

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SESSION LAW 2012-142  
HOUSE BILL 950**

**AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS  
APPROPRIATIONS ACT OF 2011 AND FOR OTHER PURPOSES.**

The General Assembly of North Carolina enacts:

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

**INTRODUCTION**

**SECTION 1.1.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. 143C-1-2(b).

**TITLE OF ACT**

**SECTION 1.2.** This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2012."

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

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2013, according to the schedule that follows. Amounts set out in parentheses are reductions from General Fund appropriations for the 2012-2013 fiscal year.

<b>Current Operations – General Fund</b>	<b>2012-2013</b>
<b>EDUCATION</b>	
Community Colleges System Office	\$ 5,165,000
Department of Public Instruction	62,430,967
University of North Carolina – Board of Governors	
Appalachian State University	573,876
East Carolina University	
Academic Affairs	4,447,287
Health Affairs	0
Elizabeth City State University	0
Fayetteville State University	473,656
NC A&T State University	0
NC Central University	0
NC State University	
Academic Affairs	3,346,252



Agricultural Research	0
Agricultural Extension	0
UNC-Asheville	0
UNC-Chapel Hill	
Academic Affairs	0
Health Affairs	0
AHEC	0
UNC-Charlotte	0
UNC-Greensboro	103,534
UNC-Pembroke	0
UNC-School of the Arts	0
UNC-Wilmington	434,038
Western Carolina University	0
Winston-Salem State University	0
General Administration	9,808,141
University Institution Programs	15,560,828
Related Educational Programs	(12,139,141)
UNC Financial Aid Private Colleges	4,500,000
NC School of Science & Math	0
UNC Hospitals	(3,000,000)
Total University of North Carolina – Board of Governors	\$ 24,108,471

## HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Division of Central Management and Support	\$ 1,307,641
Division of Aging and Adult Services	50,000,000
Division of Services for Blind/Deaf/Hard of Hearing	(168,336)
Division of Child Development	(3,500,000)
Division of Health Service Regulation	1,792,559
Division of Medical Assistance	194,172,266
Division of Mental Health, Dev. Disabilities and Sub. Abuse	(15,196,981)
NC Health Choice	(2,007,430)
Division of Public Health	11,384,778
Division of Social Services	(9,079,116)
Division of Vocational Rehabilitation	0
Total Health and Human Services	\$ 228,705,381

## NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ 47,362,832
Department of Commerce	
Commerce	7,471,362
Commerce State-Aid	(1,217,540)
NC Biotechnology Center	(351,034)
Rural Economic Development Center	(3,757,535)
Department of Environment and Natural Resources	(39,339,288)
DENR Clean Water Management Trust Fund	(500,000)
Department of Labor	(316,738)
Wildlife Resources Commission	434,397

## JUSTICE AND PUBLIC SAFETY

Department of Public Safety	\$ (32,231,135)
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Judicial Department		(2,334,307)
Judicial Department – Indigent Defense		0
Department of Justice		(6,667,504)
<b>GENERAL GOVERNMENT</b>		
Department of Administration	\$	(24,861)
Department of State Auditor		(213,521)
Office of State Controller		1,580,412
Department of Cultural Resources		
Cultural Resources		(298,866)
Roanoke Island Commission		(300,000)
State Board of Elections		(102,532)
General Assembly		1,570,422
Office of the Governor		
Office of the Governor		(94,823)
Office of State Budget and Management		(116,973)
OSBM – Reserve for Special Appropriations		1,438,388
Housing Finance Agency		(8,064,634)
Department of Insurance		
Insurance		459,055
Insurance – Volunteer Safety Workers' Compensation		0
Office of Lieutenant Governor		(144,150)
Office of Administrative Hearings		0
Department of Revenue		(1,563,991)
Department of Secretary of State		766,661
Department of State Treasurer		
State Treasurer		0
State Treasurer – Retirement for Fire and Rescue Squad Workers		0
<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
Information Technology Fund	\$	(750,000)
Reserve for Job Development Investment Grants (JDIG)		(6,500,000)
Judicial Retirement System Contribution		100,000
Continuation/Justification Review Reserve		(35,576,758)
Compensation and Performance Pay Reserve		(121,105,840)
Reserve for Compensation Increases and Personnel Flexibility		159,984,426
Disability Income Plan Rate Reduction		(8,688,000)
One North Carolina Fund		9,000,000
Reserve for VIPER		10,000,000
Debt Service		
General Debt Service		(52,904,635)

**TOTAL CURRENT OPERATIONS – GENERAL FUND** \$ **237,413,109**

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** Section 2.2(a) of S.L. 2011-145, as amended by Section 2(b) of S.L. 2011-391 and Section 5(a) of S.L. 2011-395, is repealed. The General Fund availability used in adjusting the 2012-2013 budget is shown below:

	<b>FY 2012-2013</b>
Unappropriated Balance Remaining	\$ 41,232,325
Anticipated Overcollections from FY 2011-2012	232,500,000
Anticipated Reversions for FY 2011-2012	205,500,000
Net Supplemental Medicaid Appropriation (S.L. 2012-2)	(154,000,000)
Less Earmarkings of Year-End Fund Balance	
Savings Reserve Account	(123,170,924)
Repairs and Renovations Reserve Account	(23,170,924)
<b>Beginning Unreserved Fund Balance</b>	<b>\$ 178,890,477</b>
 <b>Revenue Based on Existing Tax Structure</b>	 <b>18,931,200,000</b>
 <b>Nontax Revenue</b>	
Investment Income	21,600,000
Judicial Fees	258,700,000
Disproportionate Share	115,000,000
Insurance	73,700,000
Other Nontax Revenues	304,400,000
Highway Trust Fund Transfer	27,600,000
Highway Fund Transfer	212,280,000
<b>Total – Nontax Revenues</b>	<b>1,013,280,000</b>
 <b>Subtotal General Fund Availability</b>	 <b>20,123,370,477</b>
 <b>Adjustments to Availability: 2012 Session</b>	
E-Commerce Reserve Cash Balance	2,470,642
One North Carolina Fund Cash Balance	45,000,000
Sale of State Assets Receipt	(25,000,000)
Information Technology Internal Service Fund Cash Balance	14,000,000
National Mortgage Settlement	9,610,000
Highway Fund Transfer – Technical Adjustment	8,000,000
Work Opportunity Tax Credit Extension (HB 1015 Reserve)	(800,000)
Tax Deduction for Educational Supplies (HB 1015 Reserve)	(1,800,000)
Sales Tax Refund Application for	
Passenger Air Carriers (HB 1015 Reserve)	(3,150,000)
Insurance Regulatory Fund	166,613
Teaching Fellows Trust Fund Cash Balance	3,265,000
Diversion of Golden L.E.A.F. Funds	3,750,000
Charitable Licensing Receipts	979,752
 <b>Subtotal Adjustments to Availability:</b>	 <b>56,492,007</b>
 <b>Revised Total General Fund Availability</b>	 <b>20,179,862,484</b>
<b>Less General Fund Appropriations</b>	<b>20,179,862,484</b>
 <b>Balance Remaining</b>	 <b>0</b>

**SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer only twenty-three million one hundred seventy thousand nine hundred twenty-four dollars (\$23,170,924) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2012.

**SECTION 2.2.(c)** Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2012-2013 fiscal year to be used in accordance with G.S. 143C-4-3.

**SECTION 2.2.(d)** Notwithstanding G.S. 143C-4-2 and pursuant to subsection (a) of this section, the State Controller shall transfer one hundred twenty-three million one hundred seventy thousand nine hundred twenty-four dollars (\$123,170,924) from the unreserved fund balance to the Savings Reserve Account on June 30, 2012.

This is not an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

**SECTION 2.2.(e)** Notwithstanding any other provision of law, the sum of fourteen million dollars (\$14,000,000) shall be transferred from the Information Technology Internal Service Fund ending balance for State fiscal year 2011-2012, Budget Code 74660, to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

**SECTION 2.2.(f)** Notwithstanding any other provision of law, the sum of forty-five million dollars (\$45,000,000) from the Department of Commerce, One North Carolina Fund, shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

**SECTION 2.2.(g)** Notwithstanding any other provision of law, the sum of two million four hundred seventy thousand six hundred forty-two dollars (\$2,470,642) from the E-Commerce Reserve, Budget Code 24100, shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

**SECTION 2.2.(h)** Section 2.2(e) of S.L. 2011-145 reads as rewritten:

**"SECTION 2.2.(e)** Of the 2011-2012 and the 2012-2013 annual installment payments to the North Carolina State Specific Account that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of S.L. 1999-2, seventeen million five hundred sixty-three thousand seven hundred sixty dollars (\$17,563,760) for the 2011-2012 fiscal year and ~~seventeen million five hundred sixty-three thousand seven hundred sixty dollars (\$17,563,760)~~ twenty-one million three hundred thirteen thousand seven hundred sixty dollars (\$21,313,760) for the 2012-2013 fiscal year is transferred to the General Fund."

**SECTION 2.2.(i)** Notwithstanding any other provision of law to the contrary, the sum of three million two hundred sixty-five thousand dollars (\$3,265,000) from the Department of Public Instruction Trust Special-Teaching Fellows shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 or the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

**SECTION 2.2.(j)** This section becomes effective June 30, 2012.

### **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

#### **CURRENT OPERATIONS/HIGHWAY FUND**

**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2013, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2012-2013 fiscal year.

#### **Current Operations – Highway Fund**

**2012-2013**

Department of Transportation  
Administration

\$ 1,595,705

Division of Highways

Administration

(164,266)

Construction

(26,293,824)

Maintenance

(60,832,242)

Planning and Research

0

OSHA Program

0

Ferry Operations	(3,000,000)
State Aid	
Municipalities	(912,604)
Public Transportation	(5,908,506)
Airports	0
Railroads	(500,000)
Governor's Highway Safety Program	0
Division of Motor Vehicles	50,152,343
Other State Agencies, Reserves, and Transfers	(67,266,606)
Capital Improvements	0
<b>Total</b>	<b>\$ (113,130,000)</b>

### HIGHWAY FUND AVAILABILITY STATEMENT

**SECTION 3.2.** Section 3.2 of S.L. 2011-145 is repealed. The Highway Fund availability used in adjusting the 2012-2013 fiscal year budget is shown below:

<b>Highway Fund Availability Statement</b>	<b>2012-2013</b>
Unreserved Fund Balance	\$ 27,000,000
Revenue Based on Existing Law	\$ 2,062,680,000
Adjustment to Revenue Availability (Motor Fuels Tax)	\$ (46,650,000)
Adjustment to Revenue Availability (Civil Penalties)	\$ (22,000,000)
<b>Revised Total Highway Fund Availability</b>	<b>\$ 2,021,030,000</b>
<b>Unappropriated Balance</b>	<b>\$ 0</b>

### PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

#### CURRENT OPERATIONS/HIGHWAY TRUST FUND

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2013, according to the following schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2012-2013 fiscal year.

<b>Current Operations – Highway Trust Fund</b>	<b>2012-2013</b>
Program Administration	\$ (1,516,320)
Intrastate System	(9,338,145)
Aid to Municipalities	(979,789)
Secondary Roads	(979,789)
Urban Loops	(3,775,957)
Turnpike Authority	(30,500,000)
Transfer to General Fund	0
Transfer to Highway Fund	0
Debt Service	0
Mobility Fund	75,500,000
Reserves	(45,000,000)
<b>GRAND TOTAL CURRENT OPERATIONS</b>	<b>\$ (16,590,000)</b>

### HIGHWAY TRUST FUND AVAILABILITY STATEMENT

**SECTION 4.2.** Section 4.2 of S.L. 2011-145 is repealed. The Highway Trust Fund availability used in developing the 2012-2013 fiscal year budget is shown below:

<b>Highway Trust Fund Availability</b>	<b>2012-2013</b>
Unreserved Fund Balance	\$ 15,000,000
Revenue Based on Existing Law	1,070,870,000
Adjustment to Revenue Availability (Motor Fuels Tax)	(15,550,000)
<b>Revised Total Highway Trust Fund Availability</b>	<b>\$1,070,320,000</b>

## **PART V. OTHER APPROPRIATIONS**

### **ELIMINATE REPORTING REQUIREMENT/APPROPRIATION OF OTHER FUNDS/USE OF DEPARTMENTAL RECEIPTS**

**SECTION 5.1.** Section 5.1 of S.L. 2011-145 reads as rewritten:

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

- (1) For all budget codes listed in "The State of North Carolina Governor's Recommended Budget, 2011-2013" and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2011-2012 fiscal year and the 2012-2013 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items or as otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection:
  - a. Any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2011-2012 fiscal year and the 2012-2013 fiscal year and shall be used only to pay debt service requirements.
  - b. Other funds, cash balances, and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

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

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

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

- ~~(1) There is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal~~

to the amount of the distributions required by law to be made from that reserve for that fiscal year.

- (2) There is appropriated from the General Fund an amount equal to the amount required to issue refunds for tax overpayments, in accordance with the provisions of Chapter 105 of the General Statutes or any other applicable law.
- (3) There is appropriated from the Escheat Fund any escheated property awarded to a claimant in accordance with the provisions of Chapter 116B of the General Statutes or any other applicable law.
- (4) There is appropriated from the appropriate fund, an amount equal to the amount required to refund any other overpayment made to a State agency, in accordance with applicable law."

## **EDUCATION LOTTERY**

**SECTION 5.3.(a)** Notwithstanding G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four hundred forty-one million three hundred fifty-nine thousand four hundred one dollars (\$441,359,401) for the 2012-2013 fiscal year.

**SECTION 5.3.(b)** Notwithstanding G.S. 18C-164, the North Carolina State Lottery Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2012-2013 fiscal year.

**SECTION 5.3.(c)** Section 5.4(f) of S.L. 2011-145 is repealed.

**SECTION 5.3.(d)** Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2011-2012 fiscal year in the amount of twenty-five million five hundred eighty-eight thousand three hundred seventy dollars (\$25,588,370) shall be allocated for UNC Need-Based Financial Aid.

**SECTION 5.3.(g)** Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund for the 2012-2013 fiscal year are as follows:

Teachers in Early Grades	\$ 220,643,188
Prekindergarten Program	\$ 63,135,709
Public School Building Capital Fund	\$ 100,000,000
Scholarships for Needy Students	\$ 30,450,000
UNC Need-Based Financial Aid	\$ 10,744,733
LEA Adjustment	\$ 16,385,771
Total Appropriation	\$ 441,359,401

**SECTION 5.3.(h)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2012-2013 fiscal year shall be allocated to counties on the basis of average daily membership (ADM).

**SECTION 5.3.(i)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C of the General Statutes, or any other provision of law, the funds appropriated in this section for UNC Need-Based Financial Aid shall be administered in accordance with the policy adopted by the Board of Governors of The University of North Carolina.

## **PART VI. GENERAL PROVISIONS**

### **REMOVE CONSULTATION BY GOVERNOR REQUIREMENT/INTERIM APPROPRIATIONS COMMITTEES**

**SECTION 6.1.** Section 6.5 of S.L. 2011-145 is repealed.

### **EXTEND REPORTING DATE/UTILIZATION REVIEW/PUBLIC SCHOOL AND PUBLIC HEALTH NURSES**

**SECTION 6.2.** Section 6.9(b) of S.L. 2011-145 reads as rewritten:

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

### **VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER) SYSTEM**



**SECTION 6.3.(a)** It is the intent of the General Assembly to continue to support development and implementation of the State's Voice Interoperability Plan for Emergency Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to commit or spend up to ten million dollars (\$10,000,000) during the 2011-2013 fiscal biennium to continue development and implementation of the State's VIPER system. Notwithstanding any other provision of law, State agencies, offices, commissions, and non-State entities shall not spend more than ten million dollars (\$10,000,000) in State funds from the General Fund for this purpose during the 2011-2013 fiscal biennium. This prohibition shall not be construed to prevent the expenditure of federal funds. This section does not impair or authorize the breach of any contract and instead affects the availability of appropriated funds within the meaning of G.S. 143C-6-8 and the terms of the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services related to availability of funds as specified in the applicable contract or contract extension.

