivation containers to the dock or pier
41 will be compatible with all lawful uses by the public of other marine and
42 estuarine resources. Other lawful public uses include, but are not limited to,
43 navigation, fishing, and recreation.

44 (d) Duration. – An Under Dock Oyster Culture Permit is valid for a one-year period
45 from the date of issuance.

46 (e) Renewal. – The Director of the Division of Marine Fisheries shall renew an Under
47 Dock Oyster Culture Permit only if the Director determines the requirements of subsection (c)
48 of this section continue to be satisfied and the holder of the permit is attempting to utilize the
49 permit to cultivate oysters on a continuing basis.

1 (f) Reporting Requirements. – The holder of an Under Dock Oyster Culture Permit
2 shall comply with the biological data sampling and survey programs of the Marine Fisheries
3 Commission and the Division of Marine Fisheries.

4 (g) Posting of Signs. – The holder of an Under Dock Oyster Culture Permit shall post
5 signs that indicate the presence of the oyster cultivation containers and that the oyster
6 cultivation containers and their contents are private property.

7 (h) Sale of Oysters Prohibited. – It is unlawful for the holder of an Under Dock Oyster
8 Culture Permit to sell oysters cultivated pursuant to the permit.

9 (i) Assignment and Transfer Prohibited. – An Under Dock Oyster Culture Permit is not
10 assignable or transferable.

11 (j) Oyster Cultivation Training Requirements. – The Marine Fisheries Commission, in
12 consultation with the Sea Grant College Program at The University of North Carolina, shall
13 develop and adopt rules for the training of individuals who cultivate oysters pursuant to this
14 section.

15 (k) Revocation of Permit. – If the Director of the Division of Marine Fisheries
16 determines that the holder of an Under Dock Oyster Culture Permit has failed to comply with
17 any provision of this section, the Director shall revoke the Permit. The owner of the dock or
18 pier shall remove the oyster cultivation containers that were authorized by the revoked permit
19 within 15 days of revocation.

20 (l) Fees. – Under the Dock Oyster Culture Permit shall be issued annually upon
21 payment of a fee of two hundred dollars (\$200.00).

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

28 **SECTION 13.14.** G.S. 113–221.2 reads as rewritten:

29 **"§ 113-221.2. Commission to adopt rules; enforcement of rules. Additional rules to**
30 **establish sanitation requirements for scallops, shellfish, and crustacea.**

31 For the protection of the public health, the Marine Fisheries Commission shall adopt rules
32 establishing sanitation requirements for the harvesting, processing and handling of scallops,
33 shellfish shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries
34 Commission may also regulate scallops, shellfish shellfish, and crustacea shipped into North
35 Carolina. The Department is authorized to enforce the rules and may ~~issue and revoke permits~~
36 issue, revoke, and establish a fee for each permit issued that does not exceed one hundred
37 dollars (\$100.00) according to the rules.

38 Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from one
39 permit year to the next, the Division may issue a permit prior to 1 July of the permit year for
40 which the permit is valid. Revenue that the Division receives for the issuance of a permit prior
41 to the beginning of a license year shall not revert at the end of the fiscal year in which the
42 revenue is received and shall be credited and available to the Division for the permit year in
43 which the permit is valid."

44 **Section 13.15.** G.S. 143B-289.52 reads as rewritten:

45 **"§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

46 (a) The Marine Fisheries Commission shall adopt rules to be followed in the
47 management, protection, preservation, and enhancement of the marine and estuarine resources
48 within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries
49 resources. The Marine Fisheries Commission shall have the power and duty:

50 (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of
51 marine and estuarine resources in coastal fishing waters with respect to:

- 1 a. Time, place, character, or dimensions of any methods or equipment
- 2 that may be employed in taking fish.
- 3 b. Seasons for taking fish.
- 4 c. Size limits on and maximum quantities of fish that may be taken,
- 5 possessed, bailed to another, transported, bought, sold, or given
- 6 away.
- 7 (2) To provide fair regulation of commercial and recreational fishing groups in
- 8 the interest of the public.
- 9 (3) To adopt rules and take all steps necessary to develop and improve
- 10 mariculture, including the cultivation, harvesting, and marketing of shellfish
- 11 and other marine resources in the State, involving the use of public grounds
- 12 and private beds as provided in G.S. 113-201.
- 13 (4) To close areas of public bottoms under coastal fishing waters for such time
- 14 as may be necessary in any program of propagation of shellfish as provided
- 15 in G.S. 113-204.
- 16 (5) In the interest of conservation of the marine and estuarine resources of the
- 17 State, to institute an action in the superior court to contest the claim of title
- 18 or claimed right of fishery in any navigable waters of the State registered
- 19 with the Department as provided in G.S. 113-206(d).
- 20 (6) To make reciprocal agreements with other jurisdictions respecting any of the
- 21 matters governed in this Subchapter as provided by G.S. 113-223.
- 22 (7) To adopt relevant provisions of federal laws and regulations as State rules
- 23 pursuant to G.S. 113-228.
- 24 (8) To delegate to the Fisheries Director the authority by proclamation to
- 25 suspend or implement, in whole or in part, a particular rule of the
- 26 Commission that may be affected by variable conditions as provided in
- 27 G.S. 113-221.1.
- 28 (9) To comment on and otherwise participate in the determination of permit
- 29 applications received by State agencies that may have an effect on the
- 30 marine and estuarine resources of the State.
- 31 (10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to
- 32 establish a Priority List to determine the order in which Fishery Management
- 33 Plans are developed, to establish a Schedule for the development and
- 34 adoption of each Fishery Management Plan, and to establish guidance
- 35 criteria as to the contents of Fishery Management Plans.
- 36 (11) To approve Coastal Habitat Protection Plans as provided in
- 37 G.S. 143B-279.8.
- 38 (12) Except as may otherwise be provided, to make the final agency decision in
- 39 all contested cases involving matters within the jurisdiction of the
- 40 Commission.
- 41 (13) To adopt rules to define fishing gear as either recreational gear or
- 42 commercial gear.
- 43 (b) The Marine Fisheries Commission shall have the power and duty to establish
- 44 standards and adopt rules:
- 45 (1) To implement the provisions of Subchapter IV of Chapter 113 as provided in
- 46 G.S. 113-134.
- 47 (2) To manage the disposition of confiscated property as set forth in
- 48 G.S. 113-137.
- 49 (3) To govern all license requirements prescribed in Article 14A of Chapter 113
- 50 of the General Statutes.

- 1 (4) To regulate the importation and exportation of fish, and equipment that may
2 be used in taking or processing fish, as necessary to enhance the
3 conservation of marine and estuarine resources of the State as provided in
4 G.S. 113-170.
- 5 (5) To regulate the possession, transportation, and disposition of seafood, as
6 provided in G.S. 113-170.4.
- 7 (6) To regulate the disposition of the young of edible fish, as provided by
8 G.S. 113-185.
- 9 (7) To manage the leasing of public grounds for mariculture, including oysters
10 and clam production, as provided in G.S. 113-202.
- 11 (8) To govern the utilization of private fisheries, as provided in G.S. 113-205.
- 12 (9) To impose further restrictions upon the throwing of fish offal in any coastal
13 fishing waters, as provided in G.S. 113-265.
- 14 (10) To regulate the location and utilization of artificial reefs in coastal waters.
- 15 (11) To regulate the placement of nets and other sports or commercial fishing
16 apparatus in coastal fishing waters with regard to navigational or recreational
17 safety as well as from a conservation standpoint.

18 (c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:

- 19 (1) The opening and closing of coastal fishing waters, except as to inland game
20 fish, whether entirely or only as to the taking of particular classes of fish, use
21 of particular equipment, or as to other activities.
- 22 (2) The possession, cultivation, transportation, importation, exportation, sale,
23 purchase, acquisition, and disposition of all marine and estuarine resources
24 and all related equipment, implements, vessels, and conveyances as
25 necessary to carry out its duties.

26 (d) The Commission may adopt rules required by the federal government for
27 grants-in-aid for coastal resource purposes that may be made available to the State by the
28 federal government. This section is to be liberally construed in order that the State and its
29 citizens may benefit from federal grants-in-aid.

30 (d1) ~~The Commission may regulate participation in a fishery that is subject to a federal
31 fishery management plan if that plan imposes a quota on the State for the harvest or landing of
32 fish in the fishery. The commission may use any additional criteria aside from holding a
33 Standard Commercial Fishing License to develop limited entry fisheries. ~~If the Commission
34 regulates participation in a fishery under this subsection, the Division may issue a license to
35 participate in the fishery to a person who:~~~~

- 36 ~~(1) Held a valid license issued by the Division to harvest, land, or sell fish
37 during at least two of the three license years immediately preceding the date
38 adopted by the Commission to determine participation in the fishery; and~~
- 39 ~~(2) Participated in the fishery during at least two of those license years by
40 landing in the State at least the minimum number of pounds of fish adopted
41 by the Commission to determine participation in the fishery.~~
- 42 (3) The Commission may establish a fee for each license established pursuant to
43 this subsection in an amount that does not exceed one thousand dollars
44 (\$1,000) per license.

45 Advance Sale of Permits, Permit Revenue. – To ensure an orderly transition from one
46 permit year to the next, the Division may issue a permit prior to 1 July of the permit year for
47 which the permit is valid. Revenue that the Division receives for the issuance of a permit prior
48 to the beginning of a license year shall not revert at the end of the fiscal year in which the
49 revenue is received and shall be credited and available to the Division for the permit year in
50 which the permit is valid.

1 (e) The Commission may adopt rules to implement or comply with a fishery
2 management plan adopted by the Atlantic States Marine Fisheries Commission or adopted by
3 the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery
4 Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding
5 G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any
6 time within six months of the adoption or amendment of a fishery management plan or the
7 notification of a change in management measures needed to remain in compliance with a
8 fishery management plan.

9 (f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by
10 the Commission shall be enforced by the Department of Environment and Natural Resources.

11 (g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section
12 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to
13 accomplish the purposes for which it was created.

14 (h) Social security numbers and identifying information obtained by the Commission or
15 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of
16 this subsection, "identifying information" also includes a person's mailing address, residence
17 address, date of birth, and telephone number.

18 (i) The Commission may adopt rules to exempt individuals who participate in
19 organized fishing events held in coastal or joint fishing waters from recreational fishing license
20 requirements for the specified time and place of the event when the purpose of the event is
21 consistent with the conservation objectives of the Commission."

22 **SECTION 13.16.** G.S. 113-182.1 reads as rewritten:

23 **"§ 113-182.1 Fishery Management Plans.**

24 (a) The Department shall prepare proposed Fishery Management Plans for adoption by
25 the Marine Fisheries Commission for all commercially or recreationally significant species or
26 fisheries that comprise State marine or estuarine resources. Proposed Fishery Management
27 Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria
28 established by the Marine Fisheries Commission under G.S. 143B-289.52.

29 (b) The goal of the plans shall be to ensure the long-term viability of the State's
30 commercially and recreationally significant species or fisheries. Each plan shall be designed to
31 reflect fishing practices so that one plan may apply to a specific fishery, while other plans may
32 be based on gear or geographic areas. Each plan shall:

33 (1) Contain necessary information pertaining to the fishery or fisheries,
34 including management goals and objectives, status of relevant fish stocks,
35 stock assessments for multiyear species, fishery habitat and water quality
36 considerations consistent with Coastal Habitat Protection Plans adopted
37 pursuant to G.S. 143B-279.8, social and economic impact of the fishery to
38 the State, and user conflicts.

39 (2) Recommend management actions pertaining to the fishery or fisheries.

40 (3) Include conservation and management measures that will provide the
41 greatest overall benefit to the State, particularly with respect to food
42 production, recreational opportunities, and the protection of marine
43 ecosystems, and that will produce a sustainable harvest.

44 (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.

45 (5) Specify a time period, not to exceed two years from the date of the adoption
46 of the plan, to implement measures to end ~~for ending~~ overfishing. ~~This~~
47 ~~subdivision shall only apply to a plan for a fishery that is not producing a~~
48 ~~sustainable harvest. This subdivision shall not apply if the Fisheries Director~~
49 determines that the biology of the fish, environmental conditions, or lack of
50 sufficient data make implementing the requirements of this subdivision
51 incompatible with professional standards for fisheries management.

1 (6) Specify a time period, not to exceed 10 years from the date of the adoption
2 of the plan, for achieving a sustainable harvest. This subdivision shall not
3 apply if the Fisheries Director determines that the biology of the fish,
4 environmental conditions, or lack of sufficient data make implementing the
5 requirements of this subdivision incompatible with professional standards
6 for fisheries management.

7 (7) Include a standard of at least fifty percent (50%) probability of achieving
8 sustainable harvest for the fishery or fisheries. This subdivision shall not
9 apply if the Fisheries Director determines that the biology of the fish
10 environmental conditions, or lack of sufficient data make implementing the
11 requirements of this subdivision incompatible with professional standards
12 for fisheries management.

13 (c) To assist in the development of each Fishery Management Plan, the Chair of the
14 Marine Fisheries Commission shall appoint a fishery management plan advisory committee.
15 Each fishery management plan advisory committee shall be composed of commercial
16 fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the
17 Fishery Management Plan is being developed.

18 (c1) The Department shall consult with the regional advisory committees established
19 pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan.
20 Before submission of a plan for review by the Joint Legislative Commission on Governmental
21 Operations, the Department shall review any comment or recommendation regarding the plan
22 that a regional advisory committee submits to the Department within the time limits established
23 in the Schedule for the development and adoption of Fishery Management Plans established by
24 G.S. 143B-289.52. Before the Commission adopts a management measure to implement a plan,
25 the Commission shall review any comment or recommendation regarding the management
26 measure that a regional advisory committee submits to the Commission.

27 (d) Each Fishery Management Plan shall be reviewed at least once every five years. The
28 Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it
29 determines that a revision of the Priority List or guidance criteria will facilitate or improve the
30 development of Fishery Management Plans or is necessary to restore, conserve, or protect the
31 marine and estuarine resources of the State. The Marine Fisheries Commission may not revise
32 the Schedule for the development of a Fishery Management Plan, once adopted, without the
33 approval of the Secretary of Environment and Natural Resources.

34 (e) The Secretary of Environment and Natural Resources shall monitor progress in the
35 development and adoption of Fishery Management Plans in relation to the Schedule for
36 development and adoption of the plans established by the Marine Fisheries Commission. The
37 Secretary of Environment and Natural Resources shall report to the Joint Legislative
38 Commission on Governmental Operations on progress in developing and implementing the
39 Fishery Management Plans on or before 1 September of each year. The Secretary of
40 Environment and Natural Resources shall report to the Joint Legislative Commission on
41 Governmental Operations within 30 days of the completion or substantial revision of each
42 proposed Fishery Management Plan. The Joint Legislative Commission on Governmental
43 Operations shall review each proposed Fishery Management Plan within 30 days of the date the
44 proposed Plan is submitted by the Secretary. The Joint Legislative Commission on
45 Governmental Operations may submit comments and recommendations on the proposed Plan
46 to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

47 (e1) If the Secretary determines that it is in the interest of the long-term viability of a
48 fishery, the Secretary may authorize the Commission to develop temporary management
49 measures to supplement an existing Fishery Management Plan pursuant to this subsection.
50 Development of temporary management measures pursuant to this subsection is exempt from
51 subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance

1 criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the
2 next review period for a Fishery Management Plan supplemented pursuant to this subsection,
3 the Commission shall either incorporate the temporary management measures into the revised
4 Fishery Management Plan or the temporary management measures shall expire on the date the
5 revised Fishery Management Plan is adopted.

6 (f) The Marine Fisheries Commission shall adopt rules to implement Fishery
7 Management Plans in accordance with Chapter 150B of the General Statutes.