**SECTION 6.3.(b)** Notwithstanding any other provision of law, on June 30, 2012, fifty-four million six hundred thousand dollars (\$54,600,000) from Account Code 534528 of Budget Code 14900 in Fund 1850-968 shall revert to the General Fund.

**SECTION 6.3.(c)** The Department of Public Safety shall (i) coordinate with the federal First Responder Network Authority in continuing to develop and implement the VIPER system; (ii) ensure that the system complies with any standards issued by the Authority; and (iii) ensure that the VIPER system is interoperable with any communications system implemented pursuant to those standards.

**SECTION 6.3.(d)** The Department of Public Safety shall report to the Joint Legislative Committee on Information Technology and the Joint Legislative Oversight Committee on Justice and Public Safety on a quarterly basis on the progress of the State's VIPER system.

#### **EXTEND MATURITY DATE/GLOBAL TRANSPARK**

**SECTION 6.4.** G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144, Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, Section 27.7 of S.L. 2007-323, Section 25.2 of S.L. 2009-451, Section 6.10(a) of S.L. 2011-145, and Section 4(b) of S.L. 2011-340, reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

- ...
- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than October 1, ~~2012~~2014. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

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

...."

#### **NATIONAL MORTGAGE SETTLEMENT APPROPRIATIONS**

**SECTION 6.5.(a)** The Consent Judgment in *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012, provides for monetary payments to the State and, therefore, the General Assembly authorizes the expenditure of these State revenues as set forth in subsection (b) of this section.

**SECTION 6.5.(b)** Settlement funds received by the State pursuant to the Consent Judgment in *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012, shall be deposited and credited in accordance with the North Carolina Constitution and Chapter 143C of the General Statutes and are appropriated for the 2012-2013 fiscal year as follows:

- (1) The sum of four million seven hundred eighty thousand dollars (\$4,780,000) to the Department of Justice, Consumer Protection Division, for financial fraud detection and prevention efforts.
- (2) The sum of six million six hundred ninety thousand dollars (\$6,690,000) to the Administrative Office of the Courts to be administered by the North Carolina Conference of District Attorneys. Funds shall be used for grants and training for prosecutorial offices to expand prosecution of lending and financial crimes.
- (3) The sum of thirty million five hundred twenty thousand dollars (\$30,520,000) to the Housing Finance Agency for housing counselors and other assistance to help distressed homeowners.
- (4) The sum of five million seven hundred forty thousand dollars (\$5,740,000) in civil penalties shall be deposited in the Civil Penalty and Forfeiture Fund.
- (5) The sum of two million eight hundred seventy thousand dollars (\$2,870,000) to the Department of Justice, State Bureau of Investigation, to expand its accounting and financial investigative ability and its expertise to investigate financial and lending crimes.

**SECTION 6.5.(c)** No State agency receiving money from the National Mortgage Settlement may make expenditures for purposes not authorized by the General Assembly, nor may a State agency spend an amount totaling more than that appropriated by the General Assembly; however, a State agency may use the funds to offset 2012-2013 fiscal year nonrecurring reductions. Any positions established by State agencies with funds appropriated pursuant to this section shall be temporary or time-limited positions.

**SECTION 6.5.(d)** Nothing in this section is intended to be in conflict with the mandatory provisions of the Consent Judgment.

#### **EXECUTIVE ORDER NO. 115/HURRICANE IRENE DISASTER LOANS**

**SECTION 6.7.(a)** Notwithstanding Executive Order No. 115, Proclamation of a State of Disaster for Pamlico and Tyrrell Counties, issued on February 21, 2012, or any other law to the contrary, the Counties of Pamlico and Tyrrell, upon proof of flood insurance coverage to the Department of Public Safety, Emergency Management Division, shall not be held liable for that portion of funds borrowed under Executive Order No. 115 to cover damage sustained to their county school buildings and county school structures as a result of Hurricane Irene.

**SECTION 6.7.(b)** If Pamlico or Tyrrell County allows the flood insurance coverage required in subsection (a) of this section to lapse at any time, that county shall be liable for the full repayment of funds borrowed under Executive Order No. 115.

#### **AUTHORIZE CERTAIN MODIFICATIONS OF THE CERTIFIED BUDGET**

**SECTION 6.9.** Section 6.1(b) of S.L. 2011-145, as amended by Section 5 of S.L. 2011-391, reads as rewritten:

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

- (1) The allocation of funds set out in reserves.
- (2) Government reorganizations.
- (3) ~~Funds—~~The allocation of funds authorized by G.S. 116-30.3A and G.S. 116-40.22(c).

- (4) The allocation of funds carried forward from one fiscal year to another.
- (5) Changes required by acts that become law after the effective date of this section, irrespective of whether they are authorized by this act.

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

#### **ESTABLISHING OR INCREASING FEES UNDER THIS ACT**

**SECTION 6.10.(a)** Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

**SECTION 6.10.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

#### **CONSULTATION WITH A LEGISLATIVE COMMITTEE**

**SECTION 6.11.** G.S. 12-3 reads as rewritten:

##### **"§ 12-3. Rules for construction of statutes.**

In the construction of all statutes the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly, or repugnant to the context of the same statute, that is to say:

- ...  
(15) Requirement to consult with a committee or commission of the General Assembly. – All words purporting to require an individual or other entity to consult with a committee or commission of the General Assembly before taking an action shall be construed to require the entity to do all of the following:
  - a. Submit a report of the action under consideration to the chairs and staff of the committee or commission. The report shall include all information required by statute and the rules of that committee or commission. The staff of the committee or commission shall make the report available electronically to the members of the committee or commission and to the public.
  - b. Appear at a meeting of the committee or commission at which the matter is heard. Unless another period of time is specified by statute, the requirement to appear is satisfied if the committee or commission does not have a meeting at which the matter is heard within 90 days of receiving the required submission."

#### **MEDICAID PROGRAM DISCLOSURES TO THE FISCAL RESEARCH DIVISION**

**SECTION 6.12.** G.S. 120-32.01 reads as rewritten:

##### **"§ 120-32.01. Information to be supplied.**

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Fiscal Research, Program Evaluation, and Bill Drafting Divisions any information or records requested by them and access to any facilities and personnel requested by them. Except when accessibility is prohibited by a federal statute, federal regulation, or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and these divisions access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the BEACON/HR payroll system by the Research and Bill Drafting Divisions shall only be through the Fiscal Research Division and access to the system by the Program Evaluation Division shall only be through the Division Director and two employees of the Division designated by the Division Director.

(c) Consistent with subsection (a) of this section and notwithstanding any other law relating to privacy of personnel records, the Retirement Systems Division of the Department of State Treasurer shall furnish the Fiscal Research Division direct online read-only access to active and retired member information or records maintained by the Retirement Systems

Division in online information systems. Direct online read-only access shall not include access to medical records of individual members. Nothing in this subsection shall limit the provisions of subsection (a) of this section.

(d) For the purpose of ensuring financial transparency, accountability, and efficient operation of the Medicaid program finances by the Department of Health and Human Services, employees of the Fiscal Research Division designated by the Director of Fiscal Research shall have access to all records related to the Medicaid program. The Department of Health and Human Services shall cooperate fully with the designated employees of the Fiscal Research Division to facilitate (i) the evaluation of all financial and policy components of the Medicaid program, including financial projections, (ii) the evaluation of the budgetary construction and management of the Medicaid program, and (iii) the identification of unusual financial events. The Department shall also provide the Fiscal Research Division with electronic access to any departmental data for assessing or predicting Medicaid financial outcomes, and to any modeling software used for assessing or predicting Medicaid program financial outcomes. Employees of the Department shall not impede, delay, or restrict the provision of information or limit access to any departmental personnel necessary for the Fiscal Research Division to perform its monitoring and analysis of the Medicaid program.

Nothing in this subsection shall be construed to grant Fiscal Research Division employees access to medical records of individuals or other information protected under the Health Information Portability and Accountability Act (HIPAA).

Nothing in this subsection shall limit the provisions of subsection (a) of this section.

(e) The Department of Health and Human Services shall provide its annual financial projection of Medicaid program expenditures and requirements for any future fiscal years to the Chairs of the House Appropriations Committee and to the Chairs of the Senate Appropriations/Base Budget Committee no later than the date the Governor presents budget recommendations in accordance with G.S. 143C-3-5. Prior to providing this projection, the Secretary shall cooperatively engage designated employees of the Fiscal Research Division in ongoing bilateral analytical discussions about historical, current, and unanticipated factors that may impact projected Medicaid program financial outcomes that may affect the formulation of an official departmental annual financial projection.

Nothing in this subsection shall limit the provisions of subsection (a) of this section."

## **STATE CONTRACTS SHALL INCLUDE A CLAUSE MAKING THEM SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS**

**SECTION 6.13.(a)** G.S. 143C-6-8 reads as rewritten:

**"§ 143C-6-8. State agencies may incur financial obligations only if authorized by the Director of the Budget and subject to the availability of appropriated funds.**

(a) Limitation. – Unless otherwise authorized by the Director as provided by law, purchase orders, contracts, salary commitments, and any other financial obligations by State agencies shall be subject to the availability of appropriated funds or available funds that are not State funds as defined in this Chapter. Any employment contract or salary commitment that is paid in whole or in part with State funds shall also be subject to this limitation.

(b) Notice. – Any written purchase order, contract, salary commitment, or other financial obligation subject to this section shall include a clause that sets forth the limitation imposed by subsection (a) of this section. Where this section applies but there is no written document to which the limitation may be added, the entity that administers the State funds at issue shall notify the person or entity of the limitation."

**SECTION 6.13.(b)** The Office of State Personnel shall adopt a policy implementing the relevant portions of G.S. 143C-6-8, as amended by this section, for State employees.

**SECTION 6.13.(c)** This section becomes effective September 1, 2012.

## **MANAGEMENT FLEXIBILITY REDUCTIONS TO ENSURE ADEQUATE FUNDS ARE AVAILABLE TO COVER MEDICAID SHORTFALLS**

**SECTION 6.14.(a)** The General Assembly finds that:

- (1) In recent fiscal years, Medicaid program costs have grown disproportionately more than the remainder of the State budget.
- (2) Addressing large and frequent Medicaid program shortfalls has required the reallocation of funds that could have been used for other purposes.

- (3) To cover an early draw down of Medicaid funds during the 2009-2010 fiscal year, the 2011 General Assembly was required to make an additional one hundred twenty-five million dollars (\$125,000,000) available to the Medicaid program.
- (4) To cover a shortfall in the 2011-2012 Medicaid budget, the 2012 Session of the 2011 General Assembly was required to appropriate additional funds for the Medicaid program.
- (5) To ensure that adequate funds are available to cover any potential shortfall in the 2012-2013 Medicaid budget, it is necessary to implement management flexibility reductions across State government.

**SECTION 6.14.(b)** In order to provide adequate funds to cover any potential shortfall in the 2012-2013 Medicaid budget while minimizing the impact on State government services, the Director of the Budget shall ensure that cost savings required through the management flexibility reductions in this act are realized so that at least fifty percent (50%) of the cost savings are realized by December 31, 2012.

## PART VI-A. INFORMATION TECHNOLOGY

### INFORMATION TECHNOLOGY FUND/AVAILABILITY

**SECTION 6A.1.** Section 6A.1(a) of S.L. 2011-145 reads as rewritten:

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

	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
Appropriation from General Fund	\$4,458,142	\$6,158,142
Interest	\$ 25,000	<del>\$25,000</del> 16,000
IT Fund Balance June 30	\$ 792,000	<u>\$0</u> 582,975
<u>Transfer to General Fund</u>		<u>\$(750,000)</u>
<b>Total Funds Available</b>	<b>\$5,275,142</b>	<b><del>\$6,183,142</del> <u>\$6,007,117</u></b>

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

	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
Information Technology Operations		
Center for Geographic Information and Analysis	\$ 599,347	<del>\$599,347</del> \$461,871
Enterprise Security Risk Management	\$ 864,148	<del>\$864,148</del> \$826,148
Enterprise Project Management Office	\$1,473,285	<del>\$1,473,285</del> \$1,403,285
Architecture and Engineering	\$ 581,986	<del>\$581,986</del> \$851,986
Criminal Justice Information Network	\$ 166,422	<del>\$166,422</del> \$178,826
Statewide IT Procurement	\$ 0	\$ 0
State Web site	\$ 100,000	<del>\$ 0</del> \$100,000
ITS Overhead Reduction	\$ (91,486)	\$ (91,486)
Subtotal Information Technology Operations	\$3,693,702	<del>\$3,593,702</del> <u>\$3,730,630</u>
Information Technology Projects		
State Portal	\$ 0	\$ 0
IT Consolidation	\$ 776,440	<del>\$784,440</del> \$471,487
Transfer to OSC for E-Forms	\$ 500,000	\$ 500,000
Subtotal Information Technology Projects	\$1,276,440	<del>\$1,284,440</del> \$971,487
Data Integration License Funding Transfer to State Agencies	\$ 200,000	\$ 1,200,000
Position Transfer to Office of State Budget and Management	\$ 105,000	\$ 105,000
<b>Total</b>	<b>\$5,275,142</b>	<b><del>\$6,183,142</del> <u>\$6,007,117</u></b>

**OFFICE OF INFORMATION TECHNOLOGY SERVICES/CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS/GIS FUNCTIONS AND COST RECOVERY**

**SECTION 6A.2.** G.S. 147-33.82(a) is amended by adding a new subdivision to read:

"(a) In addition to any other functions required by this Article, the Office of Information Technology Services shall:

- ...
- (10) Provide geographic information systems services through the Center for Geographic Information and Analysis on a cost recovery basis. The Office of Information Technology Services and the Center for Geographic Information and Analysis may contract for funding from federal or other sources to conduct or provide geographic information systems services for public purposes."

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

**SECTION 6A.3.(a)** Additional Public-Private Partnership. – The Secretary of Revenue may enter into an additional public-private arrangement in order to expand the implementation of the Tax Information Management System (TIMS). All such arrangements will terminate June 30, 2018. The public-private arrangement may include terms necessary to implement additional revenue-increasing or cost-savings components if all of the following conditions are met:

- (1) The funding of the project under the arrangement comes from revenue generated by or cost savings resulting from the project.
- (2) The funding of the project is dependent on increased-revenue or cost-savings streams that are different from the existing benefits stream for the implementation of TIMS.
- (3) The project involves additional identified initiatives that will be integrated into the TIMS solution.

**SECTION 6A.3.(b)** Contracts. – Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.

**SECTION 6A.3.(c)** Management/Performance Measurement. – The Secretary of Revenue shall follow the existing model for public-private arrangement oversight and shall establish a measurement process to determine the increased revenue or cost savings attributed to the additional public-private arrangement authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

- (1) Calculation of a revenue baseline against which the increased revenue attributable to the project is measured and a cost-basis baseline against which the cost savings resulting from the project are measured.
- (2) Periodic evaluation to determine whether the baselines need to be modified based on significant measurable changes in the economic environment.
- (3) Monthly calculation of increased revenue and cost savings attributable to contracts executed under this section.