8 (g) To achieve sustainable harvest under a Fishery Management Plan, the Marine
9 Fisheries Commission may include in the Plan a recommendation that the General Assembly
10 limit the number of fishermen authorized to participate in the fishery. The Commission may
11 recommend that the General Assembly limit participation in a fishery only if the Commission
12 determines that sustainable harvest cannot otherwise be achieved. In determining whether to
13 recommend that the General Assembly limit participation in a fishery, the Commission shall
14 consider all of the following factors:

- 15 (1) Current participation in and dependence on the fishery.
- 16 (2) Past fishing practices in the fishery.
- 17 (3) Economics of the fishery.
- 18 (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- 19 (5) Cultural and social factors relevant to the fishery and any affected fishing
20 communities.
- 21 (6) Capacity of the fishery to support biological parameters.
- 22 (7) Equitable resolution of competing social and economic interests.
- 23 (8) Any other relevant considerations.

24 **SECTION 13.17.** G.S. 113–174.3 reads as rewritten:

25 **"§ 113-174.3. For Hire Blanket CRFL.**

26 ~~(a) License.—A person who operates a for hire boat may purchase a For Hire Blanket~~
27 ~~CRFL issued by the Division for the for hire boat. A For Hire Blanket CRFL authorizes all~~
28 ~~individuals on the for hire boat who do not hold a license issued under this Article or Article~~
29 ~~25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint~~
30 ~~fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in~~
31 ~~recreational fishing in joint fishing waters or inland fishing waters. A For Hire Blanket CRFL is~~
32 ~~valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL~~
33 ~~is:~~

34 ~~(1) Two hundred fifty dollars (\$250.00) for a vessel that will carry six or fewer~~
35 ~~passengers.~~

36 ~~(2) Three hundred fifty dollars (\$350.00) for a vessel that will carry greater than~~
37 ~~six passengers.~~

38 ~~(b) Implementation.—Except as provided in this section and G.S. 113-174.2(d), each~~
39 ~~individual on board a for hire boat engaged in recreational fishing, other than crew members~~
40 ~~who do not engage in recreational fishing, must hold a license issued under this Article or~~
41 ~~Article 25A of this Chapter. An owner, operator, or crew member of a for hire boat is not~~
42 ~~responsible for the licensure of a customer fishing from the boat.~~

43 (a) License. – A person who operates a For Hire vessel has the option to purchase one
44 of the following For Hire Licenses:

- 45 (1) Blanket For Hire Captains CRFL – this license allows individuals properly
46 licensed by the U.S. Coast Guard to carry passengers on any vessel with a
47 commercial vessel registration with a For Hire endorsement. A Blanket for
48 Hire Captains license authorizes all individuals on the For Hire boat who do
49 not hold a license issued under this Article or Article 25A of this Chapter to
50 engage in recreational fishing in coastal fishing waters that are not joint
51 fishing waters. The fee is two hundred fifty dollars (\$250.00), non-residents

1 three hundred seventy-five dollars (\$375.00), to carry six or fewer
2 passengers and three hundred fifty dollars (\$350.00), non-residents five
3 hundred twenty-five (\$525.00), for a vessel that will carry more than six
4 passengers.

5 (2) Blanket For Hire Vessel CRFL – this license allows any U.S. Coast Guard
6 licensed operator to carry passengers aboard the licensed vessel. A Blanket
7 For Hire Vessel license authorizes all individuals on the For Hire boat who
8 do not hold a license issued under this Article or Article 25A of this Chapter
9 to engage in recreational fishing in coastal fishing waters that are not joint
10 fishing waters. The fee is two hundred fifty dollars (\$250.00), non-residents
11 three hundred seventy-five dollars (\$375.00), for a vessel that will carry six
12 or fewer passengers and three hundred fifty dollars (\$350.00), non-residents
13 five hundred twenty-five dollars (\$525.00), for a vessel that will carry more
14 than six passengers.

15 (3) Non-Blanket For Hire Vessel license – this license allows any U.S. Coast
16 Guard licensed operator to carry passengers aboard the licensed vessel. This
17 license does not authorize individuals aboard the vessel to engage in
18 recreational fishing unless they hold an individual Coastal Recreational
19 Fishing License issued under this Article or Article 25A of this Chapter. The
20 fee for this license is fifty dollars (\$50.00), non-residents seventy-five
21 dollars (\$75.00).

22 (b) Any vessel engaged in For Hire fishing, with the exception of those vessels that
23 hold a Blanket For Hire Vessel license, must obtain a Commercial fishing Vessel Registration
24 with a For Hire endorsement.

25 A For Hire Blanket CRFL does not authorize individuals to engage in recreational fishing
26 in joint or inland fishing waters.

27 All For Hire Blanket CRFLs are valid for a period of one year from the date of issuance.
28 All For Hire blanket CRFLs expire on the last day of the license year."

29 30 **PART XIV. DEPARTMENT OF COMMERCE**

31 32 **FLEXIBILITY OF THE DEPARTMENT OF COMMERCE TO REORGANIZE THE** 33 **DEPARTMENT TO ESTABLISH A PUBLIC/PRIVATE PARTNERSHIP**

34 **SECTION 14.1.(a)** Notwithstanding any other provision of law, and consistent
35 with the authority granted in G.S. 143B-10, the Secretary of the Department of Commerce may
36 use up to one million dollars (\$1,000,000) in available funds to reorganize positions and related
37 operational costs within the Department to establish a public/private partnership which includes
38 cost containment measures. Actions under this section may only be implemented after the
39 Office of State Budget and Management has approved a proposal submitted by the Department.
40 Proposals under this section shall include, at a minimum, the positions involved and strategies
41 to achieve efficiencies.

42 **SECTION 14.1.(b)** The Department shall report on any actions under this section
43 to the House of Representatives Appropriations Subcommittee on Natural and Economic
44 Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the
45 Fiscal Research Division. The report shall include the positions involved and strategies to
46 achieve efficiencies. The report is due to the House and Senate Appropriations Subcommittees
47 on Natural and Economic Resources and the Fiscal Research Division no later than June 30,
48 2014.

49 50 **NER BLOCK GRANTS**

1 **SECTION 14.2.(a)** Appropriations from federal block grant funds are made for the
2 fiscal year ending June 30,2014, according to the following schedule:

3 **COMMUNITY DEVELOPMENT BLOCK GRANT**

4	01. State Administration	\$1,275,000
5	02. State Technical Assistance	450,000
6	03. Scattered Site Housing	7,200,000
7	04. Economic Development	6,825,000
8	05. Small Business/Entrepreneurship	2,500,000
9	06. NC Catalyst	4,500,000
10	07. Infrastructure	19,600,000
11	08. Capacity Building	600,000

12 **TOTAL COMMUNITY DEVELOPMENT**

13 **BLOCK GRANT – 2013-2014 Program Year** \$42,950,000

14 **SECTION 14.2.(b)** Decreases in Federal Fund Availability. – If federal funds are
15 reduced below the amounts specified above after the effective date of this act, then every
16 program in each of these federal block grants shall be reduced by the same percentage as the
17 reduction in federal funds.

18 **SECTION 14.2.(c)** Increases in Federal Fund Availability for Community
19 Development Block Grant. – Any block grant funds appropriated by the Congress of the United
20 States in addition to the funds specified in this section shall be expended as follows: each
21 program category under the Community Development Block Grant shall be increased by the
22 same percentage as the increase in federal funds.

23 **SECTION 14.2.(d)** Limitations on Community Development Block Grant Funds. –
24 Of the funds appropriated in this section for the Community Development Block Grant, the
25 following shall be allocated in each category for each program year: up to one million two
26 hundred seventy-five thousand dollars (\$1,275,000) may be used for State Administration; up
27 to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;
28 up to seven million two hundred thousand dollars (\$7,200,000) may be used for Scattered Site
29 Housing; up to six million eight hundred twenty-five thousand dollars (\$6,825,000) may be
30 used for Economic Development; up to two million five hundred thousand dollars (\$2,500,000)
31 may be used for Small Business/Entrepreneurship; up to four million five hundred thousand
32 dollars (\$4,500,000) shall be used for NC Catalyst; up to nineteen million six hundred thousand
33 dollars (\$19,600,000) may be used for Infrastructure; up to six hundred thousand dollars
34 (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced or
35 increased by the Congress of the United States after the effective date of this act, then these
36 reductions or increases shall be allocated in accordance with subsection (b) or (c) of this
37 section, as applicable.

38 **SECTION 14.2.(e)** The Department of Commerce shall consult with the Joint
39 Legislative Commission on Governmental Operations prior to reallocating Community
40 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
41 the Director of the Budget finds that:

- 42 (1) A reallocation is required because of an emergency that poses an imminent
43 threat to public health or public safety, the Director of the Budget may
44 authorize the reallocation without consulting the Commission. The
45 Department of Commerce shall report to the Commission on the reallocation
46 no later than 30 days after it was authorized and shall identify in the report
47 the emergency, the type of action taken, and how it was related to the
48 emergency.
- 49 (2) The State will lose federal block grant funds or receive less federal block
50 grant funds in the next fiscal year unless a reallocation is made, the
51 Department of Commerce shall provide a written report to the Commission

1 on the proposed reallocation and shall identify the reason that failure to take
2 action will result in the loss of federal funds. If the Commission does not
3 hear the issue within 30 days of receipt of the report, the Department may
4 take the action without consulting the Commission.

5 **SECTION 14.2.(f)** By September 1 of each fiscal year, the Division of Community
6 Assistance, Department of Commerce, shall report to the Joint Legislative Commission on
7 Governmental Operations and the Fiscal Research Division on the use of Community
8 Development Block Grant Funds appropriated in the prior fiscal year. The report shall include
9 the following:

- 10 (1) A discussion of each of the categories of funding and how the categories
11 were selected, including information on how a determination was made that
12 there was a statewide need in each of the categories.
- 13 (2) Information on the number of applications that were received in each
14 category and the total dollar amount requested in each category.
- 15 (3) A list of grantees, including the grantee's name, county, category under
16 which the grant was funded, the amount awarded, and a narrative description
17 of the project.

18 **SECTION 14.2.(g)** For purposes of this section, eligible activities under the
19 category of Infrastructure in subsection (a) of this section are limited to the installation of
20 public water or sewer lines and improvements to water or sewer treatment plants that have
21 specific problems such as being under moratoriums or special orders of consent.
22

23 **SECTION 14.3.** G.S. 143B-437.55 reads as rewritten:

24 **"§ 143B-437.55. Applications; fees; reports; study.**

25 (a) Application. – A business shall apply, under oath, to the Committee for a grant on a
26 form prescribed by the Committee that includes at least all of the following:

- 27 (1) The name of the business, the proposed location of the project, and the type
28 of activity in which the business will engage at the project site or sites.
- 29 (2) The names and addresses of the principals or management of the business,
30 the nature of the business, and the form of business organization under
31 which it is operated.
- 32 (3) The financial statements of the business prepared by a certified public
33 accountant and any other financial information the Committee considers
34 necessary.
- 35 (4) The number of eligible positions proposed to be created for the project and
36 the salaries for these positions.
- 37 (5) An estimate of the total withholdings.
- 38 (6) Certification that the business will provide health insurance to full-time
39 employees of the project as required by G.S. 143B-437.53(c).
- 40 (7) Information concerning other locations, including locations in other states
41 and countries, being considered for the project and the nature of any benefits
42 that would accrue to the business if the project were to be located in one of
43 those locations.
- 44 (8) Information concerning any other State or local government incentives for
45 which the business is applying or that it has an expectation of receiving.
- 46 (9) Any other information necessary for the Committee to evaluate the
47 application.

48 A business may apply, in one consolidated application in a form and manner determined by
49 the Committee, for a grant that may include performance by related members of the business
50 who may qualify under this Part.

1 The Committee will consider an application by a business for a grant that includes
2 performance of its related members only if the related members for whom the application is
3 submitted assign to the business any claim of right the related members may have under this
4 Part to apply for grants individually during the term of the agreement and agree to cooperate
5 with the business in providing to the Committee all the information required for the initial
6 application and the agreement, and any other information the Committee may require for the
7 purposes of this Part. The applicant business is responsible for providing to the Committee all
8 the information required under this Part.

9 If a business applies for a grant that includes performance by its related members, the
10 related members included in the application may be permitted to meet the qualifications for a
11 grant collectively by participating in a project that meets the requirements of this Part. The
12 amount of a grant may be calculated under the terms of this Part as if the related members were
13 all collectively one business entity. Any conditions for a grant, other than the number of
14 eligible positions created, apply to each related member who is listed in the application as
15 participating in the project. The grant awarded shall be paid to the approved grantee business
16 only. A grant received under this Part by a business may be apportioned to the related members
17 in a manner determined by the business. In order for an agreement to be executed, each related
18 member included in the application must sign the agreement and agree to abide by its terms.

19 (b) Application Fee. – When filing an application under this section, the business must
20 pay the Committee a fee of ~~five thousand dollars (\$5,000)~~ seven thousand five hundred dollars
21 (\$7,500). The fee is due at the time the application is filed. The Secretary of Commerce, the
22 Secretary of Revenue, and the Director of the Office of State Budget and Management shall
23 determine the allocation of the fee imposed by this section among their agencies. The proceeds
24 of the fee are receipts of the agency to which they are credited.

25 (c) Annual Reports. – The Committee shall publish a report on the Job Development
26 Investment Grant Program on or before April 30 of each year. The Committee shall submit the
27 report electronically to the House of Representatives Finance Committee, the Senate Finance
28 Committee, the House of Representatives Appropriations Subcommittee on Natural and
29 Economic Resources, the Senate Appropriations Committee on Natural and Economic
30 Resources, and the Fiscal Research Division. The report shall include the following:

- 31 (1) A listing of each grant awarded during the preceding calendar year,
32 including the name of the business, the cost/benefit analysis conducted by
33 the Committee during the application process, a description of the project,
34 the term of the grant, the percentage of withholdings used to determine the
35 amount of the grant, the annual maximum State liability under the grant, and
36 the maximum total lifetime State liability under the grant.
- 37 (2) An update on the status of projects under grants awarded before the
38 preceding calendar year.
- 39 (3) The number and development tier area of eligible positions to be created by
40 projects with respect to which grants have been awarded.
- 41 (3a) A listing of the employment level for all businesses receiving a grant and
42 any changes in those levels from the level of the next preceding year.
- 43 (4) The wage levels of all eligible positions to be created by projects with
44 respect to which grants have been awarded, aggregated and listed in
45 increments of ten thousand dollars (\$10,000) or other appropriate
46 increments.
- 47 (5) The amount of new income tax revenue received from withholdings related
48 to the projects for which grants have been awarded.
- 49 (6) For the first annual report after adoption of the criteria developed by the
50 Committee, in consultation with the Attorney General, to implement this

- 1 Part, a copy of such criteria, and, for subsequent reports, identification of
2 any changes in those criteria from the previous calendar year.
- 3 (7) The number of awards made to new businesses and the number of awards
4 made to existing, expanding businesses in the preceding calendar year.
- 5 (8) The environmental impact of businesses that have received grants under the
6 program.
- 7 (9) The geographic distribution of grants, by number and amount, awarded
8 under the program.
- 9 (10) Repealed by Session Laws 2009-394, s. 2, effective July 31, 2009.
- 10 (11) A listing of all businesses making an application under this Part and an
11 explanation of whether each business ultimately located the project in this
12 State regardless of whether the business was awarded a grant for the project
13 under this Part.
- 14 (12) Repealed by Session Laws 2006-168, s. 1.4, effective July 27, 2006.
- 15 (13) The total amount transferred to the Utility Account of the Industrial
16 Development Fund under this Part during the preceding year.
- 17 (d) Repealed by Session Laws 2012-142, s. 13.4(f), effective July 1, 2012.
- 18 (e) Study. – The Committee shall conduct a study to determine the minimum funding
19 level required to implement the Job Development Investment Grant Program successfully. The
20 Committee shall report the results of this study to the House of Representatives Finance
21 Committee, the Senate Finance Committee, the House of Representatives Appropriations
22 Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on
23 Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of
24 each year."
- 25

26 **SECTION 14.3A.** G.S. 143B-437.58 reads as rewritten:

27 "**§ 143B-437.58. Grant recipient to submit records.**

28 (a) No later than March 1 of each year, for the preceding grant year, every business that
29 is awarded a grant under this Part shall submit to the Committee an annual payroll report
30 showing withholdings as a condition of its continuation in the grant program and identifying
31 eligible positions that have been created during the base period that remain filled at the end of
32 each year of the grant. Annual reports submitted to the Committee shall include social security
33 numbers of individual employees identified in the reports. Upon request of the Committee, the
34 business shall also submit a copy of its State and federal tax returns. Payroll and tax
35 information, including social security numbers of individual employees and State and federal
36 tax returns, submitted under this subsection is tax information subject to G.S. 105-259.
37 Aggregated payroll or withholding tax information submitted or derived under this subsection
38 is not tax information subject to G.S. 105-259. When making a submission under this section,
39 the business must pay the Committee a fee of ~~one thousand five hundred dollars (\$1,500)~~ two
40 thousand five hundred (\$2,500). The fee is due at the time the submission is made. The
41 Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State
42 Budget and Management shall determine the allocation of the fee imposed by this section
43 among their agencies. The proceeds of the fee are receipts of the agency to which they are
44 credited.

45 (b) The Committee may require any information that it considers necessary to
46 effectuate the provisions of this Part.

47 (c) The Committee may require any business receiving a grant to submit to an audit at
48 any time.

49 (d) The reporting procedures of this section are in lieu of any other general reporting
50 requirements relating to private entities that receive State funds."

51

1 **SECTION 14.4.** Notwithstanding the provisions of G.S. 143B-437.01, of proceeds
 2 that are credited to the Industrial Development Fund Utility Account during the 2013-2015
 3 biennium five million dollars (\$5,000,000) for each year of the biennium may be used for the
 4 operating expenses of the Department of Commerce on a nonrecurring basis.

5
 6 **ONE NORTH CAROLINA FUND**

7 **SECTION 14.5.** Of the funds appropriated in this act to the One North Carolina
 8 Fund for the 2013-2015 biennium, the Department of Commerce may use up to two hundred
 9 fifty thousand dollars (\$250,000) in each year to cover its expenses in administering the One
 10 North Carolina Fund and other economic development incentive grant programs. The
 11 Department of Commerce shall not use more than two hundred fifty thousand dollars
 12 (\$250,000) for administrative costs in any one fiscal year.

13
 14 **NER/COMMERCE/SET REGULATORY FEE FOR UTILITIES COMMISSION**

15 **SECTION 14.6.(a)** The percentage rate to be used in calculating the public utility
 16 regulatory fee under G.S. 62-302(b)(2) is thirteen-hundredths of one percent (0.13%) for each
 17 public utility's North Carolina jurisdictional revenues earned during each quarter that begins on
 18 or after July 1, 2013.

19 **SECTION 14.6.(b)** The electric membership corporation regulatory fee imposed
 20 under G.S. 62-302(b1) for the 2011-2012 fiscal year is two hundred thousand dollars
 21 (\$200,000).

22 **SECTION 14.6.(c)** This section becomes effective July 1, 2013.

23
 24 **REPLACEMENT OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM**
 25 **(EDMS)**

26 **SECTION 14.7.** The Industrial Commission may all utilize up to one million eight
 27 hundred thousand dollars (\$1,800,000) of available funds in Budget Code 24611 to replace the
 28 Electronic Document Management System (EDMS).

29
 30 **RURAL ECONOMIC DEVELOPMENT CENTER**

31 **SECTION 14.8.(a)** Of the funds appropriated in this act to the North Carolina
 32 Rural Economic Development Center, Inc., (Rural Center) the sum of two million nine hundred
 33 ninety-two thousand eight hundred forty-six dollars (\$2,992,846) for each year in the
 34 2013-2015 biennium shall be allocated as follows:

	2013-2014	2014-2015
Center Administration, Technical Assistance, & Oversight	\$1,062,049	\$1,062,049
Rural Jobs Research and Demonstration	\$239,883	\$239,883
Micro Business Loan and Development Program	\$126,915	\$126,915
Community Economic Development	\$688,568	\$688,568
Critical Needs Infrastructure	\$572,512	\$572,512
Agricultural Advancement Consortium	\$ 74,619	\$ 74,619
Institute for Rural Entrepreneurship	\$ 93,443	\$ 93,443
Statewide Water/Sewer Database	\$ 64,859	\$ 64,859

45 **SECTION 14.8.(b)** For purposes of this section, the term "community economic
 46 development" shall refer to activities performed by community development corporations or
 47 Opportunities Industrialization Centers:

- 48 (1) That are nonprofit organizations chartered pursuant to Chapter 55A of the
 49 General Statutes;
- 50 (2) That are tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
 51 Code of 1986;

- 1 (3) That are able to demonstrate that there are no outstanding or proposed
2 assessments or other collection actions against the corporation for any State
3 or federal taxes, including related penalties, interest, and fees;
4 (4) Whose primary mission is to develop and improve low-income communities
5 and neighborhoods and Tier 1 counties through economic and community
6 development;
7 (5) Whose activities and decisions are initiated, managed, and controlled by the
8 constituents of those local communities; and
9 (6) Whose primary function is to act as deal maker and packager of projects and
10 activities that will increase their constituencies' opportunities to become
11 owners, managers, and producers of small businesses, affordable housing,
12 and jobs designed to produce positive cash flow and curb blight in the
13 targeted community.

14 **SECTION 14.8.(c)** In awarding grants, the Rural Center shall give preference to a
15 project involving a resident company. For purposes of this section, the term "resident company"
16 means a company that has paid unemployment taxes or income taxes in this State and whose
17 principal place of business is located in this State. An application for a project that serves an
18 economically distressed area shall have priority over a project that does not. A grant to assist
19 with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

20 **SECTION 14.8.(d)** By September 1 of each year, and more frequently as
21 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental
22 Operations and the Fiscal Research Division on prior State fiscal year program activities,
23 objectives, and accomplishments and prior State fiscal year itemized expenditures and fund
24 sources.

25 **SECTION 14.8.(e)** Beginning Fiscal Year 2013-2015, no more than one hundred
26 twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one
27 employee of the Rural Center.

29 RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

30 **SECTION 14.9.** Section 14.17 of S.L. 2012-142 reads as rewritten:

31 **"SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural
32 Economic Development Center, Inc. (Rural Center), the sum of ~~thirteen million four hundred~~
33 ~~sixty two thousand forty three dollars (\$13,462,043)~~ three million three hundred ninety-two
34 thousand forty-three (\$3,392,043) for the 2012-2013 fiscal year each year in the 2013-2015
35 biennium shall be allocated as follows:

- 36 (1) To continue the North Carolina Infrastructure Program. The purpose of the
37 Program is to provide grants to local governments to construct critical water
38 and wastewater facilities and to provide other infrastructure needs, including
39 technology needs, to sites where these facilities will generate private
40 job-creating investment. The grants under this Program shall not be subject
41 to the provisions of G.S. 143-355.4.
42 (2) To provide matching grants or loans to local governments in distressed areas
43 that will productively reuse vacant buildings and properties, with priority
44 given to towns or communities with populations of less than 5,000.
45 (3) To provide grants and technical assistance to reinvigorate the economies of
46 towns with populations of less than 7,500, and to invest in economic
47 innovation that stimulates business and job growth in distressed areas.
48 (4) Recipients of grant funds appropriated under this section shall contribute a
49 cash match for the grant that is equivalent to at least five percent (5%) of the
50 grant amount. The cash match shall come from local resources and may not

1 be derived from other State or federal grant funds or from funds provided by
2 the Rural Center.

3 ...
4 "**SECTION 14.17.(c)** ~~For the 2012-2013 fiscal year, During each year of 2013-2015~~
5 biennium, the Rural Center may use up three percent (3%) of the funds appropriated in this
6 section to cover its expenses in administering the North Carolina Economic Infrastructure
7 Program."

8 9 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

10 **SECTION 14.10.(a)** Of the funds appropriated in this act to the North Carolina
11 Rural Economic Development Center, Inc. (Rural Center), the sum two hundred thirty-four
12 thousand three hundred five dollars (\$234,305) for each year in the 2013-2015 biennium shall
13 be equally distributed among the certified Opportunities Industrialization Centers (OI Centers).
14

15 **NORTH CAROLINA BIOTECHNOLOGY CENTER**

16 **SECTION 14.10.(a1)** Any reductions in funds in the 2013-2015 biennium shall be
17 taken on a pro rata basis from the programs listed in subsection (a) of this section.
18

19 **NORTH CAROLINA BIOTECHNOLOGY CENTER**

20 **SECTION 14.11.(a)** Of the funds appropriated in this act to the North Carolina
21 Biotechnology Center (Center), the sum of seven million two hundred thousand six hundred
22 seventy-six dollars (\$7,200,676) for each fiscal year in the 2013-2015 biennium shall be
23 allocated as follows:

- 24 (1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development,
25 Regional Offices and Statewide Development, and related activities –
26 \$1,584,148;
- 27 (2) Science and Commercialization: Science and Technology Development,
28 Centers of Innovation, Business and Technology Development, Education
29 and Training, and related activities – \$4,608,433; and
- 30 (3) Center Operations: Administration, Professional and Technical Assistance
31 and Oversight, Corporate Communications, Human Resource Management,
32 Financial and Grant Administration, Legal, and Accounting – \$1,005,095.

33 **SECTION 14.11.(b)** Except to provide administrative flexibility, up to ten percent
34 (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or
35 more of the other allocations in subsection (a) of this section if, in the judgment of Center
36 management, the reallocation will advance the mission of the Center.

37 **SECTION 14.11.(c)** The Center shall comply with the following reporting
38 requirements:

- 39 (1) By September 1 of each year, and more frequently as requested, report to the
40 Joint Legislative Commission on Governmental Operations and the Fiscal
41 Research Division on prior State fiscal year program activities, objectives,
42 and accomplishments and prior State fiscal year itemized expenditures and
43 fund sources.
- 44 (2) Provide to the Fiscal Research Division a copy of the Center's annual audited
45 financial statement within 30 days of issuance of the statement.

46 **SECTION 14.11.(d)** Remaining allotments after September 1 shall not be released
47 to the Center if it does not satisfy the reporting requirements provided in subsection (b) of this
48 section.

49 **SECTION 14.11.(e)** Beginning in fiscal year 2012-2013, no more than one
50 hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary
51 of any one employee of the Center.

1
2 **SECTION 14.12.** Of the funds appropriated to the Department of Commerce in
3 fiscal year 2013-2014, fifty-five thousand four hundred seventy-two dollars (\$55,472) shall be
4 made available to the High Point Furniture Market. The Department of Commerce shall carry
5 forward three hundred fifty-five thousand four hundred seventy-two dollars (\$355,472) in
6 reversions from fiscal year 2013-2014 to be provided to the High Point Furniture Market in
7 fiscal year 2014-2015.

8
9 **SECTION 14.13.** Of the funds appropriated to the Department of Commerce in
10 fiscal year 2013-2014, three million eight hundred twenty-four thousand nine hundred
11 forty-nine dollars (\$3,824,949) shall be made available to the Institute for Regenerative
12 Medicine.

13 The Department of Commerce shall carry forward seven million six hundred
14 forty-nine thousand eight hundred ninety-seven dollars (\$7,649,897) in reversions from fiscal
15 year 2013-2014 to be provided to the Institute of Regenerative Medicine in fiscal year
16 2014-2015.

17
18 **SECTION 14.14.** G.S. 143B-437.52 reads as rewritten:

19 **"§ 143B-437.52. Job Development Investment Grant Program.**

20 (a) Program. – There is established the Job Development Investment Grant Program to
21 be administered by the Economic Investment Committee. In order to foster job creation and
22 investment in the economy of this State, the Committee may enter into agreements with
23 businesses to provide grants in accordance with the provisions of this Part. The Committee, in
24 consultation with the Attorney General, shall develop criteria to be used in determining whether
25 the conditions of this section are satisfied and whether the project described in the application
26 is otherwise consistent with the purposes of this Part. Before entering into an agreement, the
27 Committee must find that all the following conditions are met:

- 28 (1) The project proposed by the business will create, during the term of the
29 agreement, a net increase in employment in this State by the business.
- 30 (2) The project will benefit the people of this State by increasing opportunities
31 for employment and by strengthening this State's economy by, for example,
32 providing worker training opportunities, constructing and enhancing critical
33 infrastructure, increasing development in strategically important industries,
34 or increasing the State and local tax base.
- 35 (3) The project is consistent with economic development goals for the State and
36 for the area where it will be located.
- 37 (4) A grant under this Part is necessary for the completion of the project in this
38 State.
- 39 (5) The total benefits of the project to the State outweigh its costs and render the
40 grant appropriate for the project.

41 (b) Priority. – In selecting between applicants, a project that is located in an
42 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
43 that is not located in a certified Eco-Industrial Park.

44 (c) Awards. – The maximum amount of total annual liability for grants awarded in any
45 single ~~calendar year~~ State fiscal biennium under this Part, including amounts transferred to the
46 Utility Account pursuant to G.S. 143B-437.61, is ~~fifteen~~ thirty million dollars
47 ~~(\$15,000,000).~~ (\$30,000,000). Except that, for the 2013-2015 biennium, the maximum total
48 liability for grants awarded shall not exceed twenty-two million five hundred thousand dollars
49 (\$22,500,000). No agreement may be entered into that, when considered together with other
50 existing agreements governing grants awarded during a single ~~calendar year~~ State fiscal

1 biennium, could cause the State's potential total annual liability for grants awarded in a single
 2 ~~calendar year~~ State fiscal biennium to exceed this amount.

3 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and
 4 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate
 5 that the increase or maintenance of employment is measured at the level of a division or
 6 another operating unit of a business, rather than at the business level, if both of the following
 7 conditions are met:

- 8 (1) The Committee makes an explicit finding that the designation is necessary to
 9 secure the project in this State.
- 10 (2) The agreement contains terms to ensure that the business does not create
 11 eligible positions by transferring or shifting to the project existing positions
 12 from another project of the business or a related member of the business.

13
 14 **BIOFUELS CENTER - TVA SETTLEMENT FUNDS**

15 **SECTION 14.15.** In fiscal year 2013-2014, The Energy Division of the
 16 Department of Commerce is directed to apply for two million two hundred forty thousand
 17 dollars (\$2,240,000) in funding from the Tennessee Valley Authority (TVA) Settlement
 18 Agreement in compliance with the requirements of paragraphs 122 through 128 of the Consent
 19 Decree. Instead of making the funding available to the Biofuels Center as outlined in the
 20 continuation budget for the Department of Commerce – State Aid; the requested funding will
 21 be transferred from the Department of Commerce to the North Carolina Department of
 22 Agriculture to be used by the agricultural and forestry sectors to use and produce renewable
 23 energy and carbon sequestration. This request represents the third installment of five that is
 24 available of the eleven million two hundred thousand dollars (\$11,200,000) in funding for the
 25 State of North Carolina to be drawn down from TVA Settlement Funds.