**SECTION 6A.3.(d)** Funding. – Of funds generated from increased revenues or cost savings as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars (\$16,000,000) may be used by the Office of State Budget and Management to make purchases related to the implementation of the additional public-private arrangement authorized by this section, including payment for services from non-State entities.

**SECTION 6A.3.(e)** Internal Costs. – For the 2012-2013 fiscal year, in addition to the funding authorized in subsection (d) of this section and Section 6A.5(a) of S.L. 2011-145, the Department of Revenue may retain both of the following:

- (1) An additional sum of ten million two hundred twenty-eight thousand dollars (\$10,228,000) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.
- (2) An additional sum of six million dollars (\$6,000,000) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used to support internal costs and any new resources necessary to provide additional electronic services, to include payments and returns. Any requirements for electronic forms and digital signatures resulting from the electronic services expansion shall be coordinated with the Office of the State Controller.

**SECTION 6A.3.(f)** Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with an additional public-private arrangement authorized under this section.

**SECTION 6A.3.(g)** Oversight Committee. – The Oversight Committee established under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with respect to an additional public-private arrangement authorized by this section as it does with respect to public-private arrangements to implement TIMS and the additional PDP components.

**SECTION 6A.3.(h)** Reporting. – Beginning August 1, 2012, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives and Senate Committees on Appropriations, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The report shall include an explanation of all of the following:

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

**SECTION 6A.3.(i)** Information Technology Project Oversight. – In addition to the oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L. 2011-145, the additional public-private arrangement authorized by this section shall be subject to existing State information technology project oversight laws and statutes, and the project management shall comply with all statutory requirements and other criteria established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

**SECTION 6A.3.(j)** Extension. – Section 6A.5(c) of S.L. 2011-145 reads as rewritten:

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

The members of the Committee shall include the following:

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

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

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

**SECTION 6A.3.(k) One-Time Payment.** – To accelerate the implementation of the Tax Information Management System, including any additional components authorized by subsection (a) of this section, the Office of State Budget and Management may authorize the Secretary of Revenue to make a one-time payment of two million dollars (\$2,000,000) to the vendor of TIMS for implementation of TIMS if all of the conditions of this section are satisfied. The one-time payment shall be paid within 90 days of satisfaction of all conditions of this section or when sufficient funds are available, whichever is later. The source of funds for this payment is the same increased-revenue and cost-savings streams identified under subsection (a) of this section. The payment authorized by this subsection is in addition to the payments authorized by subsection (a) of this section. The mandatory conditions of this subsection are as follows:

- (1) Release 5 of the Enterprise Technology Management (ETM) project is initially implemented on or before July 31, 2013.
- (2) The post-implementation defect rate for Release 5 of the ETM project is within standards agreed to by the Secretary and the vendor. For purposes of this section, the post-implementation period is the period from the date of initial implementation until 90 days after initial implementation.
- (3) All defects identified as part of Release 5 of the ETM project before the end of the post-implementation period are resolved within time frames agreed to by the Secretary and the vendor.

**INFORMATION                      TECHNOLOGY                      PERSONAL                      SERVICES  
CONTRACTS/REPORTING CHANGE**

**SECTION 6A.4.** Section 6A.6(c) of S.L. 2011-145 reads as rewritten:

**"SECTION 6A.6.(c)** Beginning ~~August 1, 2011, August 1, 2012, and monthly~~ quarterly thereafter, each State agency, department, and institution employing information technology personal services contractors, or contract personnel performing information technology functions, shall provide a detailed report on those contracts to the Office of State Budget and Management, the Office of State Personnel, the Office of Information Technology Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division of the General Assembly. Each State agency's report shall include at least the following:

- (1) For each contracted information technology position:
  - a. The title of the position, a brief synopsis of the essential functions of the position, and how long the position has existed.
  - b. The name of the individual filling the position and the vendor company, if any, that regularly employs that individual.
  - c. The type of contract, start date, and termination date.



- d. The length of time that the individual filling the contracted position has been employed by the State as a contractor in any position.
  - e. The contracted position salary or hourly rate, the number of hours per year, and the total annualized cost of the contracted position.
  - f. The salary and benefits cost for a State employee performing the same function.
  - g. The purchase order number for the position.
  - h. Whether the position can be converted to a State employee position. This determination will be certified by the State Information Technology Purchasing Office.
  - i. When the agency anticipates converting the position to a State employee.
- (2) The total annual cost for information technology contractors and the total annual salary and benefits cost for filling the contract positions with State employees.
  - (3) A determination of whether the information technology functions performed by the contractor can be performed by State employees.
  - (4) All information required by this subsection related to information technology contractors regardless of the contracting source."

**OFFICE OF INFORMATION TECHNOLOGY SERVICES/INTERNAL SERVICE FUND RATE ESTABLISHED/CASH MANAGEMENT**

**SECTION 6A.5.(a)** Section 6A.8 of S.L. 2011-145, as amended by Section 11(e) of S.L. 2011-391, reads as rewritten:

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

**"SECTION 6A.8.(a)** For each year of the 2011-2013 fiscal biennium, the 2011-2012 fiscal year, receipts for the Information Technology Internal Service Fund shall not exceed one hundred ninety million dollars (\$190,000,000), excluding a 60-day-40-day balance for contingencies. Notwithstanding G.S. 147-33.88, for the 2012-2013 fiscal year, all receipts, regardless of the source, including agency allocations and fund-to-fund transfers, for the Information Technology Internal Service shall not exceed one hundred seventy-five million dollars (\$175,000,000). Rates established by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this the required fund limit. Established rates shall be adjusted within 30 days in the event the fund exceeds the prescribed limit. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology Services State Chief Information Officer may implement the increase only after consultation with the Joint Legislative Commission on Governmental Operations. Overhead applied to IT Internal Service Fund rates shall not exceed ten percent (10%) of the rate.

**"SECTION 6A.8.(a1)** The 40-day balance for contingencies shall be based on the maximum receipts permitted for each fiscal year, and any balance in excess of the limit must be refunded within 30 days of the first day when the fund balance exceeded the limitation amount. The Office of Information Technology Services shall limit collections each quarter to an amount not to exceed twenty-five percent (25%) of the year's limit. For the 2012-2013 fiscal year, a 40-day balance shall be maintained.

**"SECTION 6A.8.(b)** Beginning with State fiscal year 2012-2013, rates shall be set to support a specific service for which an agency is being charged. Overhead charges to agencies must be consistently applied and must not exceed industry standards. Rate increases shall require approval of the OSBM. Rate reductions shall be immediately implemented following notification of the OSBM."

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

**SECTION 6A.5.(b)** The State Chief Information Officer shall consult with the Joint Legislative Commission on Governmental Operations prior to:

- (1) Eliminating any services currently provided by the Office of Information Technology Services or the State Chief Information Officer.
- (2) Transferring positions currently funded by the Information Technology Fund to the IT Internal Service Fund.

**SECTION 6A.5.(c)** Agency IT Expenses Cannot Exceed Appropriations. – During the 2012-2013 fiscal year, no State agency shall be charged more for information technology services provided by the Office of the State Chief Information Officer or the Office of Information Technology Services than the lower of the amount charged or the amount actually paid less refunds from available appropriations for the 2011-2012 fiscal year, unless the increase is agreed to in writing by the agency and the Office of the State Chief Information Officer.

The Information Technology Internal Service Fund charges to the Office of the State Controller shall be reduced by two million three hundred seventy-nine thousand dollars (\$2,379,000) for the 2012-2013 fiscal year. This funding shall be used to support the development and implementation of the Criminal Justice Law Enforcement Automated Data Services (CJLEADS).

The Information Technology Internal Service Fund charges to the Department of Public Instruction shall be reduced by eight hundred fifty thousand dollars (\$850,000) for the 2012-2013 fiscal year. This funding shall be used to support the development and implementation of the Education Value-Added Assessment System (EVAAS).

**SECTION 6A.5.(c1)** To offset the transfer in this act of fourteen million dollars (\$14,000,000) from the Information Technology Internal Service Fund to the State Controller, the sum of two million eight hundred thousand dollars (\$2,800,000) shall be transferred to agencies utilizing federal funding for IT Internal Service Fund payments to provide the appropriate refunds to the federal government.

**SECTION 6A.5.(d)** Limitation on Charges for Alternate Services. – In the event that the State Chief Information Officer discontinues or privatizes a service during the 2012-2013 fiscal year, if the agencies choose to use an alternate service provided by the Office of Information Technology Services or their vendor, the amount that State agencies are charged for alternate services, inclusive of any service charge the State Chief Information Officer adds to the vendor charge, shall not exceed the IT Internal Service Fund charges for the same service in effect on May 31, 2012.

**SECTION 6A.5.(e)** The State Chief Information Officer shall report on a monthly basis to the Chairs of the House of Representatives and Senate Committees on Appropriations, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The reports required by this section shall include:

- (1) How close the receipts of the Information Technology Internal Service are to the limits set forth in Section 6A.8(a) of S.L. 2011-145.
- (2) The rates established by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund.
- (3) The amount charged to date to each State agency for services provided by the Office of the State Chief Information Officer or the Office of Information Technology Services during the 2012-2013 fiscal year.
- (4) The amount that State agencies are charged for alternate services in the event that a service is discontinued or privatized during the 2012-2013 fiscal year, inclusive of any service charge the State Chief Information Officer adds to the vendor charge.

## **INFORMATION TECHNOLOGY PRIVATIZATION**

**SECTION 6A.6.(a)** Section 6A.9 of S.L. 2011-145 reads as rewritten:

**"SECTION 6A.9.(a)** Any privatization of any grouping of information technology services, or "towers," identified in the Infrastructure Study and Assessment (INSA) or any privatization to provide a new service or privatize an existing service shall require prior approval from the General Assembly. Funding to support any outsourcing of any of these towers or any privatization involving a new or existing service shall be specifically appropriated by the General Assembly for that purpose, to include any use of Information Technology Internal Service Fund receipts. No new privatization shall occur until the Office of the State Chief Information Officer and the Office of Information Technology Services accomplish the following:

- (1) The establishment and presentation to the Joint Legislative Oversight Committee on Information Technology of a budget for the Information Technology Internal Service Fund with rates for services that accurately reflect costs.
- (2) The development and implementation of an accurate, comprehensive asset management system for executive branch agencies and report to the Joint Legislative Oversight Committee on Information Technology the results of the implementation.
- (3) Issuance of a new request for proposal to solicit bids for any privatization initiative.
- (4) Consultation with and approval from the State Treasurer.

**"SECTION 6A.9.(a1)** The limitations set forth in this section shall apply to the IT Services Management Services Desk (Help Desk), the Application Development and Support Services (Hosting Services), and the video portfolio and to any other IT service privatization.

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

- (1) Develop a detailed plan for implementing any privatization initiative to include the following:
  - a. A governance and accountability structure for the privatization effort.
  - b. Detailed time line with milestones.
  - c. Any costs necessary to accomplish outsourcing with funding sources identified.
  - d. Estimated monthly cost for each participating agency for the first five years of privatization.
  - e. Risks associated with privatization, measures being taken to mitigate those risks, and any costs associated with the mitigation measures.
  - f. Any security issues associated with outsourcing each application impacted by the outsourcing, with a detailed plan to mitigate those issues.
  - g. A list of State employees to be terminated with information on their job description and how long they have been employed by the State, a schedule of when the terminations are to occur, the cost of terminating each employee, and plans to assist each terminated employee.

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

- (2) Have a detailed plan in place, to include associated costs and sources of funding, to return the function to State control in the event privatization fails to provide anticipated cost-savings or required service levels.
- (3) Privatize only those individual functions where verifiable market data collected after January 1, 2012, by a disinterested third-party consultant shows that privatization will result in cost-savings to the State and there is no data identifying alternatives that generate greater savings, ensuring that agencies receive at a minimum the same level of service and functionality as the level prior to privatization.
- (4) Document and certify any anticipated savings resulting from privatization by individual function.
- (5) Ensure full disclosure of any privatization decisions that combine multiple services or towers into a single contract, including the costs associated with each specific service or tower included in the contract.
- (6) Ensure that any changes are made across the entire executive branch.
- (7) Consult the Joint Legislative Commission on Governmental Operations and report to the Joint Legislative Oversight Committee on Information Technology regarding the plan for funding any requirements formerly covered by the receipts from the privatized function.

"SECTION 6A.9.(b1) Agency Participation in Privatization Initiatives Is Voluntary. – Notwithstanding any other provision of law, if a State-administered information technology service is privatized, or a new service is provided through a private vendor, continued receipt of or participation in the service by State agencies shall be voluntary.

"SECTION 6A.9.(b2) Agency Options in the Event of Privatization. – If a State-administered information technology service is privatized, or a new privatized service is offered, State agencies may do any of the following:

- (1) Elect to discontinue receiving or participating in the service and to provide the service within the agency. If an agency elects to provide the service internally, any positions previously transferred to the Office of Information Technology Services to support the service shall be transferred back to that agency. The Office of the State Chief Information Officer and the Office of Information Technology Services shall provide necessary support to facilitate the transfers of positions.
- (2) Submit their own requests for proposal and contract with a vendor to provide the privatized service.
- (3) Enter into agreements with other agencies to independently obtain information technology services that have been privatized, either by participating in the other agency's current service or by executing contracts for services.
- (4) Elect to receive or participate in a new or newly privatized service.

"SECTION 6A.9.(b3) Council of State Approval Required. – Notwithstanding any other provision of law, both requests for proposal and contracts privatizing State-administered information technology services must be approved by the Council of State.

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

- (1) Report quarterly on the results of the privatization, including a detailed comparison of projected savings to actual cost, data on whether or not the vendor is meeting service level agreements, and an explanation of the reasons for any deficiency or difference.
- (2) Immediately notify the Joint Legislative Commission on Governmental Operations of any outsourcing effort that does not meet projected savings or required service levels for two quarters in a row or during any two quarters of a fiscal year, and develop a corrective action plan.
- (3) Terminate any contract where privatization fails to achieve projected savings or meet service levels over a period of 12 months.

"SECTION 6A.9.(d) Reporting. – The State Chief Information Officer shall consult with the Joint Legislative Commission on Governmental Operations prior to issuing a request for proposal to privatize any State-administered information technology service.

"SECTION 6A.9.(e) Access by Private Vendors. – If the State Chief Information Officer provides to a potential vendor any information or access to State facilities in connection with or anticipation of the privatization of a State-administered information technology service, the State Chief Information Officer shall provide the same information or access to all potential vendors. The State Chief Information Officer shall certify the Officer's compliance with this subsection to the General Assembly."

**SECTION 6A.6.(b)** This section applies to all contracts entered into prior to February 1, 2013.

**SECTION 6A.6.(c)** This section expires February 1, 2013.

## **MOBILE ELECTRONIC DEVICE REPORTING CHANGE**

**SECTION 6A.7.** Section 6A.14(a) of S.L. 2011-145, as amended by Section 11(f) of S.L. 2011-391, reads as rewritten:

**"SECTION 6A.14.(a)** Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. As used herein, mobile communication device includes goods provided by commercial mobile radio service providers and services for mobile telecommunications governed by Title 47 of the Code of Federal Regulations. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of

Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State employees and contractors are complying with agency policies and State requirements for their use.

Beginning ~~October 1, 2011~~, October 1, 2012, each agency shall report ~~quarterly~~ annually to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

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

## **ENHANCE ENTERPRISE-LEVEL BUSINESS INTELLIGENCE TO INCREASE EFFICIENCY IN STATE GOVERNMENT**

### **SECTION 6A.7A.(a) Creation of Initiative. –**

- (1) Creation. – The enterprise-level business intelligence initiative (initiative) is established in the Office of State Controller. The purpose of the initiative is to support the effective and efficient development of State agency business intelligence capability in a coordinated manner and reduce unnecessary information silos and technological barriers. The initiative is not intended to replace transactional systems, but is instead intended to leverage the data from those systems for enterprise-level State business intelligence.

The initiative shall include a comprehensive evaluation of existing data analytics projects and plans in order to identify data integration and business intelligence opportunities that will generate greater efficiencies in, and improved service delivery by, State agencies. The Office of State Controller may partner with current vendors and providers to assist in the initiative. However, to limit the cost to the State, the Office of the State Controller shall use current licensing agreements wherever feasible.

- (2) Application to State government. – The initiative shall include all State agencies, departments, and institutions, including The University of North Carolina.
- (3) Governance. – The State Controller shall lead the initiative established pursuant to this section. The Chief Justice of the North Carolina Supreme Court and the Legislative Services Commission each shall designate an officer or agency to advise and assist the State Controller with respect to implementation of the initiative in their respective branches of government. The judicial and legislative branches shall fully cooperate in the initiative mandated by this section in the same manner as is required of State agencies.

**SECTION 6A.7A.(b)** Government Business Intelligence Competency Center. –

- (1) GBICC established. – There is established in the Office of the State Controller the Government Business Intelligence Competency Center (GBICC). GBICC shall assume the work, purpose, and resources of the current data integration effort in the Office of the State Controller and shall otherwise advise and assist the State Controller in the management of the initiative. The State Controller shall make any organizational changes necessary to maximize the effectiveness and efficiency of GBICC.
- (2) Powers and duties of the GBICC. – The State Controller shall, through the GBICC, do all of the following:
  - a. Continue and coordinate ongoing enterprise data integration efforts, including:
    1. The deployment, support, technology improvements, and expansion for CJLEADS.
    2. The pilot and subsequent phase initiative for NC FACTS.
    3. Individual-level student data and workforce data from all levels of education and the State workforce.
    4. Other capabilities developed as part of the initiative.
  - b. Identify technologies currently used in North Carolina that have the capability to support the initiative.
  - c. Identify other technologies, especially those with unique capabilities, that could support the State's business intelligence effort.
  - d. Compare capabilities and costs across State agencies.
  - e. Ensure implementation is properly supported across State agencies.
  - f. Ensure that data integration and sharing is performed in a manner that preserves data privacy and security in transferring, storing, and accessing data, as appropriate.
  - g. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section.
  - h. Coordinate data requirements and usage for State business intelligence applications in a manner that (i) limits impacts on participating State agencies as those agencies provide data and business knowledge expertise and (ii) assists in defining business rules so the data can be properly used.
  - i. Recommend the most cost-effective and reliable long-term hosting solution for enterprise-level State business intelligence as well as data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

**SECTION 6A.7A.(c)** Implementation of the Enterprise-Level Business Intelligence Initiative. –

- (1) Phases of the initiative. – The initiative shall commence no later than August 1, 2012, and shall be phased in accordance with this subsection. The initiative shall cycle through these phases on an ongoing basis:
  - a. Phase I requirements. – In the first phase, the State Controller through GBICC shall:
    1. Inventory existing State agency business intelligence projects, both completed and under development.
    2. Develop a plan of action that does all of the following:
      - I. Defines the program requirements, objectives, and end state of the initiative.
      - II. Prioritizes projects and stages of implementation in a detailed plan and benchmarked timeline.
      - III. Includes the effective coordination of all of the State's current data integration initiatives.
      - IV. Utilizes a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.

- V. Determines costs associated with the development effort and identifies potential sources of funding.
  - VI. Includes a privacy framework for business intelligence consisting of adequate access controls and end user security requirements.
  - VII. Estimates expected savings.
- 3. Inventory existing external data sources that are purchased by State agencies to determine whether consolidation of licenses is appropriate for the enterprise.
  - 4. Determine whether current, ongoing projects support the enterprise-level objectives.
  - 5. Determine whether current applications are scalable, or are applicable for multiple State agencies, or both.
- b. Phase II requirements. – In the second phase, the State Controller through the GBICC shall:
    - 1. Identify redundancies and determine which projects should be discontinued.
    - 2. Determine where gaps exist in current or potential capabilities.
  - c. Phase III requirements. – In the third phase:
    - 1. The State Controller through GBICC shall incorporate or consolidate existing projects, as appropriate.
    - 2. The State Controller shall, notwithstanding G.S. 147-33.76 or any rules adopted pursuant thereto, eliminate redundant business intelligence projects, applications, software, and licensing.
    - 3. The State Controller through GBICC shall complete all necessary steps to ensure data integration in a manner that adequately protects privacy.
- (2) Commencement of projects. – Subject to the availability of funds, and subsequent to the submission of the written report required by sub-subdivision a. of subdivision (1) of subsection (e) of this section, the State Controller shall begin projects to carry out the purposes of this section no later than November 1, 2012. The State Controller may also expand existing data integration or business intelligence contracts with current data integration efforts, as appropriate, in order to implement the plan required by this section in accordance with the schedule established and the priorities developed during Phase I of the initiative, and may use public-private partnerships as appropriate to implement the plan.

**SECTION 6A.7A.(d) Funding. –**

- (1) Allocation. – Of the funds appropriated from the General Fund to the General Assembly for the 2011-2013 fiscal biennium, the sum of five million dollars (\$5,000,000) shall be used to fund the initiative established by this section. The Office of the State Controller shall use up to seven hundred fifty thousand dollars (\$750,000) to cover the cost of administering the initiative.
- (2) Federal funds. – The Office of State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.
- (3) Use of savings. – Savings resulting from the cancellation of projects, software, and licensing, as well as any other savings from the initiative, shall be returned to the General Fund and shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General Assembly that expansion of the initiative in subsequent fiscal years be funded with these savings and that the General Assembly appropriate funds for projects in accordance with the priorities identified by the Office of the State Controller in Phase I of the initiative.

**SECTION 6A.7A.(e) Reporting. –**

- (1) Routine reports. – The Office of the State Controller shall submit and present the following reports:
  - a. By no later than October 1, 2012, a written report on the implementation of Phase I of the initiative and the plan developed as part of that phase to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The State Controller shall submit this report prior to implementing any improvements, expending funding for expansion of existing business intelligence efforts, or establishing other projects as a result of its evaluations.
  - b. By February 1, 2013, and quarterly thereafter, a written report detailing progress on, and identifying any issues associated with, State business intelligence efforts.
- (2) Extraordinary reports. – The Office of the State Controller shall report the following information as needed:
  - a. Any failure of a State agency to provide information requested pursuant to this section. The failure shall be reported to the Joint Legislative Committee on Information Technology and to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees.
  - b. Any additional information to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology that is requested by those entities.

**SECTION 6A.7A.(f) Duties of State Agencies. –**

- (1) Duties of State agencies. – The head of each State agency shall do all of the following:
  - a. Grant the Office of the State Controller access to all information required to develop and support State business intelligence applications pursuant to this section. The State Controller and the GBICC shall take all necessary actions and precautions, including training, certifications, background checks, and governance policy and procedure, to ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.
  - b. Provide complete information on the State agency's information technology, operational, and security requirements.
  - c. Provide information on all of the State agency's information technology activities relevant to the State business intelligence effort.
  - d. Forecast the State agency's projected future business intelligence information technology needs and capabilities.
  - e. Ensure that the State agency's future information technology initiatives coordinate efforts with the GBICC to include planning and development of data interfaces to incorporate data into the initiative and to ensure the ability to leverage analytics capabilities.
  - f. Provide technical and business resources to participate in the initiative by providing, upon request and in a timely and responsive manner, complete and accurate data, business rules and policies, and support.
  - g. Identify potential resources for deploying business intelligence in their respective State agencies and as part of the enterprise-level effort.
  - h. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section, as appropriate.

**SECTION 6A.7A.(g) Miscellaneous Provisions. –**



- (1) Status with respect to certain information. – The State Controller and the GBICC shall be deemed to be all of the following for the purposes of this section:
  - a. With respect to criminal information, and to the extent allowed by federal law, a criminal justice agency (CJA), as defined under Criminal Justice Information Services (CJIS) Security Policy. The State CJIS Systems Agency (CSA) shall ensure that CJLEADS receives access to federal criminal information deemed to be essential in managing CJLEADS to support criminal justice professionals.
  - b. With respect to health information covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and to the extent allowed by federal law:
    1. A business associate with access to protected health information acting on behalf of the State's covered entities in support of data integration, analysis, and business intelligence.
    2. Authorized to access and view individually identifiable health information, provided that the access is essential to the enterprise fraud, waste, and improper payment detection program or required for future initiatives having specific definable need for the data.
  - c. Authorized to access all State and federal data, including revenue and labor information, deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for the data.
  - d. Authorized to develop agreements with the federal government to access data deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for such data.
- (2) Release of information. – The following limitations apply to (i) the release of information compiled as part of the initiative, (ii) data from State agencies that is incorporated into the initiative, and (iii) data released as part of the implementation of the initiative:
  - a. Information compiled as part of the initiative. – Notwithstanding the provisions of Chapter 132 of the General Statutes, information compiled by the State Controller and the GBICC related to the initiative may be released as a public record only if the State Controller, in that officer's sole discretion, finds that the release of information is in the best interest of the general public and is not in violation of law or contract.
  - b. Data from State agencies. – Any data that is not classified as a public record under G.S. 132-1 shall not be deemed a public record when incorporated into the data resources comprising the initiative. To maintain confidentiality requirements attached to the information provided to the State Controller and GBICC, each source agency providing data shall be the sole custodian of the data for the purpose of any request for inspection or copies of the data under Chapter 132 of the General Statutes.
  - c. Data released as part of implementation. – Information released to persons engaged in implementing the State's business intelligence strategy under this section that is used for purposes other than official State business is not a public record pursuant to Chapter 132 of the General Statutes.

**SECTION 6A.7A.(h)** G.S. 75-66(d) reads as rewritten:

"(d) Nothing in this section shall:

- (1) Limit the requirements or obligations under any other section of this Article, including, but not limited to, G.S. 75-62 and G.S. 75-65.

- (2) Apply to the collection, use, or release of personal information for a purpose permitted, authorized, or required by any federal, State, or local law, regulation, or ordinance.
- (3) Apply to data integration efforts to implement the State's business intelligence strategy as provided by law or under contract."

## **STATE PRIVATE CLOUD**

**SECTION 6A.9.(a)** Findings. – The General Assembly finds that:

- (1) The wide distribution of information technology facilities across multiple locations causes infrastructure and operational inefficiencies.
- (2) Infrastructure as a service, also known as cloud computing, has the potential to increase efficiency and enhance operations by reducing information technology costs and accelerating the provision of services.
- (3) The creation of a secure and flexible State private cloud is in the best interest of the people of this State.

**SECTION 6A.9.(b)** Plan Required. – The State Chief Information Officer shall create a plan for the development and implementation of a State-owned, State-hosted infrastructure as a service, or private cloud, project to be operated and managed by the State.

**SECTION 6A.9.(c)** Components of the Plan. – The State private cloud plan created pursuant to this section shall include:

- (1) Requirements for:
  - a. The State to have complete control and ownership of all components of the private cloud, including hardware, software, network infrastructure, security, and data.
  - b. All components of the private cloud to be maintained at State-owned, State-operated facilities.
  - c. The private cloud to fully comply with all legislative, regulatory, policy, and security requirements that apply to State agencies and entities conducting business with the State.
  - d. The State's existing information technology infrastructure to be used to support the private cloud.
  - e. Documentation of any redundancy built into the infrastructure to support requirements for increased availability and disaster recovery.
  - f. A service-centric approach to computing resources. Users of computing resources shall be able to efficiently access powerful, predefined computing environments based on their requirements.
  - g. A self-service ability to provision and deprovision, as requested by users, while maintaining high levels of security.
  - h. A fully functional, efficient, fair system to bill State agencies for private cloud usage. This requirement includes mechanisms to capture usage data and enable chargeback integration within the billing system.
  - i. A plan to manage infrastructure resources that can be scaled in response to State agency requirements.
  - j. An inventory of all potential resources, both public and private, available to support the development, implementation, operation, and management of the private cloud, and the costs and benefits associated with each.
- (2) A detailed timeline, documentation of agency requirements, identification and resolution of security issues, and an assessment of the impact on any ongoing projects or current applications.
- (3) Identification of costs associated with developing the private cloud.
- (4) Identification and documentation of private cloud management and monitoring tools to facilitate the maintenance of complete control of private cloud resources; automate provisioning, deprovisioning, and scheduling; and maintain system capacity.
- (5) Identification of ways to improve the private cloud's supporting infrastructure.

- (6) Identification of potential sources of savings to support development, implementation, and maintenance of the State private cloud.

**SECTION 6A.9.(d)** Funding and Implementation. – No funds from any source shall be used for the development and implementation of a private cloud without specific authorization by the General Assembly appropriating funds for this purpose.

**SECTION 6A.9.(e)** Report. – The State Chief Information Officer shall report the plan created pursuant to this section to the Joint Legislative Oversight Committee on Information Technology no later than January 1, 2013.

**SECTION 6A.9.(f)** Access by Private Vendors. – If the State Chief Information Officer provides to a potential vendor any information or access to State facilities in connection with or anticipation of the private cloud project described in this section, the State Chief Information Officer shall provide the same information or access to all potential vendors. The State Chief Information Officer shall certify the Officer's compliance with this subsection to the General Assembly.

## **ENTERPRISE GRANTS MANAGEMENT**

**SECTION 6A.10.** Section 6A.7 of S.L. 2011-145, as amended by Section 11(d) of S.L. 2011-391, reads as rewritten:

### **"STATE INFORMATION TECHNOLOGY CONSOLIDATION**

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

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

~~"SECTION 6A.7.(b1)~~ There is established a Grants Management Oversight Committee to coordinate the development of an enterprise grants management system. The Committee shall be chaired by the State Controller. Committee membership shall include the Senior Deputy State Controller, the Director of the Office of State Budget and Management, and the State Auditor.

The Committee shall:

- (1) Establish priorities for agency projects.
- (2) Establish priorities for development and implementation of system capabilities.
- (3) Review and approve system requirements.
- (4) Review and approve plans associated with system development and implementation.
- (5) Review and approve costs and funding sources for system development and implementation.
- (6) Ensure system benefits are realistic and realized.

~~"SECTION 6A.7.(b2)~~ By August 1, 2013, the Office of State Budget and Management shall provide a detailed plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division for the development and implementation of the enterprise grants management system, including a time line, cost for each participating agency, a comprehensive business plan, and information on the anticipated benefits of system implementation.

~~"SECTION 6A.7.(b3)~~ Beginning August 1, 2012, the Office of State Budget and Management shall report monthly to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the status of the system, including the following information:

- (1) Agencies currently participating in the system.
- (2) Specific requirements for each agency project included in the system development.
- (3) Cost and funding sources for each agency participating in the system.