26
 27 **PART XV. JUDICIAL BRANCH**

28
 29 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

30 **SECTION 15.1.** The Judicial Department, Office of Indigent Defense Services,
 31 may use appropriated funds during each year of the 2013-2015 biennium for the expansion of
 32 existing offices currently providing legal services to the indigent population under the oversight
 33 of the Office of Indigent Defense Services, for the creation of new public defender offices
 34 within existing public defender programs or for the establishment of regional public defender
 35 programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of
 36 Indigent Defense Services may use a portion of these funds to create positions within existing
 37 public defender programs to handle cases in adjacent counties or districts. These funds may be
 38 used for the salaries, benefits, equipment, and related expenses for up to 30 attorney positions
 39 and 15 support positions during the biennium with the total annualized cost of these positions
 40 no more than three million eight hundred thousand dollars (\$3,800,000). The Office of Indigent
 41 Defense Services shall stagger creation of these positions over the biennium, based on analyses
 42 of cost-effectiveness and other needs. Prior to using funds for this purpose, the Office of
 43 Indigent Defense Services shall report to the Chairs of the House of Representatives and the
 44 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

45
 46 **JUDICIAL STAFFING STATUTE FOR MAGISTRATES.**

47 **SECTION 15.2.** G.S. 7A-133(c) is amended:

48 "(c) (**Effective July 1, 2013**) Each county shall have the numbers of magistrates and
 49 additional seats of district court, as set forth in the following table:

50 Additional Magistrates Seats of County	Min. Court
51 Camden	3

1	Chowan	3
2	Currituck	<u>34</u>
3	Dare	4
4	Gates	2
5	Pasquotank	4
6	Perquimans	3
7	Martin	<u>34</u>
8	Beaufort	4
9	Tyrrell	3
10	Hyde	3.5
11	Washington	3
12	Pitt	10.5
13	Farmville	
14	Ayden	
15	Craven	8
16	Havelock	
17	Pamlico	3
18	Carteret	6
19	Sampson	5
20	Duplin	4
21	Jones	2
22	Onslow	11
23	New Hanover	11
24	Pender	3.8
25	Halifax	7
26	Roanoke Rapids,	
27	Scotland Neck	
28	Northampton	3
29	Bertie	3
30	Hertford	<u>34</u>
31	Nash	9
32	Rocky Mount	
33	Edgecombe	7
34	Rocky Mount	
35	Wilson	7
36	Wayne	9
37	Mount Olive	
38	Greene	3
39	Lenoir	7
40	La Grange	
41	Granville	5
42	Vance	6
43	Warren	3
44	Franklin	4
45	Person	4
46	Caswell 3	
47	Wake	18.5
48	Apex,	
49	Wendell,	
50	Fuquay-Varina,	
51	Wake Forest	

1	Harnett	8
2	Dunn	
3	Johnston	10
4	Benson,	
5	Clayton,	
6	Selma	
7	Lee	5
8	Cumberland	19
9	Bladen	<u>34</u>
10	Brunswick	8
11	Columbus	5
12	Tabor City	
13	Durham	13
14	Alamance	12
15	Burlington	
16	Orange	7
17	Chapel Hill	
18	Chatham	4
19	Siler City	
20	Scotland	5
21	Hoke	<u>34</u>
22	Robeson	12
23	Fairmont,	
24	Maxton,	
25	Pembroke,	
26	Red Springs,	
27	Rowland,	
28	St. Pauls	
29	Rockingham	7
30	Reidsville,	
31	Eden,	
32	Madison	
33	Stokes	<u>34</u>
34	Surry	6
35	Mt. Airy	
36	Guilford	24.4
37	High Point	
38	Cabarrus	9
39	Kannapolis	
40	Montgomery	<u>34</u>
41	Randolph	9
42	Liberty	
43	Rowan	9
44	Stanly	5
45	Union	7
46	Anson	<u>34</u>
47	Richmond	5
48	Hamlet	
49	Moore	5
50	Southern Pines	
51	Forsyth	15

1	Kernersville	
2	Alexander	<u>34</u>
3	Davidson	8
4	Thomasville	
5	Davie	<u>34</u>
6	Iredell	9
7	Mooresville	
8	Alleghany	2
9	Ashe	3
10	Wilkes	6
11	Yadkin	<u>34</u>
12	Avery	3
13	Madison	3
14	Mitchell	3
15	Watauga	4
16	Yancey	3
17	Burke	5.6
18	Caldwell	6
19	Catawba	10
20	Hickory	
21	Mecklenburg	26.50
22	Gaston	17
23	Cleveland	7
24	Lincoln	5
25	Buncombe	15
26	Henderson	6.5
27	McDowell	<u>34</u>
28	Polk	3
29	Rutherford	6
30	Transylvania	<u>34</u>
31	Cherokee	<u>34</u>
32	Clay	2
33	Graham	2
34	Haywood	5
35	Canton	
36	Jackson	<u>34</u>
37	Macon	<u>34</u>
38	Swain	3
39		

FUNDING FOR DRUG TREATMENT COURTS; GRANT CRITERIA AND EFFECTIVENESS MEASURES

SECTION 15.3.(a) The Administrative Office of the Courts may award grants to county governments for the operation of Drug Treatment Courts under Article 62 of Chapter 7A of the General Statutes, North Carolina Drug Treatment Court Act. Grant funds shall be utilized to fund Drug Treatment Court staff positions currently paid for by local government entities or to restore positions previously terminated for active Drug Treatment Courts, up to the number of positions in the biennial budget. During the 2013-2015 fiscal biennium, positions will be transferred to state employment on a county by county basis, as determined by the Director of the Administrative Office of the Courts. Funding for treatment services shall be obtained through the Department of Health and Human Services through local management entities (LME). Grants may only be made to Drug Treatment Courts that provide direct services

1 to convicted and sentenced adult offenders and to adults who have lost custody or are at risk of
2 losing custody of their children through the substantiation and adjudication of abuse, neglect
3 and/or dependency.

4 **SECTION 15.3.(b)** The Administrative Office of the Courts shall provide direction
5 and oversight to the drug treatment court programs in order to ensure that each district with a
6 drug treatment court program is utilizing best practices and is working effectively and
7 efficiently. The Administrative Office of the Courts shall report on the effectiveness of the
8 programs based on quantitative measures, as well as its progress to transfer positions to state
9 employment, to the Chairs of the House and Senate Appropriations Subcommittees on Justice
10 and Public Safety by March 1, 2014.

11 12 **COLLECTION OF WORTHLESS CHECK FUNDS**

13 **SECTION 15.4.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial
14 Department may use any balance remaining in the Collection of Worthless Checks Fund on
15 June 30, 2013, and on June 30, 2014, for the purchase or repair of office or information
16 technology equipment during the 2013-2014 and 2014-2015 fiscal years respectively. Prior to
17 using any funds under this section, the Judicial Department shall report to the Joint Legislative
18 Commission on Governmental Operations, the Chairs of the House of Representatives and
19 Senate Appropriations Subcommittees on Justice and Public Safety, and the Office of State
20 Budget and Management on the equipment to be purchased or repaired and the reasons for the
21 purchases.

22 23 **GRANT FUNDS**

24 **SECTION 15.5.** Notwithstanding G.S. 143C-6-9, the Administrative Office of the
25 Courts may use up to one million dollars (\$1,000,000) from funds available to the Department
26 during the 2013-2015 biennium to provide the State match needed in order to receive grant
27 funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the
28 House of Representatives and Senate Appropriations Subcommittees on Justice and Public
29 Safety and to the Joint Legislative Commission on Governmental Operations on the grants to
30 be matched using these funds.

31 32 **ADMINISTRATION OF GRANT/OTHER FUNDS FOR CONFERENCES**

33 **SECTION 15.6.** Any grants or other funding, including the National Mortgage
34 Settlement, currently managed or benefitting the Conference of District Attorneys or
35 Conference of Clerks of Superior Court shall be administered by the Administrative Office of
36 the Courts.

37 38 **PART XVI. DEPARTMENT OF JUSTICE**

39 40 **TRANSFER OF LEGAL POSITIONS AND LEGAL SUPPORT POSITIONS TO THE** 41 **AGENCIES THEY SERVE**

42 **SECTION 16.1.** Effective October 1, 2013, a statewide reserve is created to be
43 managed by the Office of State Budget and Management for the funds and positions to support
44 the transfer of legal positions and legal support positions from the Department of Justice, Legal
45 Services Division, to various State departments and institutions. The equipment, supplies,
46 records, and other property to support these positions are also transferred from the Department
47 of Justice to the destination agencies.

48 49 **PART XVII. DEPARTMENT OF PUBLIC SAFETY**

50

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 17.1.(a) Assets transferred to the Department of Justice and the Department of Public Safety during the 2013-2015 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Department of Justice and the Department of Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 17.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 17.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

GRANT MATCHING FUNDS

SECTION 17.2. Notwithstanding the provisions of G.S. 143C-6-9, the Department of Public Safety may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2013-2014 fiscal year and up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2014-2015 fiscal year from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

USE OF CLOSED PRISON FACILITIES

SECTION 17.3. In conjunction with the closing of prison facilities, the Department of Public Safety shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Division of Adult Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Public Safety may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

1 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**
2 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**
3 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

4 **SECTION 17.4.** Notwithstanding G.S. 143C-6-9, the Department of Public Safety
5 may use funds available to the Department for the 2013-2015 fiscal biennium to pay the sum of
6 forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted
7 inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as
8 provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative
9 Commission on Governmental Operations, the Joint Legislative Public Safety Oversight
10 Committee, the Chairs of the House of Representatives and Senate Appropriations Committees,
11 and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on
12 Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners
13 awaiting transfer and on its progress in reducing the jail backlog.
14

15 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

16 **SECTION 17.5.** The Department of Public Safety may continue to contract with
17 The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison
18 beds for minimum security female inmates during the 2013-2015 fiscal biennium. The Center
19 for Community Transitions, Inc., shall report by February 1 of each year to the Joint Legislative
20 Commission on Governmental Operations on the annual cost per inmate and the average daily
21 inmate population compared to bed capacity using the same methodology as that used by the
22 Department of Public Safety.
23

24 **INMATE MEDICAL COST CONTAINMENT**

25 **SECTION 17.6.(a)** The Department of Correction shall reimburse those providers
26 and facilities providing approved inmate medical services outside the correctional facility the
27 lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing
28 charge or two times the then-current Medicaid rate for any given service. The Department shall
29 have the right to audit any given provider to determine the actual prevailing charge to ensure
30 compliance with this provision.

31 This section does apply to vendors providing services that are not billed on a fee-for-service
32 basis, such as temporary staffing. Nothing in this section shall preclude the Department from
33 contracting with a provider for services at rates that provide greater documentable cost
34 avoidance for the State than do the rates contained in this section or at rates that are less
35 favorable to the State but that will ensure the continued access to care.

36 **SECTION 17.6.(b)** The Department of Public Safety shall make every effort to
37 contain inmate medical costs by making use of its own hospital and health care facilities to
38 provide health care services to inmates. To the extent that the Department of Public Safety must
39 utilize other facilities and services to provide health care services to inmates, the Department
40 shall make reasonable efforts to make use of hospitals or other providers with which it has a
41 contract or, if none is reasonably available, hospitals with available capacity or other health
42 care facilities in a region to accomplish that goal. The Department shall make reasonable
43 efforts to equitably distribute inmates among all hospitals or other appropriate health care
44 facilities.
45

46 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

47 **SECTION 17.7.** Funds appropriated in this act to the Department of Public Safety,
48 Division of Juvenile Justice for the 2013-2015 fiscal biennium may be used as matching funds
49 for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile
50 Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State
51 Budget and Management and the Governor's Crime Commission shall consult with the

1 Department of Public Safety, Division of Juvenile Justice, regarding the criteria for awarding
2 federal funds. The Office of State Budget and Management, the Governor's Crime
3 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report
4 to the Appropriations Committees of the Senate and House of Representatives and the Joint
5 Legislative Commission on Governmental Operations prior to allocation of the federal funds.
6 The report shall identify the amount of funds to be received for the 2013-14 fiscal year, the
7 amount of funds anticipated for the 2014-15 fiscal year, and the allocation of funds by program
8 and purpose.

9 10 **VIPER FUNDING**

11 **SECTION 17.8.(a)** Of the funds appropriated to the Department of Public Safety
12 for the 2013-15 biennium, up to ten million dollars (\$10,000,000) may be used in each fiscal
13 year by the Department for contractual services to continue the build-out and expansion of the
14 State's Voice Interoperability Plan for Emergency Responders (VIPER). Priority shall be given
15 to contractual services that will increase access to the system by local emergency response
16 agencies through an upgrade to digital technology and for continuing construction of the
17 necessary infrastructure to provide statewide coverage.

18 **SECTION 17.8.(b)** The Department shall not expend any funds as authorized in
19 Section a, without the prior approval of the Director of the Budget

20 **SECTION 17.8.(c)** The Department of Public Safety shall report to the Joint
21 Legislative Committee on Information Technology and the Joint Legislative Oversight
22 Committee on Justice and Public Safety on a quarterly basis on the progress of the State's
23 VIPER system.

24 25 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

26 27 **USE OF E-COMMERCE FUNDS FOR PURCHASE AND CONTRACT OPERATIONS**

28 **SECTION 18.1.** Notwithstanding the provisions of G.S. 66-58-12(c), the sum of
29 one million two hundred thousand dollars (\$1,200,000) shall be transferred from the
30 E-Commerce Fund in the Department of Administration Budget Code 24100, Fund 2514, to be
31 used for each year of the 2013-2015 biennium, on a non-recurring basis, to pay operating
32 expenses of the Division of Purchase and Contract.

33 34 **OFFICE OF JUSTICE FOR STERILIZATION VICTIMS**

35 **SECTION 18.2.** Funds in the amount of one hundred twenty-four thousand five
36 hundred ninety-two dollars (\$124,592) are appropriated in this act to the Department of
37 Administration for the 2013-2014 fiscal year to continue the operation of the Office of Justice
38 for Sterilization Victims through June 30, 2014. The Office shall use these funds to verify the
39 victims who were sterilized by the State Eugenics Board, safeguard the victims' records, and
40 administer the State compensation program.

41 42 **STERILIZATION VICTIMS COMPENSATION**

43 **SECTION 18.3.** Funds in the amount of ten million dollars (\$10,000,000) are
44 appropriated in this act to the Department of Administration for the 2013-2014 fiscal year to
45 compensate sterilization victims in accordance with the State compensation program enacted
46 by the General Assembly.

47 48 **COMPREHENSIVE REVIEW OF COMPENSATION SYSTEM**

49 **SECTION 18.4.** In order to create a contemporary performance-based,
50 market-driven compensation system for state government, the Office of State Personnel will
51 conduct a review of current compensation plans, laws and policies and make recommendations

1 for implementing an effective compensation system based upon best practices in human
2 resources. The study will include a labor market analysis of pay plans, benefits, and
3 classification systems in the public and private sectors, as well as address issues such as
4 performance evaluation, career status and longevity pay. The study will also evaluate and
5 recommend ways to modernize and automate classification and compensation processes. Funds
6 up to one million dollars (\$1,000,000) from the Salary Adjustment Reserve will support this
7 study.

9 PART XIX. DEPARTMENT OF CULTURAL RESOURCES

11 ALLOW FOR AN EXEMPTION FROM THE RULE-MAKING PROCESS FOR 12 ESTABLISHING AND CHANGING ADMISSION AND ACTIVITY FEES AT 13 STATE HISTORIC SITES, MUSEUMS, AND TRYON PALACE HISTORIC SITES 14 AND GARDENS.

15 SECTION 19.1. G.S. 121-7.3 reads as rewritten:

16 "§ 121-7.3. Admission fees.

17 The Department of Cultural Resources may charge a reasonable admission fee to any
18 historic site and museum administered by the Department. Admission fees collected under this
19 section are receipts of the Department and shall be deposited in a nonreverting account. The
20 Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30,
21 2004, and shall deposit these receipts into the account. Funds in the account shall be used to
22 support a portion of each historic site and museum's operation. The Secretary may adopt rules
23 necessary to carry out the provisions of this section. Chapter 150B of the General Statutes shall
24 not apply to the adoption, amending, or repeal of rules for admission fees or related activity
25 fees at historic sites and museums. The Department shall submit a report to the Joint
26 Legislative Commission on Governmental Operations on the amount and purpose of a fee
27 change within 30 days following its effective date.~~The Department shall provide a quarterly~~
28 ~~report to the Joint Legislative Commission on Governmental Operations as to the Department's~~
29 ~~or museums' anticipated use of funds or expenditures of funds pursuant to this section."~~

30 SECTION 19.2. G.S. 143B-71 reads as rewritten:

31 "§ 143B-71. Tryon Palace Commission – creation, powers and duties.