- (4) Status of each agency project included in the system.
- (5) Comparison of the status of each project to the time line, with an explanation of any differences.
- (6) Detailed descriptions of milestones to be completed that month and the following month.
- (7) Any changes in project cost for any participating agency, the reasons, and the source of funding.
- (8) Actual expenditures by agency, to date and during that month.
- (9) Any potential funding shortfalls and their impact.
- (10) Any issues identified during the month, with a corrective action plan and a time line for resolving them.
- (11) Impact of any issues on schedule or cost.
- (12) Any changes to agency projects or the system as a whole.
- (13) Any change requests and their cost.

**"SECTION 6A.7.(b4)** The State CIO shall provide all required assistance and support for the development and implementation of the enterprise grants management system. Similar systems currently under development may be suspended by the State CIO with funding reprogrammed to support development of the enterprise grants management system.

**"SECTION 6A.7.(b5)** In coordination with the State CIO, the Department of Health and Human Services shall develop a plan to implement a single case management system throughout that Department, beginning in the 2012-2013 fiscal year, and shall report to the Joint Legislative Oversight Committee on Information Technology by February 1, 2012, on its initiatives to implement the system. The report shall include a detailed time line for completion and an explanation of the costs associated with case management consolidation.

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

## **STATE PORTAL IMPLEMENTATION/OPERATION**

**SECTION 6A.12.(a)** The Office of the State Chief Information Officer (State CIO) shall plan, develop, implement, and operate a Statewide electronic portal (i) to increase the convenience of members of the public in conducting online transactions with, and obtaining information from, State government and (ii) to facilitate their interactions and communications with government agencies. No contract for the implementation, operation, or funding of the portal shall be signed prior to February 1, 2013.

**SECTION 6A.12.(b)** By February 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on the following:

- (1) A detailed plan for development and implementation of the Statewide electronic portal, to include, at a minimum:
  - a. A list of anticipated services to be implemented during the 2013-2015 fiscal biennium, including a time line for deployment of each service.
  - b. A written assessment of the potential impact on services and agency operations from each potential participating agency, including the impact on the collection and distribution of fees and other service charges.
  - c. Any requirements for access to, or for use of, State data and any anticipated uses, to include any vendor use of data that does not directly support State activities.
  - d. A means to measure and report customer satisfaction for each service provided.
- (2) A financial model including:
  - a. The amount charged per transaction for each service by both the vendor and the State and the number of anticipated transactions for the next calendar year.

- b. Anticipated gross revenue from each service, along with the amount to be remitted to the vendor and the amount to be remitted to the State.
- c. Methodology for allocation of receipts to the vendor and to the State.
- d. Any other anticipated use of State data by the vendor and the amount of revenue the vendor anticipates collecting.
- e. Any receipts remitted to the State by the vendor.
- f. Services provided with no associated fee.
- g. Any potential impact on current fees collected by State agencies.

**SECTION 6A.12.(c)** Beginning January 31, 2014, and then annually thereafter, the State CIO shall report to the General Assembly and to the Fiscal Research Division on the following information:

- (1) Services currently provided and associated transaction volumes or other relevant indicators of utilization by user type.
- (2) New services added during the previous year.
- (3) Services added that are currently available in other states.
- (4) The total amount collected for each service.
- (5) The total amount remitted to the State for each service.
- (6) The total amount remitted to the vendor for each service.
- (7) Any other use of State data by the vendor and the total amount of revenue collected per each use and in total.
- (8) Customer satisfaction with each service.
- (9) Any other issues associated with the provision of each service.

**SECTION 6A.12.(d)** The State CIO shall consult with the Joint Legislative Oversight Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology prior to implementing any new portal service fee.

**SECTION 6A.12.(e)** There shall be a convenient, free alternative for any online service provided.

**SECTION 6A.12.(f)** Participation by State agencies in the portal shall be voluntary.

**SECTION 6A.12.(g)** The State portal project shall meet all requirements for project management established by the State CIO. Nothing in this section shall exempt the State portal project from the laws governing State information technology and purchasing.

**SECTION 6A.12.(h)** There is established in the Office of the State CIO the Statewide Portal Committee (Committee). The Committee shall review services proposed for inclusion in the State portal. The Committee shall have approval authority for services and applications not requiring a fee or imposing any cost on any State or local agency or anyone doing business with the State.

The Committee shall be composed of seven members as follows:

- (1) Two members appointed by the Governor.
- (2) Two members appointed by the General Assembly, as recommended by the Speaker of the House of Representatives.
- (3) Two members appointed by the General Assembly, as recommended by the President Pro Tempore of the Senate.
- (4) The State Controller shall be designated as the chair.

Any vacancy on the Committee shall be filled by the appointing authority. Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. Adequate staff shall be provided to the Office of the State CIO. The Committee may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

**SECTION 6A.12.(i)** Notwithstanding G.S. 114-2.3, the Office of the State CIO shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with the State portal.

**SECTION 6A.12.(j)** Section 6A.10 of S.L. 2011-145, as amended by Section 12(b) of S.L. 2011-391, is repealed.

## **PART VII. PUBLIC SCHOOLS**

### **FUNDS FOR CHILDREN WITH DISABILITIES**

**SECTION 7.1.** The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand seven hundred nine dollars (\$3,709) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of its 2012-2013 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

#### **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

**SECTION 7.2.** The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand two hundred twenty-three dollars and ninety-three cents (\$1,223.93) per child for fiscal year 2012-2013. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2012-2013 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

#### **SCHOOL IMPROVEMENT PLANS AT RESIDENTIAL SCHOOLS**

**SECTION 7.3.(a)** In order to improve student performance, the Eastern North Carolina School for the Deaf, the Governor Morehead School for the Blind, and the North Carolina School for the Deaf each shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board of Education. The principal of each school, instructional personnel and residential life personnel assigned to that school, and a minimum of five parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance.

Representatives of the instructional and residential life personnel shall be elected by their respective groups by secret ballot.

Parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. To the extent possible, parents serving on school improvement teams shall reflect the composition of the students enrolled in that school. No more than two parents on the team may be employees of the school. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with instructional and residential life personnel, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation. Parents who are elected to serve on school improvement teams and who are not employees of the school shall receive travel and subsistence expenses in accordance with G.S. 138-5 and, if appropriate, may receive a stipend.

All school improvement plans shall be, to the greatest extent possible, data driven. School improvement teams shall use the Education Value Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for problems and to determine actions to address them. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards.

**SECTION 7.3.(b)** The strategies for improving student performance shall include the following:

- (1) A plan for the use of staff development funds that may be made available to the school to implement the school improvement plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while teachers are meeting with mentors.
- (2) A plan for preparing students to read at grade level by the time they enter second grade. The plan shall require kindergarten and first grade teachers to notify parents or guardians when a child is not reading at grade level and is at risk of not reading at grade level by the time the child enters second grade.

The plan may include the use of assessments to monitor students' progress in learning to read and strategies for teachers and parents to implement that will help students improve and expand their reading ability, as well as provide for the recognition of teachers and strategies that appear to be effective at preparing students to read at grade level.

- (3) A comprehensive plan to encourage parent involvement.
- (4) A plan designed to provide that the school is safe, secure, and orderly; that there is a climate of respect in the school; and that appropriate personal conduct is a priority for all students and all residential school personnel.
- (5) A plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of school.

**SECTION 7.3.(c)** Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the instructional personnel assigned to the school for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the State Board of Education only if the proposed school improvement plan has the approval of a majority of the instructional personnel who voted on the plan.

**SECTION 7.3.(d)** The State Board of Education shall accept or reject the school improvement plan within 60 days after the submission plan. If the State Board rejects a school improvement plan, the State Board shall state with specificity the reasons for rejecting the plan to the principal and shall direct that the principal work with the school improvement team to resolve the disagreements. The school improvement team may then prepare another plan, present it to the instructional personnel assigned to the school for a vote, and submit it to the State Board to accept or reject. If there is no resolution within 30 days, then the State Board may develop a school improvement plan for the school; however, the General Assembly urges the State Board to utilize the school's proposed school improvement plan to the maximum extent possible when developing this plan.

**SECTION 7.3.(e)** A school improvement plan shall remain in effect for no more than three years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the State Board finds that a school improvement plan is impeding student performance at a school, the State Board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this section shall apply to amendments and revisions to school improvement plans.

**SECTION 7.3.(f)** Any funds the State Board makes available to a school to meet the goals for that school under the ABCs Program and to implement the school improvement plan at that school shall be used in accordance with those goals and the school improvement plan.

**SECTION 7.3.(g)** The State Board shall develop a list of recommended strategies that it determines to be effective, which building-level committees may use to establish parent involvement programs designed to meet the specific needs of their schools.

**SECTION 7.3.(h)** Once the plan is developed, the principal shall ensure the plan is available and accessible to parents and the school community.

## **SCHOOL CALENDAR PILOT PROGRAM**

**SECTION 7.4.** The State Board of Education shall establish a school calendar pilot program in the Wilkes County Schools, the Montgomery County Schools, and the Stanly County Schools. The purpose of the pilot program is to determine whether and to what extent a local school administrative unit can save money during this extreme fiscal crisis by consolidating the school calendar.

Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2012-2013 calendar year for the pilot school systems shall include a minimum of 185 days or 1025 hours of instruction covering at least nine calendar months.

If the local board of education in a pilot school system adds instructional hours to previously scheduled days under this section, the local school administrative unit is deemed to have a minimum of 185 days of instruction, and teachers employed for a 10-month term are

deemed to have been employed for the days being made up and shall be compensated as if they had worked the days being made up.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15, 2013, on the administration of the pilot program, cost savings realized by it, and its impact on student achievement.

## **RESIDENTIAL SCHOOLS**

**SECTION 7.8.(a)** Section 7.25(a) of S.L. 2011-145 is repealed.

**SECTION 7.8.(b)** The Department of Public Instruction shall not transfer any school-based personnel from the residential schools to central office administrative positions.

**SECTION 7.8.(c)** Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the residential school campuses. The Department of Public Instruction shall use all receipts generated from these leases to staff and operate the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School. These receipts shall not be used to support administrative functions within the Department.

## **LIABILITY INSURANCE FOR PUBLIC SCHOOL PERSONNEL**

**SECTION 7.9.(a)** Within 60 days of the effective date of this section, the local school administrative units shall provide written notification to all public school employees regarding the coverage provided by the State-funded liability insurance policy for North Carolina public school employees. Notification shall include information regarding policy coverage details, instructions on reporting claims, contact information for additional questions, and instructions on obtaining a copy of the policy.

**SECTION 7.9.(b)** From the funds available for liability insurance for public school personnel, the Department of Public Instruction shall distribute additional funds to local school administrative units on the basis of average daily membership in order to implement the requirements of subsection (a) of this section.

## **PILOT COOPERATIVE INNOVATIVE HIGH SCHOOL**

**SECTION 7.10.** Notwithstanding G.S. 115C-238.51, the State Board of Education shall approve the establishment of a cooperative innovative high school pilot by the local boards of education of the Davidson County Schools, Thomasville City Schools, and Lexington City Schools and the local board of trustees of Davidson County Community College under Part 9 of Article 16 of Chapter 115C of the General Statutes. The pilot shall be known as the Yadkin Valley Regional Career Academy.

## **CLARIFYING COOPERATIVE INNOVATIVE HIGH SCHOOL STATUTES**

**SECTION 7.11.(a)** G.S. 115C-238.50A reads as rewritten:

### **"§ 115C-238.50A. Definitions.**

The following definitions apply in this Part:

- (1) Constituent institution. – A constituent institution as defined in G.S. 116-2(4).
- (1a) Cooperative innovative high school. – A high school approved by the State Board of Education and the applicable governing Board that meets the following criteria:
  - a. It has no more than 100 students per grade level.
  - b. It partners with an institution of higher education to enable students to concurrently obtain a high school diploma and begin or complete an associate degree program, master a certificate or vocational program, or earn up to two years of college credit within five years.
  - c. It is located on the campus of the partner institution of higher education, unless the governing board Board or the local board of trustees for a private North Carolina college specifically waives the requirement through adoption of a formal resolution.
- (1b) Cooperative innovative high school allotment. – Funds appropriated by the General Assembly to the Department of Public Instruction to provide additional resources to approved cooperative innovative high schools.
- (2) Education partner. – An education partner as provided in G.S. 115C-238.52.



- (3) ~~Governing board.~~Board. – ~~The State Board of Education, the State Board of Community Colleges, Colleges or the Board of Governors of The University of North Carolina, or the Board of the North Carolina Independent Colleges and Universities.~~Carolina.
- (3a) Local board of education. – A local board as defined in G.S. 115C-5(5) or a regional school board of directors as defined in G.S. 115C-238.61(5).
- (4) Local board of trustees. – The board of trustees of a community college, constituent institution of The University of North Carolina, or private college located in North Carolina.
- (5) Partner institution of higher education. – A community college, constituent institution of The University of North Carolina, or private college located in North Carolina."

**SECTION 7.11.(b)** G.S. 115C-238.51 reads as rewritten:

**"§ 115C-238.51. Application process.**

- (a) A local board of education and at least one local board of trustees shall jointly apply to establish a cooperative innovative high school program under this Part.
- (b) The application shall contain at least the following information:
  - (1) A description of a program that implements the purposes in G.S. 115C-238.50.
  - (2) A statement of how the program cooperative innovative high school relates to the Economic Vision Plan adopted for the economic development region in which the program cooperative innovative high school is to be located.
  - (3) The facilities to be used by the program cooperative innovative high school and the manner in which administrative services of the program school are to be provided.
  - (4) A description of student academic and vocational achievement goals and the method of demonstrating that students have attained the skills and knowledge specified for those goals.
  - (5) A description of how the program cooperative innovative high school will be operated, including budgeting, curriculum, transportation, and operating procedures.
  - (6) The process to be followed by the program cooperative innovative high school to ensure parental involvement.
  - (7) The process by which students will be selected for and admitted to the program cooperative innovative high school.
  - (8) A description of the funds that will be used and a proposed budget for the first five years of the implementation of the program cooperative innovative high school. This description shall identify how the average daily membership (ADM) and full-time equivalent (FTE) students are counted. If additional funds are requested, a description of how those additional funds will be used shall be submitted. Additional funds may include the cooperative innovative high school allotment and tuition payments. For cooperative innovative high schools that have a community college as their partner institution of higher education, the proposed budget shall include the cost of including their students in calculations of budget full-time equivalent students for the North Carolina Community College System.
  - (9) The qualifications required for individuals employed in the program cooperative innovative high school.
  - (10) The number of students to be served.
  - (11) A description of how the program's cooperative innovative high school's effectiveness in meeting the purposes in G.S. 115C-238.50 will be measured.
- (c) The application shall be submitted to the State Board of Education and the applicable governing ~~Boards.~~Board. If the partner institution of higher education is a private North Carolina college, the application shall be submitted solely to the State Board of Education. ~~The Boards shall appoint a joint advisory committee to review the applications and to recommend to the Boards those programs that meet the requirements of this Part and that achieve the purposes set out in G.S. 115C 238.50.~~
- (d) ~~The Boards may approve programs recommended by the joint advisory committee or may approve other programs that were not recommended. The Boards shall approve all~~

applications by June 30 of each year. No application shall be approved unless the State Board of Education and the applicable governing Board find that the application meets the requirements set out in this Part and that granting the application would achieve the purposes set out in G.S. 115C-238.50. Priority shall be given to applications that are most likely to further State education policies, to address the economic development needs of the economic development regions in which they are located, and to strengthen the educational programs offered in the local school administrative units in which they are located.

(e) ~~No additional State funds shall be provided to approved programs unless appropriated by the General Assembly."~~

**SECTION 7.11.(c)** Part 9 of Article 16 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-238.51A. Approval process.**

(a) Joint Advisory Committee. – The State Board of Education and the applicable governing Board of the local board of trustees shall appoint a joint advisory committee to review the applications and to recommend approval for those applications that meet the requirements of this Part and achieve purposes set out in G.S. 115C-238.50. The recommendation shall indicate whether additional funds were requested in the application.

(b) No Additional Funds. – For applications which have not requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools. In granting approval, consideration shall be given to the proposed budget and demonstration of sources of sustainable funding for the operation of the cooperative innovative high school. Approvals shall be made by June 30 of each year. No additional State funds, position allotments, earning of budget full-time equivalent students, or payments of tuition shall be provided to cooperative innovative high schools approved under this subsection.

(c) Additional Funds. – For applications which have requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools contingent upon appropriation of the additional funds by the General Assembly. Contingent approval shall be made by April 1 of each year. The contingent approval shall expire if no appropriation is made by the General Assembly for the additional funds within one calendar year. No cooperative innovative high school shall open prior to the appropriation by the General Assembly of the full amount of the additional funds as requested in the application for that school under G.S. 115C-238.51 for the upcoming fiscal year or fiscal biennium, as appropriate. If no appropriation is made by the General Assembly, a revised application may be submitted under subsection (b) of this section."

**SECTION 7.11.(d)** G.S. 115C-238.52 reads as rewritten:

**"§ 115C-238.52. Participation by other education partners.**

(a) Any or all of the following education partners may participate in the development of a cooperative innovative ~~program~~ high school under this Part that is targeted to high school students who would benefit from accelerated academic instruction:

- (1), (2) Repealed by Session Laws 2005-276, s. 7.33(a), effective July 1, 2005.
- (3) A private business or organization.
- (4) The county board of commissioners in the county in which the ~~program~~ cooperative innovative high school is located.

(b) Any or all of the education partners listed in subsection (a) of this section that participate shall:

- (1) Jointly apply with the local board of education and the local board of trustees to establish a cooperative innovative ~~program~~ high school under this Part.
- (2) Be identified in the application.
- (3) Sign the written agreement under G.S. 115C-238.53(b)."

**SECTION 7.11.(e)** G.S. 115C-238.53 reads as rewritten:

**"§ 115C-238.53. ~~Program operation.~~ Operation of cooperative innovative high schools.**

(a) A ~~program~~ cooperative innovative high school approved by the State is accountable to the local board of education.

(b) A ~~program~~ cooperative innovative high school approved under this Part shall operate under the terms of a written agreement signed by the local board of education, local board of trustees, State Board of Education, and applicable governing Board. The agreement shall incorporate the information provided in the application, as modified during the approval process, and any terms and conditions imposed on the ~~program~~ school by the State Board of

Education and the applicable governing Board. The agreement may be for a term of no longer than five school years.

(c) A ~~program~~cooperative innovative high school may be operated in a facility owned or leased by the local board of education, the local board of trustees, or the education partner, if any.

(d) A ~~program~~cooperative innovative high school approved under this Part shall provide instruction each school year for at least ~~180~~185 days during nine calendar months, shall comply with laws and policies relating to the education of students with disabilities, and shall comply with Article 27 of this Chapter.

(e) A ~~program~~cooperative innovative high school approved under this Part may use State, federal, and local funds allocated to the local school administrative unit, to the applicable governing Board, and to the ~~college or university~~partner institution of higher education to implement ~~the~~its program. If there is an education partner and if it is a public body, the ~~program~~cooperative innovative high school may use State, federal, and local funds allocated to that body.

(f) Except as provided in this Part and under the terms of the ~~agreement~~agreement, cooperative innovative high schools:

(1) ~~A program shall~~Shall have the same exemptions from statutes and rules as charter schools operating under Part 6A of this Article, other than those pertaining to personnel.

(2) ~~A program may~~May be exempted by the State Board of Education or by the applicable governing Board from laws and rules applicable to a local board of education, a local school administrative unit, a community college, a constituent institution, or a local board of trustees."

**SECTION 7.11.(f)** G.S. 115C-238.54 reads as rewritten:

**"§ 115C-238.54. Funds for programs,cooperative innovative high schools.**

(a) The Department of Public Instruction shall assign a school code for each ~~program~~cooperative innovative high school that is approved under this Part. Notwithstanding G.S. 115C-105.25, once the ~~program~~cooperative innovative high school has been assigned a school code, the local board of education may use these funds for the ~~program~~school and may transfer these funds between funding allotment categories.

(a1) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.

(b) The local board of trustees may allocate State and federal funds for a ~~program~~cooperative innovative high school that is approved under this Part.

(c) An education partner under G.S. 115C-238.52 that is a public body may allocate State, federal, and local funds for a ~~program~~cooperative innovative high school that is approved under this Part.

(d) If not an education partner under G.S. 115C-238.52, a county board of commissioners in a county where a ~~program~~cooperative innovative high school is located may nevertheless appropriate funds to a ~~program~~the school approved under this Part.

(e) The local board of education and the local board of trustees are strongly encouraged to seek funds from sources other than State, federal, and local appropriations. They are strongly encouraged to seek funds the Education Cabinet identifies or obtains under G.S. 116C-4.

(f) Students in cooperative innovative high schools shall not be charged tuition for courses taken through the partner institution of higher education.

(g) Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c) shall be included in calculations of budget full-time equivalent students for the North Carolina Community College System. Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(b) shall not be included in calculations of budget full-time equivalent students for the North Carolina Community College System.

(h) The State Board of Education shall reimburse The University of North Carolina for tuition for courses taken by students at cooperative innovative high schools that have a constituent institution of The University of North Carolina as their partner institution of higher education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed the annual Board of Governors-approved undergraduate resident tuition rate calculated on a per credit hour basis and shall not include fees. In addition, the cooperative innovative high school students' credit hours shall be nonfundable under The University of North Carolina Semester

Credit Hour Enrollment Change Funding Model. The State Board of Education shall not reimburse The University of North Carolina for tuition for courses taken by students at cooperative innovative high schools that have a constituent institution of The University of North Carolina as their partner institution of higher education and were approved under G.S. 115C-238.51A(b).

(i) The State Board of Education shall reimburse private North Carolina colleges for tuition for courses taken by students at cooperative innovative high schools that have a private North Carolina college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed the highest undergraduate resident rate approved by the Board of Governors for The University of North Carolina constituent institutions and shall not include fees. The State Board of Education shall not reimburse private North Carolina colleges for tuition for courses taken by students at cooperative innovative high schools that have a private North Carolina college as their partner institution of higher education and were approved under G.S. 115C-238.51A(b)."

**SECTION 7.11.(g)** G.S. 115C-238.55 reads as rewritten:

**"§ 115C-238.55. Evaluation of ~~programs~~ cooperative innovative high schools.**

The State Board of Education and the governing Boards shall evaluate the success of students in ~~programs~~ cooperative innovative high schools approved under this Part. Success shall be measured by high school retention rates, high school completion rates, high school dropout rates, certification and associate degree completion, admission to four-year institutions, postgraduation employment in career or study-related fields, and employer satisfaction of employees who participated in and graduated from the ~~programs~~ schools. The Boards shall jointly report by January 15 of each year to the Joint Legislative Education Oversight Committee on the evaluation of these ~~programs~~ schools."

**SECTION 7.11.(h)** Section 7.21(e) of S.L. 2010-31 is repealed.

**SECTION 7.11.(i)** This section is effective when it becomes law.

## **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

**SECTION 7.12.** Section 7.22(k) of S.L. 2011-145 reads as rewritten:

~~"SECTION 7.22.(k) The State Board shall use only funds provided through the North Carolina Virtual Public Schools Allotment Formula and the NCVPS enrollment reserve as set forth in this section to fund instructional costs of NCVPS. The only funds that may be used for the instructional costs of NCVPS are the following:~~

- ~~(1) Funds provided through the North Carolina Virtual Public Schools Allotment Formula.~~
- ~~(2) Funds provided through the NCVPS enrollment reserve as set forth in this section.~~
- ~~(3) Local funds.~~
- ~~(4) Federal funds.~~
- ~~(5) Special State Reserve Funds for Children and Youth with Disabilities.~~
- ~~(6) ADM Contingency Reserve.~~

## **REPEAL OBSOLETE REPORTS**

**SECTION 7.13.(a)** Section 7.19(d) of S.L. 2007-323 is repealed.

**SECTION 7.13.(b)** Section 7.21 of S.L. 2007-323 is repealed.

**SECTION 7.13.(c)** G.S. 115C-276(t) is repealed.

**SECTION 7.13.(d)** Subsections (c) and (g) of Section 7.5 of S.L. 2010-31 are repealed.

**SECTION 7.13.(e)** Section 7.19(c) of S.L. 2010-31 is repealed.

**SECTION 7.13.(f)** G.S. 115C-12(26) is repealed.

## **TEACHER/TEACHER ASSISTANT LEAVE ON INSTRUCTIONAL DAYS.**

**SECTION 7.14.(a)** G.S. 115C-302.1(c) reads as rewritten:

"(c) Vacation. – Included within the 10-month term shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth of the annual rate for State employees for each month of employment. Local boards shall provide at least 10 days of annual vacation leave at a time when students are not scheduled to be in regular attendance. However, instructional personnel who do not require a substitute may use annual vacation leave on days that students are in attendance. Vocational and technical education teachers who are

employed for 11 or 12 months may, with prior approval of the principal, work on annual vacation leave days designated in the school calendar and may use those annual vacation leave days during the eleventh or twelfth month of employment. Local boards of education may adopt policies permitting instructional personnel employed for 11 or 12 months in year-round schools to, with the approval of the principal, take vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitute teachers.

On a day that pupils are not required to attend school due to inclement weather, but employees are required to report for a workday, a teacher may elect not to report due to hazardous travel conditions and to take an annual vacation day or to make up the day at a time agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, a teacher shall work on the scheduled makeup day.

All vacation leave taken by the teacher will be upon the authorization of the teacher's immediate supervisor and under policies established by the local board of education. Annual vacation leave shall not be used to extend the term of employment.

Notwithstanding any provisions of this subsection to the contrary, no person shall be entitled to pay for any vacation day not earned by that person."

**SECTION 7.14.(b)** G.S. 115C-316(a)(3) reads as rewritten:

"(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by these employees shall be upon the authorization of their immediate supervisor and under policies established by the local board of education. The policies may permit teacher assistants who require a substitute and are employed for 11 or 12 months in year-round schools to take vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitutes. Vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

**SECTION 7.14.(c)** This section applies beginning with the 2012-2013 school year.

## **GEOGRAPHICALLY ISOLATED SCHOOLS**

**SECTION 7.16.** A local school administrative unit receiving special allotments for a small, geographically isolated school shall continue to receive one-half of that special allotment funding for the fiscal year after the school is closed. These funds shall be used to assist in the transition of students from the closed school to other schools in the local school administrative unit.

## **INVESTING IN INNOVATION GRANT**

**SECTION 7.17.(a)** The federal Investing in Innovation Fund Grant: Validating Early College Strategies for Traditional Comprehensive High Schools awarded to the North Carolina New Schools Project for 2012-2017 requires students to enroll in a community college course in the tenth grade. Notwithstanding any other provision of law, specified local school administrative units may offer one community college course to participating sophomore (tenth grade) students. Participating local school administrative units are Alleghany, Beaufort, Hertford, Jones, Madison, Richmond, Rutherford, Sampson, Surry, Wilkes, and Yancey County Schools.

**SECTION 7.17.(b)** Grant funds shall be used to pay for all costs incurred by the local school administrative units and the community college partners to implement the grant, including community college FTE. Community colleges shall not earn budget FTE for student course enrollments supported with this grant.

**SECTION 7.17.(c)** Research for the project shall address the effects of early college strategies in preparing students for college completion. The North Carolina New Schools Project shall report on the implementation of the grant to the State Board of Education, State Board of Community Colleges, Office of the Governor, and the Joint Legislative Education Oversight Committee no later than March 15, 2013, and annually thereafter until the end of the grant period.

## **BUDGETING OF POSITION ALLOTMENTS**

**SECTION 7.18.(a)** Section 7.21(a) of S.L. 2011-145 reads as rewritten:

**"SECTION 7.21.(a)** For fiscal years 2011-2012 and 2012-2013, the State Board of Education is authorized to extend its emergency rules, in accordance with G.S. 150B-21.1A, granting maximum flexibility to local school administrative units regarding the expenditure of State funds. These rules shall not be subject to the limitations on transfers of funds between funding allotment categories set out in G.S. 115C-105.25. However, these rules shall not permit the following transfers:

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

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

**SECTION 7.18.(b)** Local school administrative units may transfer funds for certified instructional support personnel for any purpose not otherwise prohibited by the State Board of Education's ABC transfer policy by submitting an ABC Transfer Form to the Department of Public Instruction. For funds related to certified instructional support personnel positions, the salary transferred shall be based on the first step of the "A" Teachers salary schedule. No local school administrative unit shall convert certified position allotments to dollars in order to hire the same type of position.

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

**SECTION 7.19.(a)** Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2011-2012 fiscal year.

**SECTION 7.19.(b)** This section becomes effective June 30, 2012.

## **PART VII-A. EXCELLENT PUBLIC SCHOOLS ACT**

### **IMPROVE K-3 LITERACY**

**SECTION 7A.1.(a)** G.S. 115C-81.2 is repealed.

**SECTION 7A.1.(b)** Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1A. North Carolina Read to Achieve Program.

#### **"§ 115C-83.1A. State goal.**

The goal of the State is to ensure that every student read at or above grade level by the end of third grade and continue to progress in reading proficiency so that he or she can read, comprehend, integrate, and apply complex texts needed for secondary education and career success.

**"§ 115C-83.1B. Purposes.**

(a) The purposes of this Part are to ensure that (i) difficulty with reading development is identified as early as possible; (ii) students receive appropriate instructional and support services to address difficulty with reading development and to remediate reading deficiencies; and (iii) each student and his or her parent or guardian be continuously informed of the student's academic needs and progress.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Part is to determine that progression from one grade to another be based, in part, upon proficiency in reading.

**"§ 115C-83.1C. Definitions.**

The following definitions apply in this Part:

- (1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.
- (2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State-approved standardized test of reading comprehension administered to third grade students.
- (3) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.
- (4) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.
- (5) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.
- (6) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.
- (7) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.
- (8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above.
- (9) "Summer reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to any student who does not demonstrate reading proficiency. Parents or guardians of the student not demonstrating reading proficiency shall make the final decision regarding the student's summer camp attendance. Summer camps shall (i) be six to eight weeks long, four or five days per week; (ii) include at least three hours of instructional time per day; (iii) be taught by compensated, licensed teachers selected based on demonstrated student

outcomes in reading proficiency; and (iv) allow volunteer mentors to read with students.

- (10) "Transitional third and fourth class combination" means a classroom specifically designed to produce learning gains sufficient to meet fourth grade performance standards while continuing to remediate areas of reading deficiency.

**"§ 115C-83.1D. Comprehensive plan for reading achievement.**

(a) The State Board of Education shall develop, implement, and continuously evaluate a comprehensive plan to improve reading achievement in the public schools. The plan shall be based on reading instructional practices with strong evidence of effectiveness in current empirical research in reading development. The plan shall be developed with the active involvement of teachers, college and university educators, parents and guardians of students, and other interested parties. The plan shall, when appropriate to reflect research, include revision of the standard course of study or other curricular standards, revision of teacher licensure and renewal standards, and revision of teacher education program standards.