32 There is hereby created the Tryon Palace Commission of the Department of Cultural
33 Resources with the power and duty to adopt, amend and rescind rules and regulations
34 concerning the restoration and maintenance of the Tryon Palace complex, and such other
35 powers and duties as provided in Article 2 of Chapter 121 of the General Statutes of North
36 Carolina. Chapter 150B of the General Statutes shall not apply to the adoption, amending, or
37 repeal of rules for admission fees or related activity fees at Tryon Palace Historic Sites and
38 Gardens. The Commission shall submit a report to the Joint Legislative Commission on
39 Governmental Operations on the amount and purpose of a fee change within 30 days following
40 its effective date."

42 ALLOW MUSEUMS AND HISTORIC SITES TO GENERATE REVENUE FROM 43 VENDOR SERVICES

44 SECTION 19.3. G.S. 111-47.1 reads as rewritten:

45 "§ 111-47.1. Food service at North Carolina aquariums and Museums and State Historic 46 Sites Operated by the North Carolina Department of Cultural Resources.

47 (a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the North
48 Carolina Aquariums may operate or contract for the operation of food or vending services at
49 the North Carolina Aquariums. Notwithstanding G.S. 111-43, the net proceeds of revenue
50 generated by food and vending services that are provided at the North Carolina Aquariums and

1 are operated by or whose operation is contracted for by the Division of North Carolina
2 Aquariums shall be credited to the North Carolina Aquariums Fund.

3 (b) ~~This section shall not be construed to alter any contract for food or vending services~~
4 ~~at the North Carolina Aquariums that is in force at the time this section becomes law [effective~~
5 ~~July 1, 1999]. (1999-237, s. 15.17(a), (b)).~~Notwithstanding Article 3 of Chapter 111 of the
6 General Statutes, the museums and historic sites operated by the North Carolina Department of
7 Cultural Resources may operate or contract for the operation of food or vending services at
8 museums and historic sites operated by the North Carolina Department of Cultural Resources.
9 Notwithstanding G.S. 111-43, the net proceeds of revenue generated by food and vending
10 services that are provided at the museums and historic sites operated by the North Carolina
11 Department of Cultural Resources and are operated by or whose operation is contracted for by
12 the Department of Cultural Resources shall be credited to the North Carolina Department of
13 Cultural Resources Account where the funds were generated and be used for the further
14 operation of that museum or historic site.

15 (c) This section shall not be construed to alter any contract for food or vending services
16 at the North Carolina Aquariums or historic sites and museums that is in force at the time this
17 section becomes law [effective July 1, 1999]."

18
19 **ALLOW EXEMPTION FOR THE HISTORIC SITES AND MUSEUMS OWNED BY**
20 **THE DEPARTMENT OF CULTURAL RESOURCES FROM THE PROHIBITION**
21 **OF THE SALE OF MERCHANDISE OR SERVICES BY GOVERNMENTAL**
22 **UNITS**

23 **SECTION 19.4.** G.S. 66-58 reads as rewritten:

24 **"§ 66-58. Sale of merchandise or services by governmental units**

25 (a) Except as may be provided in this section, it shall be unlawful for any unit,
26 department or agency of the State government, or any division or subdivision of the unit,
27 department or agency, or any individual employee or employees of the unit, department or
28 agency in his, or her, or their capacity as employee or employees thereof, to engage directly or
29 indirectly in the sale of goods, wares or merchandise in competition with citizens of the State,
30 or to engage in the operation of restaurants, cafeterias or other eating places in any building
31 owned by or leased in the name of the State, or to maintain service establishments for the
32 rendering of services to the public ordinarily and customarily rendered by private enterprises,
33 or to provide transportation services, or to contract with any person, firm or corporation for the
34 operation or rendering of the businesses or services on behalf of the unit, department or agency,
35 or to purchase for or sell to any person, firm or corporation any article of merchandise in
36 competition with private enterprise. The leasing or subleasing of space in any building owned,
37 leased or operated by any unit, department or agency or division or subdivision thereof of the
38 State for the purpose of operating or rendering of any of the businesses or services herein
39 referred to is hereby prohibited.

40 (b) The provisions of subsection (a) of this section shall not apply to:

41 (1) Counties and municipalities.

42 (2) The Department of Health and Human Services or the Department of
43 Agriculture and Consumer Services for the sale of serums, vaccines, and
44 other like products.

45 (3) The Department of Administration, except that the agency shall not exceed
46 the authority granted in the act creating the agency.

47 (4) The State hospitals for the mentally ill.

48 (5) The Department of Health and Human Services.

49 (6) The North Carolina School for the Blind at Raleigh.

50 (6a) The Division of Juvenile Justice of the Department of Public Safety.

51 (7) The North Carolina Schools for the Deaf.

(8) The University of North Carolina with regard to:

...

(8a) The University of North Carolina with regard to the operation of gift shops, snack bars, and food service facilities physically connected to any of The University of North Carolina's public exhibition spaces, including the North Carolina Arboretum, provided that the resulting profits are used to support the operation of the public exhibition space.

(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(9a) The North Carolina Forest Service.

(9b) The Department of Cultural Resources for the sale of books, crafts, gifts, and other tourism-related items at historic sites and museums owned by the Department.

...."

PART XX. STATE BOARD OF ELECTIONS

REPEAL NORTH CAROLINA POLITICAL PARTIES FINANCING FUND

SECTION 20.1. Article 22B of Chapter 163 of the General Statutes is repealed. The fund balances remaining at year end June 30, 2013, in budget code 68026 Fund 6200 and budget code 68027 Fund 6300, estimated at one million sixty-four thousand five hundred eighty-two dollars (\$1,064,582), shall be transferred to the General Fund.

REPEAL VOTER OWNED ELECTION ACT

SECTION 20.2. Article 22J of Chapter 163 of the General Statutes is repealed. The fund balance remaining at year end June 30, 2013 in budget code 68029 Fund 6500, estimated at thirteen cents (\$0.13), shall be transferred to the General Fund.

ELIMINATE \$50 SURCHARGE FOR ACTIVE MEMBERS OF THE NORTH CAROLINA STATE BAR; TERMINATE NORTH CAROLINA PUBLIC CAMPAIGN FUND UPON EXHAUSTION OF ANY FUNDS REMAINING IN IT; POST JUDICIAL VOTER GUIDE ON STATE BOARD OF ELECTIONS WEBSITE IN AN ELECTRONIC FORMAT

SECTION 20.3.(a) The fund balance remaining at year end June 30, 2013, in budget code 68025 Fund 6101, estimated at eight million nine hundred thirty-five thousand nine hundred forty dollars (\$8,935,940), shall be transferred to the General Fund, except for four million eight hundred ten thousand seven hundred sixty-nine dollars (\$4,810,769) representing those funds collected under the provisions of G.S. 163-278.63(b)(7) and G.S. 84-34. Staff and operating expenses previously supported from these funds shall be continued from the appropriations to the State Board of Elections budget code 18025.

SECTION 20.3.(b) G.S. 84-34 reads as rewritten:

"§ 84-34. Membership fees and list of members.

Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, pay to the secretary-treasurer an annual membership fee in an amount determined by the Council but not to exceed three hundred dollars (\$300.00), ~~plus a surcharge of fifty dollars (\$50.00 for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and every member shall notify the secretary-treasurer of the member's correct mailing address. Any member who fails to pay the required dues by the last day of June of each year shall be subject

1 to a late fee in an amount determined by the Council but not to exceed thirty dollars (\$30.00).
2 All dues for prior years shall be as were set forth in the General Statutes then in effect. The
3 membership fee shall be regarded as a service charge for the maintenance of the several
4 services authorized by this Article, and shall be in addition to all fees required in connection
5 with admissions to practice, and in addition to all license taxes required by law. The fee shall
6 not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article
7 shall have gone into effect until the first day of January of the calendar year following that in
8 which the attorney was licensed; but this proviso shall not apply to attorneys from other states
9 admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the
10 Council. ~~The fifty dollar (\$50.00) surcharge shall be sent on a monthly schedule to the State~~
11 ~~Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or
12 daily newspaper to be prescribed by the Council, publish an account of the financial
13 transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall
14 compile and keep currently correct from the names and mailing addresses forwarded to the
15 secretary-treasurer and from any other available sources of information a list of members of the
16 North Carolina State Bar and furnish to the clerk of the superior court in each county, not later
17 than the first day of October in each year, a list showing the name and address of each attorney
18 for that county who has not complied with the provisions of this Article. The name of each of
19 the active members who are in arrears in the payment of membership fees shall be furnished to
20 the presiding judge at the next term of the superior court after the first day of October of each
21 year, by the clerk of the superior court of each county wherein the member or members reside,
22 and the court shall thereupon take action that is necessary and proper. The names and addresses
23 of attorneys so certified shall be kept available to the public. The Secretary of Revenue is
24 hereby directed to supply the secretary-treasurer, from records of license tax payments, with
25 any information for which the secretary-treasurer may call in order to enable the
26 secretary-treasurer to comply with this requirement.

27 The list submitted to several clerks of the superior court shall also be submitted to the
28 Council at its October meeting of each year and it shall take the action thereon that is necessary
29 and proper."

30 **SECTION 20.3.(c)** G.S. 163-278.63 reads as rewritten:

31 "**§ 163-278.63. North Carolina Public Campaign Fund established; sources of funding.**

32 (a) Establishment of Fund. – The North Carolina Public Campaign Fund is established
33 to finance the election campaigns of certified candidates for office and to pay administrative
34 and enforcement costs of the Board related to this Article. The Fund is a special, dedicated,
35 nonlapsing, nonreverting fund which shall terminate upon the exhaustion of any funds
36 remaining in it. There shall be no further funding of this Fund from any source, including
37 voluntary donations. All expenses of administering this Article, including ~~production and~~
38 ~~distribution of the Voter Guide required by G.S. 163-278.69 and~~ personnel and other costs
39 incurred by the Board, including public education about the Fund, shall be paid from the Fund
40 and not from the General Fund. Any interest generated by the Fund is credited to the Fund. The
41 Board shall administer the Fund.

42 (b) ~~Sources of Funding. Money received from all the following sources must be~~
43 ~~deposited in the Fund:~~

- 44 (1) ~~Money from the North Carolina Candidates Financing Fund.~~
- 45 (2) ~~Designations made to the Public Campaign Fund by individual taxpayers~~
46 ~~pursuant to G.S. 105.159.2.~~
- 47 (3) ~~Repealed by Session Laws 2005-276, s.23.A.1(c), effective January 1, 2006.~~
- 48 (4) ~~Public Campaign Fund revenues distributed for an election that remain~~
49 ~~unspent or uncommitted at the time the recipient is no longer a certified~~
50 ~~candidate in the election.~~

1 (5) Money ordered returned to the Public Campaign Fund in accordance with
2 G.S. 163-278.70.
3 (6) ~~Voluntary donations made directly to the Public Campaign Fund.~~
4 ~~Corporation, other business entities, labor unions, and professional~~
5 ~~associations may make donations to the Fund.~~
6 (7) Money collected from the fifty dollar (\$50.00) surcharge on attorney
7 membership fees in G.S. 84-34.
8 (c) ~~Determination of Fund Amount. By October 1, 2003, and every two years~~
9 ~~thereafter, the Board shall prepare and provide to the Joint Legislative Commission on~~
10 ~~Governmental Operations of the General Assembly a report documenting, evaluating, and~~
11 ~~making recommendations relating to the administration, implementation and enforcement of~~
12 ~~this Article. In its report, the Board shall set out the funds received to date and the expected~~
13 ~~needs of the Fund for the next election."~~

14 **SECTION 20.3.(d)** G.S. 163-278.69 reads as rewritten:

15 **"§ 163-278.69. Voter education.**

16 (a) Judicial Voter Guide. – The Board shall ~~publish~~ produce a Judicial Voter Guide that
17 explains the functions of the appellate courts and the laws concerning the election of appellate
18 judges, ~~the purpose and function of the Public Campaign Fund, and the laws concerning voter~~
19 ~~registration.~~ The Board shall post the Judicial Voter Guide on its website in an electronic
20 format and shall also make it available electronically to the public by other means it deems
21 appropriate. ~~distribute the Guide to as many voting age individuals in the State as practical,~~
22 ~~through a mailing to all residences or other means it deems effective. The distribution shall~~
23 ~~occur no more than 28 days nor fewer than seven days before the one stop voting period~~
24 ~~provided in G.S. 163-227.2 for the primary and no more than 28 days nor fewer than seven~~
25 ~~days before the one stop voting period provided in G.S. 163-227.2 for the general election.~~

26 (b) Candidate Information. – The Judicial Voter Guide shall include information
27 concerning all candidates for the Supreme Court and the Court of Appeals, as provided by
28 those candidates according to a format provided to the candidates by the Board. The Board
29 shall request information for the Guide from each candidate according to the following format:

30 (1) Place of residence.

31 (2) Education.

32 (3) Occupation.

33 (4) Employer.

34 (5) Date admitted to the bar.

35 (6) Legal/judicial experience.

36 (7) Candidate statement. Concerning that statement, the Board shall send to the
37 candidates instructions as follows: "Your statement may include information
38 such as your qualifications, your endorsements, your ratings, why you are
39 seeking judicial office, why you would make a good judge, what
40 distinguishes you from your opponent(s), your acceptance of spending and
41 fund-raising limits to qualify to receive funds from the Public Campaign
42 Fund, and any other information relevant to your candidacy. The State Board
43 of Elections will reject any portion of any statement which it determines
44 contains obscene, profane, or defamatory language. The candidate shall have
45 three days to resubmit the candidate statement if the Board rejects a portion
46 of the statement.

47 The entire entry for a candidate shall be limited to 250 words.

48 (c) Disclaimer. – The Judicial Voter Guide shall contain the following statement:
49 "Statements by candidates do not express or reflect the opinions of the State Board of
50 Elections."

1 **SECTION 20.3.(e)** Article 22D of Chapter 163 of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 163-278.71 Repeal of the North Carolina Public Campaign Fund.**

4 Upon the exhaustion of any remaining funds in the North Carolina Public Campaign Fund,
5 Article 22D of Chapter 163 of the General Statutes shall be repealed, with the exception of
6 G.S. 163-278.69."
7

8 **APPROPRIATE MAINTENANCE OF EFFORT FUNDS TO ACCESS HAVA TITLE II**
9 **FUNDS**

10 **SECTION 20.4.** The State Board of Elections shall expend federal Help America
11 Vote Funds (HAVA) Title II Funds for the 2013-2015 fiscal years with appropriation of the
12 State's required Maintenance of Effort funds in the amount of three million four hundred
13 fifty-seven thousand five hundred eighty-five dollars (\$3,457,585) for fiscal year 2013-2014
14 and in the amount of three million four hundred fifty-seven thousand five hundred eighty-five
15 dollars (\$3,457,585) for fiscal year 2014-2015.
16

17 **PART XXI. OFFICE OF STATE BUDGET AND MANAGEMENT**

18
19 **STUDY COSTS OF ALL COMMUNITY COLLEGE ACADEMIC PROGRAMS**

20 **SECTION 21.1.** There is appropriated to the Office of State Budget and
21 Management the sum of fifty thousand dollars (\$50,000) for fiscal year 2013-2014. The Office
22 of State Budget and Management, in consultation with the Community Colleges System Office,
23 shall conduct a study to determine the costs per enrollment of all academic programs within the
24 North Carolina Community College System. This study shall include: (i) identifying all
25 relevant instructional costs and enrollment numbers associated with the curriculum, continuing
26 education, and basic skills programs at each community college; and (ii) determining the cost
27 per enrollment for each program by community college and systemwide. The results of this
28 study shall be reported no later than March 1, 2014, to the Joint Legislative Education
29 Oversight Committee.
30

31 **PART XXII. OFFICE OF STATE CONTROLLER**

32
33 **OVERPAYMENTS AUDIT**

34 **SECTION 22.1.(a)** During the 2013-2015 biennium, receipts generated by the
35 collection of inadvertent overpayments by State agencies to vendors as a result of pricing
36 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,
37 erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be
38 deposited in Special Reserve Account 24172.

39 **SECTION 22.1.(b)** For each year of the 2013-2015 biennium, five hundred
40 thousand dollars (\$500,000) of the funds transferred from Special Reserve Account 24172 shall
41 be used by the Office of the State Controller for data processing, debt collection, or
42 e-commerce costs.

43 **SECTION 22.1.(c)** All funds available in Special Reserve Account 24172 on July
44 1 of each year of the 2013-2015 biennium are transferred to the General Fund on that date.

45 **SECTION 22.1.(d)** Any unobligated funds in Special Reserve Account 24172 that
46 are realized above the allowance in subsection (b) of this section are subject to appropriation by
47 the General Assembly.

48 **SECTION 22.1.(e)** The State Controller shall report quarterly to the Joint
49 Legislative Commission on Governmental Operations and the Fiscal Research Division on the
50 revenue deposited into Special Reserve Account 24172 and the disbursement of that revenue.
51

PART XXIII. DEPARTMENT OF TRANSPORTATION**REPLACEMENT OF THE STATE TITLING AND REGISTRATION SYSTEM (STARS) AND THE STATE AUTOMATED DRIVER LICENSE SYSTEM (SADLS)**

SECTION 23.1 The Department of Transportation shall begin the implementation phase to replace the State Titling and Registration System (STARS), the State Automated Driver License System (SADLS) and the Liability Insurance Tracking System (LITES). For fiscal year 2013-14 there is appropriated \$8,832,000 and for fiscal year 2014-15 \$13,798,400 from the DMV Inspection Program Account for this purpose. Funds will be used for the implementation phase, to acquire software, hardware and services necessary to move these systems to a more state of the art technical environment and to improve functionality of the systems and the customer service aspects of the programs.

TRANSPORTATION ECONOMIC DEVELOPMENT FUND

SECTION 23.2 Of the funds appropriated in this act to the Department of Transportation in fiscal year 2013-14, \$3,569,535 and \$4,036,171 in fiscal year 2014-15 shall be allocated to the newly created Transportation Economic Development Fund. This program will provide funding to promote economic factors for job growth by facilitating increased business activity for transportation efforts throughout the State. The funds will be used for prioritized highway improvements and infrastructure that promotes safety and mobility initiatives with an emphasis on job creation. This is a centrally administered program under the Secretary of Transportation.

REVISE G.S. 136-17.2A. DISTRIBUTION FORMULA FOR TRANSPORTATION FUNDS

SECTION 23.3 The Department of Transportation shall develop and implement a revised formula to distribute state and federal funds expended under the State Transportation Improvement Program (STIP). The Department shall take the following into consideration when developing the new formula:

- (1) A tiered funding approach aligned with the Department's strategic prioritization process that effectively accelerates infrastructure improvements.
- (2) Utilization of common methods and parameters to prioritize and evaluate investments.
- (3) Ensure state, regional and local priorities are being met.
- (4) Take into account factors that stimulate competition and job creation.

RESTORE FISCAL YEAR 2014-15 FUNDING FOR HIGH POINT FURNITURE MARKET

SECTION 23.4 Notwithstanding G.S. 136-44.2(f), of the funds appropriated to the Department of Transportation, five hundred thousand dollars (\$500,000) of SFY 2013-14 ending credit balance funds shall be used for the SFY 2014-15 High Point Furniture Market.

PART XXIV. SALARIES AND BENEFITS**GOVERNOR AND COUNCIL OF STATE**

SECTION 24.1.(a) Effective for the 2013-2015 fiscal biennium, the salary of the Governor set by G.S. 147-11(a) shall be in the amount of one hundred forty-two thousand six hundred seventy-eight dollars (\$142,678) annually, payable monthly.

1 **SECTION 24.1.(b)** Effective for the 2013-2015 fiscal biennium, the annual
2 salaries for the members of the Council of State, payable monthly, for the 2013-2015 fiscal
3 biennium are set as follows:

	Annual Salary
4 Council of State	
5 Lieutenant Governor	\$125,923
6 Attorney General	125,923
7 Secretary of State	125,923
8 State Treasurer	125,923
9 State Auditor	125,923
10 Superintendent of Public Instruction	125,923
11 Agriculture Commissioner	125,923
12 Insurance Commissioner	125,923
13 Labor Commissioner	125,923

14
15
16 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

17 **SECTION 24.2.** Effective for the 2013-2015 fiscal biennium, the maximum annual
18 salaries for the nonelected heads of the principal State departments are set by G.S. 143B-9.

19
20 **CERTAIN EXECUTIVE BRANCH OFFICIALS**

21 **SECTION 24.3.** Effective for the 2013-2015 fiscal biennium, the annual salaries,
22 payable monthly, for the following executive branch officials are set as follows:

Executive Branch Officials	Annual Salary
24 Chairman, Alcoholic Beverage Control Commission	\$111,977
25 State Controller	156,711
26 Commissioner of Banks	125,923
27 Chair, Board of Review, Division of Employment Security	123,478
28 Members, Board of Review, Division of Employment Security	121,944
29 Chairman, Parole Commission	102,247
30 Full-time Members of the Parole Commission	94,399
31 Chairman, Utilities Commission	140,237
32 Members of the Utilities Commission	125,923
33 Executive Director, North Carolina 34 Agricultural Finance Authority	108,994

35
36
37 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

38 **SECTION 24.4.(a)** Effective for the 2013-2015 fiscal biennium, the annual
39 salaries, payable monthly, for specified judicial branch officials are set as follows:

Judicial Branch Officials	Annual Salary
41 Chief Justice, Supreme Court	\$144,049
42 Associate Justice, Supreme Court	140,285
43 Chief Judge, Court of Appeals	138,049
44 Judge, Court of Appeals	134,440
45 Judge, Senior Regular Resident Superior Court	130,787
46 Judge, Superior Court	127,134
47 Chief Judge, District Court	115,444
48 Judge, District Court	111,791
49 District Attorney	121,944
50 Administrative Officer of the Courts	129,542

1	Assistant Administrative Officer of the Courts	118,324
2	Public Defender	121,944
3	Director of Indigent Defense Services	125,743

4 **SECTION 24.4.(b)** Effective for the 2013-2015 fiscal biennium, the annual
5 salaries of permanent full-time employees of the Judicial Department whose salaries are not
6 itemized in this act shall be increased by one percent (1%).

7 **SECTION 24.4.(c)** Effective for the 2013-2015 fiscal biennium, the annual salaries
8 of permanent part-time employees of the Judicial Department whose salaries are not itemized
9 in this act shall be increased by pro rata amounts equivalent to one percent (1%).

10 **SECTION 24.4.(d)** Effective for the 2013-2015 fiscal biennium, notwithstanding
11 anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a)
12 shall not change when a county changes from one population group to another.

13 **SECTION 24.4.(e)** The district attorney or public defender of a judicial district,
14 with the approval of the Administrative Officer of the Courts or the Commission on Indigent
15 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant
16 public defenders, respectively, in that district such that the average salaries of assistant district
17 attorneys or assistant public defenders in that district do not exceed seventy-two thousand five
18 hundred fifteen dollars (\$72,515) and the minimum salary of any assistant district attorney or
19 assistant public defender is at least thirty-eight thousand four dollars (\$38,004), effective July
20 1, 2013.

21 **SECTION 24.4.(f)** The automatic salary step increases for assistant and deputy
22 clerks of superior court and magistrates are suspended for the 2013-2015 fiscal biennium.

23
24 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

25 **SECTION 24.5** G.S. 7A-101(a) reads as rewritten:

26 "(a) The clerk of superior court is a full-time employee of the State and shall receive an
27 annual salary, payable in equal monthly installments, based on the population of the county as
28 determined in subsection (a1) of this section, according to the following schedule:

29	Population	Annual Salary
30	Less than 100,000	\$ 83,390 <u>\$84,224</u>
31	100,000 to 149,999	93,578 <u>\$94,514</u>
32	150,000 to 249,999	103,766 <u>\$104,804</u>
33	250,000 and above	113,958 <u>\$115,098</u>

34 When a county changes from one population group to another, the salary of the clerk shall
35 be changed, on July 1 of the fiscal year for which the change is reported, to the salary
36 appropriate for the new population group, except that the salary of an incumbent clerk shall not
37 be decreased by any change in population group during his continuance in office."

38
39 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

40 **SECTION 24.6** G.S. 7A-102(c1) reads as rewritten:

41 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy
42 clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the
43 following minimum and maximum rates:

44	Assistant Clerks and Head Bookkeeper	Annual Salary
45	Minimum	\$32,609 <u>\$32,935</u>
46	Maximum	55,424 <u>\$55,978</u>
47		
48	Deputy Clerks	Annual Salary
49	Minimum	\$28,223 <u>\$28,505</u>
50	Maximum	43,107. <u>\$43,538."</u>

MAGISTRATES'/SALARY INCREASES

SECTION 24.7.(a) G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	\$33,025 <u>\$33,355</u>
Step 1	35,951 <u>\$36,311</u>
Step 2	39,135 <u>\$39,526</u>
Step 3	42,640 <u>\$43,066</u>
Step 4	46,551 <u>\$47,017</u>
Step 5	50,959 <u>\$51,469</u>
Step 6	55,901 <u>\$56,460.</u>

SECTION 24.7.(b) G.S. 7A-171.1(a1)(1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$26,846 <u>\$27,114</u>
1 or more but less than 3 years of service	28,027 <u>\$28,307</u>
3 or more but less than 5 years of service	30,405 <u>\$30,709.</u>

(2) Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

LEGISLATIVE BRANCH

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

SECTION 24.8.(a) For the 2013-2015 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly. Effective for the 2013-2015 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:

- (1) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
- (2) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.
- (3) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged.

SECTION 24.8.(b) G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~one hundred five thousand three hundred thirty-three dollars (\$105,333)~~, one hundred six thousand three hundred eighty-six dollars (\$106,386), payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House

1 of Representatives or the President Pro Tempore of the Senate, respectively, for additional
 2 employment duties beyond those provided by the rules of their House. The Legislative Services
 3 Commission shall review the salary of the principal clerks prior to submission of the proposed
 4 operating budget of the General Assembly to the Governor and shall make appropriate
 5 recommendations for changes in those salaries. Any changes enacted by the General Assembly
 6 shall be by amendment to this paragraph."
 7

8 **SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES**

9 **SECTION 24.9** G.S. 120-37(b) reads as rewritten:

10 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of
 11 ~~three hundred eighty five dollars (\$385.00)~~ three hundred eighty-nine dollars (\$389.00) per
 12 week plus subsistence at the same daily rate provided for members of the General Assembly,
 13 plus mileage at the rate provided for members of the General Assembly for one round trip only
 14 from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of
 15 the General Assembly and at such time prior to the convening of, and subsequent to
 16 adjournment or recess of, sessions as may be authorized by the Legislative Services
 17 Commission. The reading clerks shall serve during sessions only."
 18

19 **LEGISLATIVE EMPLOYEES/SALARY INCREASES**

20 **SECTION 24.10** The Legislative Services Officer shall increase the salaries of
 21 nonelected employees of the General Assembly in effect on June 30, 2013, by one percent
 22 (1%).
 23

24 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

25 **SECTION 24.11.(a)** For the 2013-2015 fiscal biennium, the annual salaries of all
 26 community college faculty whose salaries are supported from the State's General Fund shall
 27 remain unchanged. The minimum salaries for nine-month, full-time curriculum community
 28 college faculty shall also remain unchanged as follows:

29 Education Level	Minimum Salary
30 Vocational Diploma/Certificate or Less	\$34,657
31 Associate Degree or Equivalent	\$35,167
32 Bachelor's Degree	\$37,379
33 Master's Degree or Education Specialist	\$39,342
34 Doctoral Degree	\$42,171.

35 No full-time faculty member shall earn less than the minimum salary for his or her education
 36 level.

37 The pro rata hourly rate of the minimum salary for each education level shall be
 38 used to determine the minimum salary for part-time faculty members.

39 **SECTION 24.11.(b)** For the 2013-2015 fiscal biennium, the Director of the Budget
 40 shall transfer from the Reserve for Compensation Increases created in this act to the State
 41 Board of Community Colleges funds sufficient to provide community college employees a
 42 salary increase of one percent (1%), including funds for the employers' retirement and social
 43 security contributions. These compensation funds may be used for any one or more of the
 44 following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, (iv)
 45 retention increases, (v) any other compensation increase, (vi) to offset the management
 46 flexibility reduction, or (vii) employ personnel. Categories (i) through (v) shall be pursuant to
 47 policies adopted by the State Board of Community Colleges.
 48

49 **UNIVERSITY OF NORTH CAROLINA SYSTEM/SALARY INCREASES**

50 **SECTION 24.12.(a)** For the 2013-2015 fiscal biennium, the Director of the Budget
 51 shall transfer from the Reserve for Compensation Increases created in this act to the Board of

1 Governors of The University of North Carolina funds sufficient to provide employees who are
2 exempt from the State Personnel Act (EPA) a salary increase of one percent (1%), including
3 funds for the employers' retirement and social security contributions. These compensation
4 funds may be used to award compensation increases to EPA employees, pursuant to policies
5 adopted by the Board of Governors, including, but not limited to, any one or more of the
6 following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, and
7 (iv) retention increases. These compensation funds may also be used for one or more of the
8 following: (i) to offset the management flexibility reduction or (ii) employ personnel.

9 **SECTION 24.12.(b)** For the 2013-2015 fiscal biennium, the Director of the Budget
10 shall transfer from the Reserve for Compensation Increases created in this act to the Board of
11 Governors of The University of North Carolina funds sufficient to provide to employees who
12 are subject to the State Personnel Act (SPA) a salary increase of one percent (1%), including
13 funds for the employers' retirement and social security contributions.

14 15 **STATE HIGHWAY PATROL/SALARY INCREASES**

16 **SECTION 24.13.** The salary increase provisions of G.S. 20-187.3 are suspended
17 for the 2013-2015 fiscal biennium.

18 19 **MOST STATE EMPLOYEES/SALARY INCREASES**

20 **SECTION 24.14.(a)** For the 2013-2015 fiscal biennium, the salaries in effect June
21 30, 2013, for the following employees shall be increased by one percent (1%), effective July 1,
22 2013:

- 23 (1) Permanent full-time State officials and persons whose salaries are set in
24 accordance with the State Personnel Act.
- 25 (2) Permanent full-time State officials and persons in positions exempt from the
26 State Personnel Act.
- 27 (3) Permanent part-time State employees.

28 **SECTION 24.14.(b)** For the 2013-2015 fiscal biennium, the rate of pay of
29 temporary State employees and permanent hourly State employees may be increased on an
30 equitable basis (i) subject to the availability of funds in the employing State agency,
31 department, or institution and (ii) within regular State Budget Act procedures consistent with
32 this act.

33 34 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

35 **SECTION 24.15.(a)** The Director of the Budget shall transfer from the Reserve for
36 Compensation Increases in this act for fiscal biennium 2013-2015 all funds necessary for the
37 salary increases provided by this act, including funds for the employers' retirement and social
38 security contributions.

39 **SECTION 24.15.(b)** Salaries and related benefits for positions that are funded
40 partially from the General Fund or Highway Fund and partially from sources other than the
41 General Fund or Highway Fund shall be increased from the General Fund or Highway Fund
42 appropriation only to the extent of the proportionate part of the salaries paid from the General
43 Fund or Highway Fund. Nothing in this act authorizes the transfer of funds between the
44 General Fund and the Highway Fund for salary increases.

45 **SECTION 24.15.(c)** The fiscal biennium 2013-2015 salary increases provided in
46 this act are to be effective July 1, 2013, and do not apply to persons separated from State
47 service due to resignation, dismissal, reduction in force, death, or retirement or whose last
48 workday is prior to July 1, 2013.

49 **SECTION 24.15.(d)** The granting of the salary increases under this act does not
50 affect the status of eligibility for salary increments for which employees may be eligible unless
51 otherwise required by this act.