(b) The State Board of Education shall report biennially to the Joint Legislative Education Oversight Committee by October 1 of each even-numbered year on the implementation, evaluation, and revisions to the comprehensive plan for reading achievement and shall include recommendations for legislative changes to enable implementation of current empirical research in reading development.

**"§ 115C-83.1E. Developmental screening and kindergarten entry assessment.**

(a) The State Board of Education shall ensure that every student entering kindergarten shall be administered a developmental screening of early language, literacy, and math skills within 30 days of enrollment.

(b) The State Board of Education shall ensure that every student entering kindergarten shall complete a kindergarten entry assessment within 60 days of enrollment.

(c) The developmental screening instrument may be composed of subsections of the kindergarten entry assessment.

(d) The kindergarten entry assessment shall address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development.

(e) The kindergarten entry assessment shall be (i) administered at the classroom level in all local school administrative units; (ii) aligned to North Carolina's early learning and development standards and to the standard course of study; and (iii) reliable, valid, and appropriate for use with all children, including those with disabilities and those who are English language learners.

(f) The results of the developmental screening and the kindergarten entry assessment shall be used to inform the following:

- (1) The status of children's learning at kindergarten entry.
- (2) Instruction of each child.
- (3) Efforts to reduce the achievement gap at kindergarten entry.
- (4) Continuous improvement of the early childhood system.

**"§ 115C-83.1F. Facilitating early grade reading proficiency.**

(a) Kindergarten, first, second, and third grade students shall be assessed with valid, reliable, formative, and diagnostic reading assessments made available to local school administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a). Difficulty with reading development identified through administration of formative and diagnostic assessments shall be addressed with instructional supports and services. To the greatest extent possible, kindergarten through third grade reading assessments shall yield data that can be used with the Education Value-Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(b) Formative and diagnostic assessments and resultant instructional supports and services shall address oral language, phonological and phonemic awareness, phonics, vocabulary, fluency, and comprehension using developmentally appropriate practices.

(c) Local school administrative units are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist



with the provision of instructional supports and services that enhance reading development and proficiency.

**"§ 115C-83.1G. Elimination of social promotion.**

(a) The State Board of Education shall require that a student be retained in the third grade if the student fails to demonstrate reading proficiency appropriate for a third grade student, as demonstrated on a State-approved standardized test of reading comprehension administered to third grade students. The test may be readministered once prior to the end of the school year.

(b) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

- (1) Limited English Proficient students with less than two years of instruction in an English as a Second Language program.
- (2) Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.
- (3) Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment approved by the State Board of Education. Teachers may administer the alternative assessment following the administration of the State-approved standardized test of reading comprehension typically given to third grade students at the end of the school year, or after a student's participation in the local school administrative unit's summer reading camp.
- (4) Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students. Teachers may submit the student reading portfolio at the end of the school year or after a student's participation in the local school administrative unit's summer reading camp. The student reading portfolio and review process shall be established by the State Board of Education.
- (5) Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.

(c) The superintendent shall determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The following steps shall be taken in making the determination:

- (1) The teacher of a student eligible for a good cause exemption shall submit documentation of the relevant exemption and evidence that promotion of the student is appropriate based on the student's academic record to the principal. Such evidence shall be limited to the student's personal education plan, individual education program, if applicable, alternative assessment, or student reading portfolio.
- (2) The principal shall review the documentation and make an initial determination whether the student should be promoted. If the principal determines the student should be promoted, the principal shall make a written recommendation of promotion to the superintendent for final determination. The superintendent's acceptance or rejection of the recommendation shall be in writing.

**"§ 115C-83.1H. Successful reading development for retained students.**

(a) Students not demonstrating reading proficiency shall be enrolled in a summer reading camp provided by the local school administrative unit prior to being retained. Students who demonstrate reading proficiency on an alternative assessment of reading comprehension or student reading portfolio after completing a summer reading camp shall be promoted to the fourth grade. Students who do not demonstrate reading proficiency on these measures after completing a summer reading camp shall be retained under G.S. 115C-83.1G(a) and provided with the instruction listed in subsection (b) of this section during the retained year.

(b) Students retained under G.S. 115C-83.1G(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted,

evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.1G(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension or student reading portfolio review.

(d) Parents or guardians of students who have been retained once under the provisions of G.S. 115C-83.1G(a) shall be provided with a plan for reading at home, including participation in shared and guided reading workshops for the parent or guardian, and outlined in a parental or guardian contract.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.1G(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day.

**"§ 115C-83.1I. Notification requirements to parents and guardians.**

(a) Parents or guardians shall be notified in writing, and in a timely manner, that the student shall be retained, unless he or she is exempt from mandatory retention for good cause, if the student is not demonstrating reading proficiency by the end of third grade. Parents or guardians shall receive this notice when a kindergarten, first, second, or third grade student (i) is demonstrating difficulty with reading development; (ii) is not reading at grade level; or (iii) has a personal education plan under G.S. 115C-105.41.

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.1G(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.1G(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.1G(a) shall receive at least monthly written reports on student progress toward reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide opportunities to discuss with parents and guardians the notifications listed in this section.

**"§ 115C-83.1J. Accountability measures.**

(a) Each local board of education shall publish annually on a Web site maintained by that local school administrative unit and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

- (1) The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.
- (2) The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.
- (3) The number and percentage of third grade students retained for not demonstrating reading proficiency.
- (4) The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b).

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year a description of all reading interventions provided to students who have been retained under G.S. 115C-83.1G(a).

(c) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsections (a) and (b) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee by October 1 of each year, beginning with the 2014-2015 school year.

(d) The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units to implement all provisions of this Part."

**SECTION 7A.1.(c)** G.S. 115C-105.27(b)(1a) is repealed.

**SECTION 7A.1.(d)** G.S. 115C-105.41 reads as rewritten:

**"§ 115C-105.41. Students who have been placed at risk of academic failure; personal education plans.**

In order to implement Part 1A of Article 8 of this Chapter, Local-local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning ~~no later than the fourth grade in kindergarten.~~ Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused instructional supports and services, reading intervention-interventions, and accelerated activities should include ~~research-based best-evidence-based~~ practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

**SECTION 7A.1.(e)** G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for ~~First and Second Grades-Kindergarten, First, Second, and Third Grades.~~ – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program and Part 1A of Article 8 of this Chapter for the ~~first and second grades, rather than standardized tests- kindergarten, first, second, and third grades.~~ Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for ~~first and second grade students, kindergarten, first, second, and third grade students~~ to assess progress, diagnose difficulties, and inform instruction and remediation needs. ~~and~~ Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants."

**SECTION 7A.1.(f)** G.S. 115C-238.29F is amended by adding a new subsection to

read:

"(d1) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

(2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

- a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.
  - b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.
  - c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.
  - d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.
  - e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.
- (3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.
- (4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:
- a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.
  - b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.
  - c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.
  - d. The number and percentage of third grade students retained for not demonstrating reading proficiency.
  - e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection."

**SECTION 7A.1.(g)** G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify ~~pupils~~ pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

**SECTION 7A.1.(h)** G.S. 130A-440(b) reads as rewritten:

"(b) A health assessment shall include a medical history and physical examination with screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. Vision screening shall be conducted in accordance with G.S. 130A-440.1. The health assessment may also include dental screening and developmental screening for cognition, language, and motor

function. The developmental screening of cognition and language abilities may be conducted in accordance with G.S. 115C-83.1E(a)."

**SECTION 7A.1.(i)** This section is effective when it becomes law and applies beginning with the 2013-2014 school year. The developmental screening and kindergarten entry assessment required by this section shall be administered beginning with the 2014-2015 school year.

## **SCHOOL PERFORMANCE GRADES**

**SECTION 7A.3.(a)** G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b)."

**SECTION 7A.3.(b)** G.S. 115C-47(58) reads as rewritten:

"(58) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or ~~otherwise~~ is otherwise provided to the public. Each local board of education shall ensure that the overall school performance score and grade earned by each school in the local school administrative unit for the current and previous four school years is prominently displayed on the Web site of the local school administrative unit. If any school in the local school administrative unit is awarded a grade of D or F, the local board of education shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

**SECTION 7A.3.(c)** G.S. 115C-238.29F is amended by adding a new subsection to read:

"(1) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

**SECTION 7A.3.(d)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(11) North Carolina School Report Cards. – A regional school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A regional school shall ensure that the overall school performance score and grade earned by the regional school for the current and previous four school years is prominently displayed on the school Web site. If a regional school is awarded a grade of D or F, the regional school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

**SECTION 7A.3.(e)** The State Board of Education shall award school performance scores and grades as required by G.S. 115C-12(9)c1. as follows:

- (1) The State Board of Education shall calculate school performance scores by totaling the sum of points earned by the school and converting the sum of points to a 100-point scale. Subdivisions (2) and (3) of this section provide the school performance elements for schools serving students in kindergarten through eighth grade. Subdivision (4) of this section provides the school performance elements for schools serving grades nine through twelve. The school performance score shall be used to determine the school performance grade based on the following scale:
  - a. At least 90 performance grade points for an overall school performance grade of A.
  - b. At least 80 performance grade points for an overall school performance grade of B.
  - c. At least 70 performance grade points for an overall school performance grade of C.
  - d. At least 60 performance grade points for an overall school performance grade of D.
  - e. A school that accumulates fewer than 60 points shall be assigned an overall school performance grade of F.
- (2) For schools serving students in kindergarten through eighth grade, the overall school performance score shall be calculated based on the sum of three school performance elements.
  - a. The score shall be calculated as follows:
    1. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
    2. One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.
    3. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.
- (3) For schools serving students in kindergarten through eighth grade, the school performance scores in reading and mathematics, respectively, shall be earned as follows:
  - a. The literacy school performance score shall be based on the percent of students who score at or above proficient on annual assessments for reading assessments in grades three through eight.
  - b. The mathematics school performance score shall be based on the percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
- (4) The school performance score earned by schools serving students in ninth through twelfth grades shall be calculated based on the sum of seven school performance elements.
  - a. The score shall be calculated as follows:
    1. One point for each percent of students who score at or above proficient on annual assessments for mathematics.
    2. One point for each percent of students who score at or above proficient on annual assessments for English.

3. One point for each percent of students who score at or above proficient on annual assessments for biology.
  4. One point for each percent of students who complete a higher level mathematics class with a passing grade.
  5. One point for each percent of students who score at or above a level demonstrating college readiness on a nationally normed test of college readiness.
  6. One point for each percent of students who graduate within four years of entering high school.
  7. One point for each percent of students who demonstrate workplace readiness on a nationally normed test of workplace readiness.
- (5) In calculating the overall school performance score earned by schools, the State Board of Education shall proportionally adjust the scale to account for the absence of a school performance element for award of scores to a school that does not have a measure of one of the school performance elements annually assessed for the grades taught at that school.
- (6) The State Board of Education shall report to the Joint Legislative Education Oversight Committee annually by January 15 on recommended adjustments to the school performance grade elements and scales for award of scores and grades.

**SECTION 7A.3.(f)** It is the intent of the General Assembly to add a student growth component to school performance grades.

**SECTION 7A.3.(g)** This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

#### **FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR**

**SECTION 7A.6.(a)** To fully provide for the expansion of five additional instructional days in accordance with S.L. 2011-145, Section 7.29 for those days for which a local school administrative unit has not requested and received a waiver from the State Board of Education for the 2012-2013 school year:

- (1) Of the funds appropriated from the General Fund to the Department of Public Instruction for the 2012-2013 fiscal year, the sum of forty thousand one hundred sixty-eight dollars (\$40,168) shall be used to increase the amount appropriated for the noninstructional support personnel allotment.
- (2) Of the funds appropriated from the General Fund to the Department of Public Instruction for the 2012-2013 fiscal year, the sum of three hundred fifty-one thousand four hundred sixty-nine dollars (\$351,469) shall be used to increase the amount appropriated for the transportation allotment.

**SECTION 7A.6.(b)** This section becomes effective July 1, 2012.

#### **ESTABLISH NC TEACHER CORPS**

**SECTION 7A.7.(a)** Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**§ 115C-296.7. North Carolina Teacher Corps.**

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson-planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c)."

**SECTION 7A.7.(b)** This section is effective when it becomes law. The State Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no later than the 2012-2013 school year.

## **PAY FOR EXCELLENCE**

**SECTION 7A.10.(a)** Each local board of education may develop a plan of performance pay for all licensed personnel employed by the local board. Under the performance pay plan, licensed employees should be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. Criteria for award of bonuses or adjustments to base salary should include, but are not limited to, the following factors:

- (1) Annual growth in student achievement of students assigned to a teacher's classroom, when applicable.
- (2) Annual growth in student achievement of students assigned to a specific school.
- (3) Assignment of additional academic responsibilities.
- (4) Assignment to a hard-to-staff school.
- (5) Assignment to a hard-to-staff subject area.

Local boards of education who have developed a plan shall submit plans to the State Board of Education no later than March 1, 2013. The State Board of Education shall report on these plans and the achievement-based compensation models developed as part of the federal Race to the Top grant and shall submit the report and all plans to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the respective Subcommittees on Education Appropriations of the Senate and House of Representatives no later than April 15, 2013. Members of the public may also submit plans for performance pay no later than April 15, 2013, to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the respective Subcommittees on Education Appropriations of the Senate and House of Representatives.

**SECTION 7A.10.(b)** This section is effective when it becomes law.

## **PART VIII. COMMUNITY COLLEGES**

### **CARRYFORWARD FOR EQUIPMENT**

**SECTION 8.2.(a)** In accordance with G.S. 115D-31, funds appropriated to the Community Colleges System Office for equipment for the 2011-2012 fiscal year shall not revert at the end of the fiscal year but shall be made available to the Community Colleges System Office for equipment for the 2012-2013 fiscal year.

**SECTION 8.2.(b)** This section becomes effective June 30, 2012.

### **REPEAL OBSOLETE REPORTS**

**SECTION 8.3.(a)** G.S. 115D-5(o) reads as rewritten:

~~"(o) The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off campus center funds; therefore, multicampus colleges and~~



~~colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by December 1 of each year.~~

All multicampus centers approved by the State Board of Community Colleges shall receive funding under the same formula. The State Board of Community Colleges shall not approve any additional multicampus centers without identified recurring sources of funding."

**SECTION 8.3.(b)** G.S. 116D-3(c) is repealed.

**SECTION 8.3.(c)** Section 9.11(e) of S.L. 1999-237 is repealed.

**SECTION 8.3.(d)** Section 4 of S.L. 2005-198 is repealed.

## **REPEAL DUPLICATIVE AUDIT REQUIREMENT**

**SECTION 8.4.** G.S. 147-64.6A is repealed.

## **UPDATE COLLEGE PERFORMANCE MEASURES**

**SECTION 8.5.** G.S. 115D-31.3 reads as rewritten:

### **"§ 115D-31.3. Institutional performance accountability.**

(a) Creation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall create new accountability measures and performance standards for the Community College System. ~~Survey results shall be used as a performance standard only if the survey is statistically valid.~~ The State Board of Community Colleges shall review annually the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) Mandatory Performance Standards Measures. – The State Board of Community Colleges shall evaluate each college on the following eight performance ~~standards~~measures:

- (1) Progress of basic skills students,~~students.~~
- (2) Passing rate for licensure and certification examinations, General Educational Development (GED) diploma examinations.
- (3) Performance of students who transfer to a four-year institution,~~institution.~~
- (4) Passing Success rates in of developmental courses, students in subsequent college-level English courses.
- (5) Success rates of developmental students in subsequent college-level courses,~~courses,~~math courses.
- (5a) Progress of first-year curriculum students.
- (6) ~~The level of satisfaction of students who complete programs and those who do not complete programs;~~
- (7) Curriculum student retention and graduation,~~and graduation.~~
- (8) ~~Client satisfaction with customized training.~~
- (9) Passing rate for licensure and certification examinations.