1 **SECTION 24.15.(e)** Payroll for employees on or after July 1, 2013, which
2 represent payment of services provided prior to these increases shall not be eligible for salary
3 increases provided for in this act. This section shall apply to all employees, subject to or
4 exempt from the State Personnel Act, paid from State funds, including public schools,
5 community colleges, and The University of North Carolina.

6 **SECTION 24.15.(f)** Except as otherwise provided by this act, for the 2013-2015
7 fiscal biennium, permanent full-time State agency employees and State-funded public school
8 employees who work a nine-, 10-, or 11-month work year schedule shall receive the one
9 percent (1%) annual increase provided by this act.

10 11 **SALARY ADJUSTMENT RESERVE**

12 **SECTION 24.16.(a)** General Fund and Highway Fund reserve budget codes are
13 established in the Office of State Budget and Management to fund the Salary Adjustment
14 Reserve.

15 **SECTION 24.16.(b)** Funds appropriated or otherwise transferred to the Salary
16 Adjustment Reserve by this act or any other provision of law shall be used to fund agency
17 requests for the following purposes:

- 18 (1) Salary range revisions to provide competitive salary rates for affected job
19 classifications in response to changes in labor market salary rates as
20 documented through data collection and analysis according to accepted
21 human resource professional practices and standards.
- 22 (2) Reallocation of positions to higher-level job classifications to compensate
23 employees for more difficult duties at competitive salary rates as
24 documented through data collection and analysis according to accepted
25 human resource professional practices and standards.

26 **SECTION 24.16.(c)** The Office of State Budget and Management shall monitor
27 requests from State agencies, universities, and institutions requesting use of these funds.

28 29 **ESTABLISH SEVERANCE EXPENDITURE RESERVE**

30 **SECTION 24.18.(a)** There are established in the Office of State Budget and
31 Management General Fund and Highway Fund reserve budget codes for the purpose of funding
32 severance-related obligations to State employees subject to the State Personnel Act, and
33 employees exempt from the State Personnel Act, who are separated from service due to a
34 reduction-in-force action. Severance-related expenditures from these reserves shall include
35 obligations to fund:

- 36 (1) A State employee's severance salary continuation with an age adjustment
37 factor as authorized by G.S. 126-8.5, including employer-related
38 contributions for social security, and
- 39 (2) Noncontributory health premiums for up to 12 months as authorized by
40 G.S. 135-45.2(a)(8) for employees of employing units as defined by
41 G.S. 135-45.1(12).

42 **SECTION 24.18.(b)** The Director of the Budget shall allocate funds to the
43 Severance Expenditure Reserve to public agencies to fund severance-related obligations
44 incurred by the agencies as a result of reduction-in-force actions that cause State-supported
45 public employees to be terminated from public employment. Funds appropriated to the
46 Severance Expenditure Reserve shall be expended in their entirety before funds appropriated to
47 a public agency for State-supported personal services expenditures may be used to fund any
48 severance-related obligations.

49 Funds appropriated to the Severance Expenditure Reserve may be allocated to
50 public agencies for positions that are funded by the General Fund or Highway Fund. Funds
51 appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for

1 positions that are funded partially from the General Fund or Highway Fund and partially from
 2 sources other than the General Fund or Highway Fund but only to the extent of the
 3 proportionate part of the salaries paid from the General Fund or Highway Fund.

4 For the purposes of this subsection, the term "public employee" means an employee
 5 of a State agency, department, or institution; The University of North Carolina; the North
 6 Carolina Community College System; or a local school administrative unit.

8 TEACHER SALARY SCHEDULES

9 **SECTION 24.19.** The following monthly salary schedules shall apply for the
 10 2013-2014 fiscal year to certified personnel of the public schools who are classified as teachers.
 11 The schedules contain 36 steps, with each step corresponding to one year of teaching
 12 experience. Public school employees paid according to this salary schedule and receiving
 13 NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the
 14 appropriate increase in salary. Provided, however, teachers employed during the 2012-2013
 15 school year who did not work the required number of months to acquire an additional year of
 16 experience shall not receive a decrease in salary as otherwise would be required by the salary
 17 schedule below.

19 2013-2014 Monthly Salary Schedule

20 "A" Teachers

21 Years of Experience	"A" Teachers	NBPTS Certification
22 0-2	\$3,111	N/A
23 3-5	\$3,111	\$3,485
24 6	\$3,153	\$3,532
25 7	\$3,199	\$3,582
26 8	\$3,336	\$3,736
27 9	\$3,479	\$3,897
28 10	\$3,616	\$4,050
29 11	\$3,748	\$4,198
30 12	\$3,854	\$4,317
31 13	\$3,904	\$4,372
32 14	\$3,953	\$4,428
33 15	\$4,005	\$4,485
34 16	\$4,055	\$4,542
35 17	\$4,107	\$4,600
36 18	\$4,159	\$4,658
37 19	\$4,213	\$4,719
38 20	\$4,268	\$4,780
39 21	\$4,325	\$4,844
40 22	\$4,380	\$4,906
41 23	\$4,441	\$4,974
42 24	\$4,501	\$5,041
43 25	\$4,560	\$5,108
44 26	\$4,623	\$5,177
45 27	\$4,685	\$5,248
46 28	\$4,753	\$5,324
47 29	\$4,819	\$5,397
48 30	\$4,884	\$5,470
49 31	\$4,952	\$5,546
50 32	\$5,022	\$5,625
51 33	\$5,094	\$5,705

1	34	\$5,167	\$5,787
2	35	\$5,267	\$5,899
3	36+	\$5,371	\$6,016

2013-2014 Monthly Salary Schedule

"M" Teachers

7	Years of Experience	"M" Teachers	NBPTS Certification
8	0-2	\$3,422	N/A
9	3-5	\$3,422	\$3,833
10	6	\$3,468	\$3,884
11	7	\$3,519	\$3,941
12	8	\$3,669	\$4,110
13	9	\$3,828	\$4,287
14	10	\$3,977	\$4,455
15	11	\$4,123	\$4,618
16	12	\$4,240	\$4,749
17	13	\$4,295	\$4,810
18	14	\$4,348	\$4,870
19	15	\$4,406	\$4,934
20	16	\$4,461	\$4,996
21	17	\$4,518	\$5,060
22	18	\$4,575	\$5,125
23	19	\$4,634	\$5,190
24	20	\$4,695	\$5,259
25	21	\$4,757	\$5,328
26	22	\$4,819	\$5,397
27	23	\$4,885	\$5,471
28	24	\$4,951	\$5,545
29	25	\$5,017	\$5,619
30	26	\$5,085	\$5,695
31	27	\$5,154	\$5,772
32	28	\$5,229	\$5,856
33	29	\$5,300	\$5,937
34	30	\$5,373	\$6,018
35	31	\$5,447	\$6,100
36	32	\$5,524	\$6,186
37	33	\$5,603	\$6,276
38	34	\$5,684	\$6,366
39	35	\$5,794	\$6,489
40	36+	\$5,909	\$6,618

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 24.20. The 2012-2013 base salary schedule for school-based administrators, plus an additional one percent (1%), is in effect for the 2013-2014 fiscal year, effective July 1, 2013. The base salary schedule for school-based administrators shall apply only to principals and assistant principals. Provided, however, school-based administrators (i) employed during the 2012-2013 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2013-2014 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule.

CENTRAL OFFICE SALARIES

SECTION 24.21.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2013-2014 fiscal year, beginning July 1, 2013.

School Administrator I	\$3,382	\$6,344
School Administrator II	\$3,586	\$6,729
School Administrator III	\$3,807	\$7,139
School Administrator IV	\$3,959	\$7,422
School Administrator V	\$4,119	\$7,723
School Administrator VI	\$4,369	\$8,190
School Administrator VII	\$4,545	\$8,520

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

SECTION 24.21.(b) The monthly salary ranges that follow apply to public school superintendents for the 2012-2013 fiscal year, beginning July 1, 2013.

Superintendent I	\$4,825	\$9,038
Superintendent II	\$5,122	\$9,585
Superintendent III	\$5,434	\$10,168
Superintendent IV	\$5,767	\$10,786
Superintendent V	\$6,121	\$11,443

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 24.21.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 24.21.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-seven dollars (\$127.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-six dollars (\$256.00) per month in addition to the compensation provided for under this section.

SECTION 24.21.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 24.21.(f) The salaries of all permanent full-time personnel paid from the Central Office Allotment shall be increased by one percent (1%), commencing July 1, 2013. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARIES

1 **SECTION 24.22.(a)** The annual salary increase for permanent, full-time
2 noncertified public school employees whose salaries are supported from the State's General
3 Fund shall be one percent (1%), commencing July 1, 2013.

4 **SECTION 24.22.(b)** Local boards of education shall increase the rates of pay for
5 such employees who were employed for all or part of fiscal year 2012-2013 and who continue
6 their employment for fiscal year 2013-2014 by providing an annual salary increase for
7 employees of one percent (1%).

8 For part-time employees, the pay increase shall be pro rata based on the number of
9 hours worked.

10 **SECTION 24.22.(c)** The State Board of Education may adopt salary ranges for
11 noncertified personnel to support increases of one percent (1%) for the 2013-2014 fiscal year.
12

13 **STATE AGENCY TEACHERS' COMPENSATION**

14 **SECTION 24.23.** Funds in the Reserve for Compensation Increases and Personnel
15 Flexibility shall be used to increase annual salaries, by one percent (1%), for employees of
16 schools operated by the Department of Public Instruction, the Department of Health and
17 Human Services, and the Department of Public Safety, who are paid on the Teacher Salary
18 Schedule or the School-Based Administrator Salary Schedule.
19

20 **SALARY-RELATED CONTRIBUTIONS**

21 **SECTION 24.24.(a)** Effective for the 2013-2015 fiscal biennium, required
22 employer salary-related contributions for employees whose salaries are paid from department,
23 office, institution, or agency receipts shall be paid from the same source as the source of the
24 employees' salary. If an employee's salary is paid in part from the General Fund or Highway
25 Fund and in part from department, office, institution, or agency receipts, required employer
26 salary-related contributions may be paid from the General Fund or Highway Fund only to the
27 extent of the proportionate part paid from the General Fund or Highway Fund in support of the
28 salary of the employee, and the remainder of the employer's requirements shall be paid from the
29 source that supplies the remainder of the employee's salary. The requirements of this section as
30 to source of payment are also applicable to payments on behalf of the employee for
31 hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave,
32 workers' compensation, severance pay, separation allowances, and applicable disability income
33 benefits.

34 Notwithstanding any other provision of law, an employing unit, as defined in
35 G.S. 135-45.1 or in G.S. 135-48.1 as enacted by this act, that hires or has hired as an employee
36 a retiree that is in receipt of monthly retirement benefits from any retirement system supported
37 in whole or in part by contributions of the State shall enroll the retiree in the active group and
38 pay the cost for the hospital-medical benefits if that retiree is employed in a position that would
39 require the employer to pay hospital-medical benefits if the individual had not been retired.

40 **SECTION 24.24.(b)** Effective July 1, 2013, the State's employer contribution rates
41 budgeted for retirement and related benefits as percentage of covered salaries for the 2013-2014
42 fiscal year are (i) fourteen and fifty-nine hundredths percent (14.59%) – Teachers and State
43 Employees; (ii) nineteen and fifty-nine hundredths percent (19.59%) – State Law Enforcement
44 Officers; (iii) twelve and fifty-eight hundredths percent (12.58%) – University Employees'
45 Optional Retirement System; (iv) twelve and fifty-eight hundredths percent (12.58%) –
46 Community College Optional Retirement Program; (v) thirty-three and thirty-one hundredths
47 percent (33.31%) – Consolidated Judicial Retirement System; and (vi) five and three
48 hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing
49 contribution rates includes five and three hundredths percent (5.30%) for hospital and medical
50 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
51 Community College Optional Retirement Program, and for the University Employees' Optional

1 Retirement Program includes forty-four hundredths percent (0.44%) for the Disability Income
2 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include
3 sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
4 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

5 **SECTION 24.24.(c)** Effective July 1, 2014, the State's employer contribution rates
6 budgeted for retirement and related benefits as percentage of covered salaries for the 2013-2014
7 fiscal year are (i) fourteen and fifty-nine hundredths percent (14.59%) – Teachers and State
8 Employees; (ii) nineteen and fifty-nine hundredths percent (19.59%) – State Law Enforcement
9 Officers; (iii) twelve and fifty-eight hundredths percent (12.58%) – University Employees'
10 Optional Retirement System; (iv) twelve and fifty-eight hundredths percent (12.58%) –
11 Community College Optional Retirement Program; (v) thirty-three and thirty-one hundredths
12 percent (33.31%) – Consolidated Judicial Retirement System; and (vi) five and three
13 hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing
14 contribution rates includes five and three hundredths percent (5.30%) for hospital and medical
15 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
16 Community College Optional Retirement Program, and for the University Employees' Optional
17 Retirement Program includes forty-four hundredths percent (0.44%) for the Disability Income
18 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include
19 sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
20 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

21 **SECTION 24.24.(d)** Effective July 1, 2013, the maximum annual employer
22 contributions, payable monthly, by the State for each covered employee or retiree for the
23 2013-2014 fiscal year to the State Health Plan for Teachers and State Employees are (i)
24 Medicare-eligible employees and retirees – four thousand one hundred thirty dollars (\$4,130)
25 and (ii) non-Medicare-eligible employees and retirees – five thousand three hundred fourteen
26 dollars (\$5,314).

27 **SECTION 24.24.(e)** Effective July 1, 2014, the maximum annual employer
28 contributions, payable monthly, by the State for each covered employee or retiree for the
29 2014-2015 fiscal year to the State Health Plan for Teachers and State Employees are (i)
30 Medicare-eligible employees and retirees – four thousand three hundred twenty-four dollars
31 (\$4,324) and (ii) non-Medicare-eligible employees and retirees – five thousand five hundred
32 sixty-four dollars (\$5,564).

33
34 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS'
35 AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL
36 RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

37 **SECTION 24.25.(a)** G.S. 135-5 is amended by adding a new subsection to read:

38 "(sss) From and after July 1, 2013, the retirement allowance to or on account of
39 beneficiaries whose retirement commenced on or before July 1, 2012, shall be increased by one
40 percent (1%) of the allowance payable on June 1, 2013, in accordance with G.S. 135-5(o).
41 Furthermore, from and after July 1, 2013, the retirement allowance to or on account of
42 beneficiaries whose retirement commenced after July 1, 2012, but before June 30, 2013, shall
43 be increased by a prorated amount of one percent (1%) of the allowance payable as determined
44 by the Board of Trustees based upon the number of months that a retirement allowance was
45 paid between July 1, 2012, and June 30, 2013."

46 **SECTION 24.25.(b)** G.S. 135-65 is amended by adding a new subsection to read:

47 "(dd) From and after July 1, 2013, the retirement allowance to or on account of
48 beneficiaries whose retirement commenced on or before July 1, 2012, shall be increased by one
49 percent (1%) of the allowance payable on June 1, 2013. Furthermore, from and after July 1,
50 2013, the retirement allowance to or on account of beneficiaries whose retirement commenced
51 after July 1, 2012, but before June 30, 2013, shall be increased by a prorated amount of one

1 percent (1%) of the allowance payable as determined by the Board of Trustees based upon the
2 number of months that a retirement allowance was paid between July 1, 2012, and June 30,
3 2013."

4 **SECTION 24.25.(c)** G.S. 120-4.22A is amended by adding a new subsection to
5 read:

6 "(x) In accordance with subsection (a) of this section, from and after July 1, 2013, the
7 retirement allowance to or on account of beneficiaries whose retirement commenced on or
8 before January 1, 2013, shall be increased by one percent (1%) of the allowance payable on
9 June 1, 2013. Furthermore, from and after July 1, 2013, the retirement allowance to or on
10 account of beneficiaries whose retirement commenced after January 1, 2013, but before June
11 30, 2013, shall be increased by a prorated amount of one percent (1%) of the allowance payable
12 as determined by the Board of Trustees based upon the number of months that a retirement
13 allowance was paid between January 1, 2013, and June 30, 2013."

14 15 **PART XXV. CAPITAL APPROPRIATIONS**

16 17 **G.S. 143C-11. REVERSION OF APPROPRIATION AND LAPSE OF PROJECT** 18 **AUTHORIZATION.**

19 **SECTION 25.1.(a)** Reversion of Appropriation. – A State agency shall begin the
20 planning of or the construction of an authorized capital improvement project during the fiscal
21 year in which the funds are appropriated. If it does not, the Director may credit the
22 appropriation to the Project Reserve Account, unless otherwise required by law. If the Director
23 does not credit the appropriation to the Project Reserve Account, the appropriation shall revert
24 to the principal fund from which it was appropriated. The Director may, for good cause, allow a
25 State agency to take up to an additional 12 months to take the actions required by this
26 subsection.

27 **SECTION 25.1.(b)** Lapse of Project Authorization. – Authorizations for capital
28 improvement projects shall lapse if any of the following occur: (i) the appropriation for a
29 capital improvement project reverts, (ii) the construction of a project does not begin during the
30 first two fiscal years in which funds are appropriated, or (iii) the Director redirects funds
31 appropriated for a capital improvement project in accordance with G.S. 143C-6-2. The Director
32 may, for good cause, allow a State agency to take up to an additional 12 months to begin
33 construction of a project; however, if the Director approves an extension of time under this
34 subsection and construction of the project has not begun by the end of the extension, the
35 authorization for the project shall lapse. Capital improvement project authorizations for the
36 North Carolina National Guard shall only lapse at the discretion of the Director of the Budget.

37 38 **PROHIBIT EXPENDITURES OF STATE FUNDS FOR THE NORTH CAROLINA** 39 **INTERNATIONAL TERMINAL**

40 **SECTION 25.2.(a)** Notwithstanding G.S. 136-253 and any other provision of law,
41 State funds, as that term is defined in G.S. 143C-1-1, shall not be used to fund the North
42 Carolina International Terminal of the North Carolina State Ports Authority.

43 **SECTION 25.2.(b)** This section shall expire on June 30, 2014.

44 45 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

46 **SECTION 25.3.(a)** Of the funds in the Reserve for Repairs and Renovations for
47 the 2013-2014 fiscal year, the following allocations shall be made to the following agencies for
48 repairs and renovations pursuant to G.S. 143C-4-3:

- 49 (1) Fifty million dollars (\$50,000,000) shall be allocated to the Board of
50 Governors of The University of North Carolina.

- 1 (2) One hundred million dollars (\$100,000,000) shall be allocated to the Office
2 of State Budget and Management.

3 The Office of State Budget and Management shall consult with or report to the Joint
4 Legislative Commission on Governmental Operations, as appropriate, in accordance with
5 G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on
6 Governmental Operations in accordance with G.S. 143C-4-3(d).

7 **SECTION 25.3.(b)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
8 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
9 portion shall be used by the Board of Governors for the installation of fire sprinklers in
10 university residence halls. This portion shall be in addition to funds otherwise appropriated in
11 this act for the same purpose. Such funds shall be allocated among the university's institutions
12 by the President of The University of North Carolina, who shall consider the following factors
13 when allocating those funds:

- 14 (1) The safety and well-being of the residents of campus housing programs.
15 (2) The current level of housing rents charged to students and how that
16 compares to an institution's public peers and other UNC institutions.
17 (3) The level of previous authorizations to constituent institutions for the
18 construction or renovation of residence halls funded from the General Fund,
19 or from bonds or certificates of participation supported by the General Fund,
20 since 1996.
21 (4) The financial status of each constituent institution's housing system,
22 including debt capacity, debt coverage ratios, credit rankings, required
23 reserves, the planned use of cash balances for other housing system
24 improvements, and the constituent institution's ability to pay for the
25 installation of fire sprinklers in all residence halls.
26 (5) The total cost of each proposed project, including the cost of installing fire
27 sprinklers and the cost of other construction, such as asbestos removal and
28 additional water supply needs.

29 The Board of Governors shall submit progress reports to the Joint Legislative Commission on
30 Governmental Operations. Reports shall include the status of completed, current, and planned
31 projects. Reports also shall include information on the financial status of each constituent
32 institution's housing system, the constituent institution's ability to pay for fire protection in
33 residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on
34 January 1 and July 1 until all residence halls have fire sprinklers.

35 **SECTION 25.3.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to
36 the Board of Governors of The University of North Carolina in subsection (a) of this section, a
37 portion shall be used by the Board of Governors for campus public safety improvements
38 allowable under G.S. 143C-4-3(b).

40 **REPORTING ON CAPITAL PROJECTS**

41 **SECTION 25.4.(a)** Definitions. – The following definitions apply in this section:

- 42 (1) Capital project. – Any capital improvement, as that term is defined in
43 G.S. 143C-1-1, that is not complete by the effective date of this section and
44 that is funded in whole or in part with either State funds or statutorily or
45 constitutionally authorized indebtedness of any kind. This term includes only
46 projects with a total cost of one hundred thousand dollars (\$100,000) or
47 more.
48 (2) Construction phase. – The status of a particular capital project as described
49 using the terms customarily employed in the design and construction
50 industries.

- 1 (3) New capital project. – A capital project that is authorized in this act or
2 subsequent to the effective date of this act.

3 **SECTION 25.4.(b)** Reporting. – The following reports are required:

- 4 (1) By October 1, 2014, and every six months thereafter, each State agency shall
5 report on the status of agency capital projects to the Joint Legislative
6 Commission on Governmental Operations and to the Joint Legislative
7 Oversight Committee on Capital Improvements.
8 (2) By October 1, 2014, and quarterly thereafter, each State agency shall report
9 on the status of agency capital projects to the Fiscal Research Division of the
10 General Assembly and to the Office of State Budget and Management.

11 **SECTION 25.4.(c)** The reports required by this section shall include at least the
12 following information about every agency capital project:

- 13 (1) The current construction phase of the project.
14 (2) The anticipated time line from the current construction phase to project
15 completion.
16 (3) Information about expenditures that have been made in connection with the
17 project, regardless of source of the funds expended.
18 (4) Information about the adequacy of funding to complete the project,
19 including estimates of how final expenditures will relate to initial estimates
20 of expenditures, and whether or not scope reductions will be necessary in
21 order to complete the project within its budget.
22 (5) For new capital projects only, an estimate of the operating costs for the
23 project for the first five fiscal years of its operation.
24

25 **TRANSFER FOR PLANT CONSERVATION PROGRAM**

26 **SECTION 25.5.** From funds that are deposited with the State Treasurer pursuant to
27 G.S. 146-30 to the credit of the Department of Agriculture and Consumer Services in a capital
28 improvement account, the sum of thirty thousand dollars (\$30,000) for the 2013-2014 fiscal
29 year shall be transferred to the Department of Agriculture and Consumer Services to be used,
30 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
31 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
32 land, such as land appraisals, land surveys, title searches, environmental studies, and for the
33 management of plant conservation program preserves owned by the Department.
34

35 **ELIMINATE PUBLIC SCHOOL BUILDING CAPITAL FUND TRANSFER** 36 **PERMANENTLY**

37 **SECTION 25.6.(a)** G.S. 115C-546.1(b) is repealed.

38 **SECTION 25.6.(b)** This section is effective for taxable years beginning on or after
39 January 1, 2013.

40 **SECTION 25.6.(c)** Notwithstanding G.S. 115C-546.2(a), the State Board of
41 Education may use, out of funds available, up to one million five hundred thousand dollars
42 (\$1,500,000) of funds available under G.S. 115C-546.2 to support positions in the Department
43 of Public Instruction's Support Services Division.
44

45 **CHANGE IN JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL** 46 **OPERATIONS CONSULTATION**

47 **SECTION 25.7.** G.S. 120-76.1 reads as rewritten:

48 "**§ 120-76.1. Prior consultation with the Commission.**

49 (a) Notwithstanding the provisions of G.S. 120-76(8) or any other provision of law
50 requiring prior consultation by the Governor with the Commission, whenever an expenditure is
51 required because of an emergency that poses an imminent threat to public health or public

1 safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident,
 2 such as an explosion or a wreck, the Governor may take action without consulting the
 3 Commission if the action is determined by the Governor to be related to the emergency. The
 4 Governor shall report to the Commission on any expenditures made under this subsection no
 5 later than 30 days after making the expenditure and shall identify in the report the emergency,
 6 the type of action taken, and how it was related to the emergency.

7 (b) Any agency, board, commission, or other entity required under G.S. 120-76(8) or
 8 any other provision of law to consult with the Commission prior to taking an action shall
 9 submit a detailed report of the action under consideration to the Chairs of the Commission, the
 10 Commission Assistant, and the Fiscal Research Division of the General Assembly. If the
 11 Commission does not hold a meeting to hear the consultation within 90 days of receiving the
 12 submission of the detailed report, the consultation requirement is satisfied. With regard to
 13 capital improvement ~~projects of The University of North Carolina~~ projects, if the Commission
 14 does not hold a meeting to hear the consultation within 30 days of receiving the submission of
 15 the detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied.

16 (c) Consultations regarding the establishment of new fees and charges and the increase
 17 of existing fees and charges are governed by G.S. 12-3.1, and this section does not apply to
 18 those consultations."
 19

20 WATER RESOURCES DEVELOPMENT PROJECT FUNDS

21 **SECTION 25.8.(a)** The Department of Environment and Natural Resources shall
 22 allocate the funds for water resources development projects from the 2012-2013 year-end credit
 23 balance and in accordance with the schedule that follows. These funds will provide a State
 24 match for thirty million four hundred seventeen thousand dollars (\$30,417,000) in federal
 25 funds.
 26

	2013-2014
28 (1) B. Everett Jordan Lake Water Supply Storage	\$ 200,000
29 (2) Wilmington Harbor Deepening (75/25)	2,400,000
30 (3) Wilmington Harbor Maintenance (Disposal Area 8 & 10)	800,000
31 (4) Morehead City Harbor Maintenance	-
32 (5) Long-Term Dredging MOA with USACE	2,000,000
33 (6) Wilmington Harbor Improvements Feasibility (50/50)	250,000
34 (7) Planning Assistance to Communities (50/50)	25,000
35 (8) Manteo Old House Channel Cap Sec. 204 (65/35)	250,000
36 (9) John H. Kerr Dam and Reservoir Sec. 216 (50/50)	50,000
37 (10) Neuse River Basin Restoration PED (50/50)	93,000
38 (11) Currituck Sound Environmental Restoration Study (50/50)	158,000
39 (12) Princeville Blood Damage Reduction Feasibility Study (50/50)	124,000
40 (13) NRCS EQUIP Project	1,500,000
41 (14) Wrightsville Beach Renourishment Project (65/35) (full project)	1,077,000
42 (15) Ocean Isle Beach Renourishment Project (65/35) (full project)	1,454,000
43 (16) Carolina Beach Renourishment (65/35) (40% project)	592,000
44 (17) Kure Beach Renourishment (65/35) (40% project)	554,000
45 (18) Bogue Banks Coastal Storm Damage Reduction Study (50/50)	190,000
46 (19) Surf City/NTB Coastal Storm Damage Reduction Study PED (75/25)	-
47 (20) West Onslow Beach (Topsail Beach) PED (75/25)	56,000
48 (21) Water Resources Planning in Support of Session Law 2010-143	-
49 (22) Aquatic Plant Control, Statewide and Lake Gaston (50/50)	200,000
50 (23) State-Local Projects	1,000,000
51 (24) Skewarkee Drainage Project (50/50)	330,000

(25) Lake Waccamaw Hydrilla Eradication Project (50/50) 200,000

TOTALS \$ 13,503,000

SECTION 25.8.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used for the following projects:

2013-2014

(1) Wilmington Harbor Maintenance (Disposal Area 8 & 10) \$ 1,200,000

(2) Manteo Old House Channel Cap Sec. 204 (65/35) 1,250,000

(3) Neuse River Basin PED (75/25) 57,000

(4) Princeville Blood Damage Reduction Feasibility Study (50/50) 25,000

(5) Bogue Banks Coastal Storm Damage Reduction PED Study (75/25) 25,000

(6) Surf City/NTB Coastal Storm Damage Reduction Study PED (75/25) 37,000

TOTALS \$ 2,594,000

SECTION 25.8.(c) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2014 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.

(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2013-2014.

(3) State-local water resources development projects.

However, fund availability shall not be used to fund the North Carolina International Terminal. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2013-2014 fiscal year.

SECTION 25.8.(d) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.

(2) The estimated cost of each project.

(3) The date that work on each project began or is expected to begin.

(4) The date that work on each project was completed or is expected to be completed.

(5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 25.8.(e) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applied to funds appropriated in this act and to funds appropriated prior to the 2013-2015 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which local government or local governments participate.

SECTION 25.8.(f) The Departments "Long Term Dredging Memorandum of Agreement" (MOA) with the U.S. Army Corps of Engineers is the subject of this subsection.

- 1 (1) The prioritization of all projects completed using these funds will be in joint
 2 consultation with the State, applicable local units of government, and the
 3 U.S. Army Corps of Engineers.
- 4 (2) Funds appropriated for this MOA shall be fifty percent (50%) of the total
 5 cost for each project that is directly requested by a unit of local government.
- 6 (3) The Department shall make annual reports on the use of funds provided to
 7 the U.S. Army Corps of Engineers under the "Long Term Dredging
 8 Memorandum of Agreement" to the Joint Legislative Commission on
 9 Governmental Operations, the Fiscal Research Division, and the Office of
 10 State Budget and Management. Each report shall include all of the
 11 following:
- 12 a. All projects started.
 - 13 b. Estimated cost of each project.
 - 14 c. The date that work on each project began or is expected to begin.
 - 15 d. The date that work on each project was completed or is expected to
 16 be completed.
 - 17 e. The actual cost of each project.

18 **PART XXVI. REVENUE LAW CHANGES**

19 **REPEAL THE ESTATE TAX**

20 **SECTION 26.1.** Article 1A of Chapter 105 of the General Statutes is repealed.

21 **SECTION 26.2.** G.S. 105-241.10 reads as rewritten:

22 **"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

23 The limitations in this section apply when a taxpayer files a timely return reflecting a
 24 federal determination that affects the amount of State tax payable and the general statute of
 25 limitations for requesting a refund or proposing an assessment of the State tax has expired. A
 26 federal determination is a correction or final determination by the federal government of the
 27 amount of a federal tax due. A return reflecting a federal determination is timely if it is filed
 28 within the time required by ~~G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, or 105-163.6A~~, as
 29 appropriate. The limitations are:

- 30 (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of
 31 adjustments related to the federal determination.
- 32 (2) Assessment. – A taxpayer is liable for additional tax only if the additional
 33 tax is the result of adjustments related to the federal determination. A
 34 proposed assessment may not include an amount that is outside the scope of
 35 this liability."
 36
 37

38 **SECTION 26.3.** G.S. 105-236(a)(5) reads as rewritten:

39 "(a) Penalties. – The following civil penalties and criminal offenses apply:

- 40 ...
- 41 (5) Negligence. –
 42 ...
 43 e. ~~Estate tax deficiencies. — This subdivision does not apply to estate
 44 tax deficiencies that are the result of valuation understatement.~~

45"

46 **SECTION 26.4.** Sections 26.1, 26.2, and 26.3 of this act become effective January
 47 1, 2013, and apply to the estates of decedents dying on or after that date. The remainder of this
 48 act is effective when it becomes law.

49 **PART XXVII. MISCELLANEOUS PROVISIONS**

STATE BUDGET ACT APPLIES

SECTION 27.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

MOST TEXT APPLIES ONLY TO THE 2013-2015 FISCAL BIENNIUM

SECTION 27.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium.

EFFECT OF HEADINGS

SECTION 27.3. The headings to the Parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

SEVERABILITY CLAUSE

SECTION 27.4. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 27.5. Except as otherwise provided, this act becomes effective July 1, 2013.