The State Board may also evaluate each college on additional performance ~~standards~~measures.

(f) Publication of Performance Ratings. – Each college shall publish its performance on the eight ~~standards~~measures set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all eight ~~standards~~measures.

(g) Recognition for Successful Institutional Performance. – For the purpose of recognition for successful institutional performance, the State Board of Community Colleges shall evaluate each college on the eight performance ~~standards~~measures. For each of these eight performance ~~standards~~measures on which a college performs successfully, the college may retain and carry forward into the next fiscal year one-fourth of one percent ( $\frac{1}{4}$  of 1%) of its final fiscal year General Fund appropriations. ~~If a college demonstrates significant improvement on a standard that has been in use for three years or less, the college may also carry forward one fourth of one percent ( $\frac{1}{4}$  of 1%) of its final fiscal year General Fund appropriations for that standard.~~

(h) Recognition for Exceptional Institutional Performance. – Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward exceptional

institutional performance. A college is deemed to have achieved exceptional institutional performance if it succeeds on all eight performance measures. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds equally to colleges that perform successfully on eight performance standards and meet the following criteria: achieve exceptional institutional performance status based on the pro rata share of total full time equivalent (FTE) students served at each college.

- ~~(1) The passing rate on all reported licensure and certification examinations for which the community colleges have authority over who sits for the examination must meet or exceed seventy percent (70%) for first-time test takers; and~~
- ~~(2) The percentage of college transfer students with a grade point average of at least 2.0 after two semesters at a four-year institution must equal or exceed the performance of students who began college at that four-year institution.~~

The State Board may withhold the portion of funds for which a college may qualify as an exceptional institution while the college is under investigation by a State or federal agency or if its performance does not meet the standards established by the Southern Association of Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges. The State Board may release the funds at such time as the investigations are complete and the issues are resolved.

(i) Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges pursuant to this section shall be used for the purchase of equipment, initial program start-up costs including faculty salaries for the first year of a program, and one-time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.

(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located meets all of the following:

- (1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.
- (2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year.
- (3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

## **MODIFY INSTITUTIONAL PERFORMANCE ACCOUNTABILITY FOR ONE YEAR**

**SECTION 8.6.** Effective for the 2011-2012 reporting year, and notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its performance on the progress of basic skills students as one of the mandatory performance standards prescribed by G.S. 115D-31.3(e). A college shall not be evaluated on the progress of basic skills students for the purpose of recognizing successful institutional performance or exceptional institutional performance. For each of the remaining seven performance standards on which a college performs successfully, the college may retain and carry forward into the 2013-2014 fiscal year two-sevenths of one percent (2/7 of 1%) of its final fiscal year General Fund appropriations.

## **GATEWAY TO COLLEGE PILOT AT DURHAM TECHNICAL COMMUNITY COLLEGE**

**SECTION 8.7.(a)** Notwithstanding Section 7.1A of S.L. 2011-145, as amended by Section 13 of S.L. 2011-391, and any other provision of law, the State Board of Education and the State Board of Community Colleges shall approve the Gateway to College program at Durham Technical Community College as a Career and College pathway pilot program. This program concurrently provides high school and college education to high school students who have previously dropped out.

**SECTION 8.7.(b)** The State Board of Community Colleges shall include curriculum coursework, including developmental course work, associated with this program when computing the budget FTE for Durham Technical Community College in the 2012-2013 fiscal year.

**SECTION 8.7.(c)** Durham Technical Community College shall report to the Education Appropriation Subcommittees of the House of Representatives and the Senate by March 1, 2013, on student outcomes under the program and on the actual cost of the program, including administrative expenses incurred by Durham Public Schools and Durham Technical Community College.

#### **COMMUNITY COLLEGE TUITION WAIVER**

**SECTION 8.8.** G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds. The State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for the following:

- (1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate.
- (2) Courses requested by the following entities that support the organizations' training needs and are on a specialized course list approved by the State Board of Community Colleges:
  - a. Volunteer fire departments.
  - b. Municipal, county, or State fire departments.
  - c. Volunteer EMS or rescue and lifesaving departments.
  - d. Municipal, county, or State EMS or rescue and lifesaving departments.
  - d1. Law enforcement, fire, EMS or rescue and lifesaving entities serving a lake authority that was created by a county board of commissioners prior to July 1, 2012.
  - e. Radio Emergency Associated Communications Teams (REACT) under contract to a county as an emergency response agency.  
~~(v) (vi) municipal county, or State law enforcement officers~~
  - f. Municipal, county, or State law enforcement agencies.
  - g. The Division of Adult Correction of the Department of Public Safety for the training of full-time custodial employees and employees of the Division's Section of Community Corrections of the Division of Adult Correction required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
  - h. The Division of Juvenile Justice of the Department of Public Safety for the training of employees required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
  - i. The Eastern Band of Cherokee Indians law enforcement, fire, EMS or rescue and lifesaving tribal government departments or programs.
- (3) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (4) Trainees enrolled in courses conducted under the Customized Training Program.
- (5) through (9) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR).

- (11) Up to six hours of credit instruction and one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina.
- (12) All curriculum courses taken by high school students at community colleges, in accordance with G.S. 115D-20(4) and this section.
- (13) Human resources development courses for any individual who (i) is unemployed; (ii) has received notification of a pending layoff; (iii) is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines.
- (14) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

The State Board of Community Colleges shall not waive tuition and registration fees for other individuals."

## **INCREASE MAXIMUM PARKING FINE**

**SECTION 8.9.** G.S. 115D-21 reads as rewritten:

### **"§ 115D-21. Traffic regulations; fines and penalties.**

(a) All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State of North Carolina and the operation of motor vehicles thereon shall apply to the streets, roads, alleys and driveways on the campuses of all institutions in the North Carolina Community College System. Any person violating any of the provisions of Chapter 20 of the General Statutes in or on the streets, roads, alleys and driveways on the campuses of institutions in the North Carolina Community College System shall, upon conviction thereof, be punished as prescribed in this section and as provided by Chapter 20 of the General Statutes relating to motor vehicles. Nothing contained in this section shall be construed as in any way interfering with the ownership and control of the streets, roads, alleys and driveways on the campuses of institutions in the system as is now vested by law in the trustees of each individual institution in the North Carolina Community College System.

(b) The trustees are authorized and empowered to make additional rules and regulations and to adopt additional ordinances with respect to the use of the streets, roads, alleys and driveways and to establish parking areas on or off the campuses not inconsistent with the provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted pursuant to the authority of this section shall be recorded in the proceedings of the trustees; shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Violation of any such rules, regulations, or ordinances, is an infraction punishable by a penalty of not more than one hundred dollars (\$100.00).

Regardless of whether an institution does its own removal and disposal of motor vehicles or contracts with another person to do so, the institution shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

- (1) If the institution operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.
- (2) If the institution operates in such a way that it is responsible for collecting towing fees, it shall:
  - a. Provide by contract or ordinance for a schedule of reasonable towing fees,
  - b. Provide a procedure for a prompt fair hearing to contest the towing,
  - c. Provide for an appeal to district court from that hearing,
  - d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and
  - e. If the institution chooses to enforce its authority by sale of the vehicle, provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the

vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the institution may destroy it.

(c) The trustees may by rules, regulations, or ordinances provide for a system of registration of all motor vehicles where the owner or operator does park on the campus or keeps said vehicle on the campus. The trustees shall cause to be posted at appropriate places on campus notice to the public of applicable parking and traffic rules, regulations, and ordinances governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or ordinances establish or cause to have established a system of citations that may be issued to owners or operators of motor vehicles who violate established rules, regulations, or ordinances. The trustees shall provide for the administration of said system of citations; establish or cause to be established a system of fines to be levied for the violation of established rules, regulations and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for each offense shall not exceed ~~five dollars (\$5.00), which funds shall be retained in the institution and expended in the discretion of the trustees,~~ twenty-five dollars (\$25.00). The trustees shall be empowered to exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from parking on the campus.

(d) The clear proceeds of all civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

## **POWERS OF THE STATE BOARD OF PROPRIETARY SCHOOLS**

**SECTION 8.9A.(a)** Article 8 of Chapter 115D of the General Statutes is amended by adding a new section to read:

### **"§ 115D-89.4. Powers of the State Board of Proprietary Schools.**

(a) In order to carry out the purposes of this Article, the State Board of Proprietary Schools, subject to other provisions of this Article, shall:

- (1) Have the powers of a body corporate, including the power to make contracts and to alter the same as may be deemed expedient;
- (2) Be authorized and empowered to rent and lease such property, real or personal, as the State Board of Proprietary Schools may deem proper to carry out the purposes and provisions of this Article, all or any of them;
- (3) Establish an office for the transaction of its business at such place or places as, in the opinion of the State Board of Proprietary Schools, shall be advisable or necessary in carrying out the purposes of this Article;
- (4) Be authorized and empowered to pay from the Commercial Education Fund all necessary costs and expenses involved in and incident to the formation, organization, and administration of the State Board of Proprietary Schools and all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article; and
- (5) Be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers listed in this section.

(b) The purchase of goods and services by the State Board of Proprietary Schools shall be exempt from the requirements of Article 3 of Chapter 143 of the General Statutes."

**SECTION 8.9A.(b)** G.S. 115D-89.2 reads as rewritten:

### **"§ 115D-89.2. Office of Proprietary Schools; staff.**

The Office of Proprietary Schools shall be the principal administrative unit under the direction of the State Board of Proprietary Schools. Unless otherwise specified in G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for adoption and to administer all policies, regulations, and standards which it deems necessary for the operation of the Office of Proprietary Schools.

The State Board of Proprietary Schools shall hire an executive director of the Office of Proprietary Schools, who shall serve as chief administrative officer of the Office of Proprietary Schools, or contract with an outside consultant to serve as the executive director. The compensation of this position shall be fixed by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund.

The State Board of Proprietary Schools may hire other employees as it deems necessary to carry out the provisions of this Article. The compensation of the staff members hired by the State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools upon recommendation of the Executive Director of the Office of Proprietary Schools. The

Executive Director shall provide an annual projected operating budget to the State Board of Proprietary Schools at a time each year designated by the State Board of Proprietary Schools. The budget will be approved by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund."

**SECTION 8.9A.(c)** G.S. 126-5(c2) is amended by adding a new subdivision to read:

"(c2) The provisions of this Chapter shall not apply to:

- (1) Public school superintendents, principals, teachers, and other public school employees.
- (2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular Session, 1986), c. 1014, s. 41.
- (3) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the Community Colleges System Office whose salaries are fixed by the State Board of Community Colleges in accordance with the provisions of G.S. 115D-3.
- (4) Employees of the Office of Proprietary Schools whose salaries are fixed by the State Board of Proprietary Schools in accordance with the provisions of G.S. 115D-89.2."

### **GASTON MULTICAMPUS**

**SECTION 8.10.** Notwithstanding G.S. 115D-5(o), the State Board of Community Colleges shall approve the Kimbrell Campus multicampus site of Gaston College.

### **NORTH CAROLINA BACK-TO-WORK PROGRAM**

**SECTION 8.10A.** Of the funds appropriated in this act to the Community Colleges System Office, the sum of five million dollars (\$5,000,000) shall be used for the North Carolina Back-to-Work Program, a retraining program to prepare North Carolinians facing long-term unemployment for new careers. The program shall provide students with job training and retraining; employability skills, including a Career Readiness Certificate; and third-party, industry-recognized credentials. The Community Colleges System Office and the Department of Commerce shall jointly recommend to the State Board of Community Colleges up to 10 colleges to which to allocate available funds based on (i) the number of long-term unemployed individuals in the college's service area, (ii) the percentage of long-term unemployed individuals in the college's service area, (iii) the availability of jobs for which the North Carolina Back-to-Work Program could prepare students, and (iv) the college's demonstrated willingness and ability to successfully implement the program. The money 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.

### **FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS**

**SECTION 8.11.(a)** Subsection (a) of Section 9.8 of S.L. 2011-145, as amended by Section 2(b) of S.L. 2011-340, reads as rewritten:

"**SECTION 9.8.(a)** There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of forty-nine million six hundred twenty-two thousand two hundred forty-two dollars (\$49,622,242) for the 2011-2012 fiscal year and the sum of ~~thirty two million one hundred twenty two thousand two hundred forty two dollars (\$32,122,242)~~ thirty-seven million two hundred eighty-seven thousand two hundred forty-two dollars (\$37,287,242) for the 2012-2013 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program."

**SECTION 8.11.(b)** Subsection (c) of Section 9.8 of S.L. 2011-145 reads as rewritten:

"**SECTION 9.8.(c)** There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of sixteen million five hundred thousand dollars (\$16,500,000) for the 2011-2012 fiscal year and the sum of ~~sixteen million five hundred thousand dollars (\$16,500,000)~~ sixteen million three hundred thirty-five thousand dollars (\$16,335,000) for the 2012-2013 fiscal year to be used for community college grants."

**SECTION 8.11.(c)** G.S. 115D-40.1(c) reads as rewritten:

"(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in subsections (a) and (b) of this section. Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance. The interest earned on the funds provided in subsections (a) and (b) of this section may be used to support the costs of administering the Community College Grant Program. If the interest earnings are not adequate to support the administrative costs, up to one percent (1%) of funds provided in subsection (a) of this section may be used to support the costs of administering the Community College Grant Program."

## **PART IX. UNIVERSITIES**

### **STUDY TUITION COST FOR VETERANS**

**SECTION 9.1.** The Joint Legislative Education Oversight Committee shall study the tuition costs for veterans who enroll in the State's community colleges or in any constituent institution of The University of North Carolina. As part of the study, the Committee shall consider the current criteria for determining whether a veteran qualifies for the resident tuition rate and how those criteria affect veterans who qualify for post-9/11 GI Bill benefits, as well as other veterans. The Committee shall also consider the potential educational costs to the State of veterans who attend any of the State's public institutions of higher education at the resident tuition rate and ways to limit those costs. The Committee may consider any other issues relevant to the study.

### **STUDENT FINANCIAL AID/TECHNICAL CORRECTIONS**

**SECTION 9.2.(a)** G.S. 116-209.45(b)(1) reads as rewritten:

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

- (1) Eligible Institution. – Notwithstanding G.S. 116-201(b)(5) and G.S. 116-201(b)(6) and for purposes of this section only, an institution of higher education that is any of the following:
  - a. A postsecondary constituent institution of The University of North Carolina as defined in G.S. 116-2(4).
  - b. A community college as defined in G.S. 115D-2(2).
  - c. ~~A nonprofit postsecondary institution as defined in G.S. 116-22(1) or G.S. 116-43.5.~~
  - d. ~~A postsecondary institution owned or operated by a hospital authority as defined in G.S. 131E-16(14).~~
  - e. ~~A school of nursing affiliated with a nonprofit postsecondary institution as defined in G.S. 116-22(1).~~
  - f. Another public or nonprofit postsecondary institution offering a program of study not otherwise available in North Carolina that is deemed to be eligible under rules promulgated by the Authority.
  - g. An eligible private postsecondary institution as defined in G.S. 116-280(3)."

**SECTION 9.2.(b)** Section 9.18(d) of S.L. 2011-145 reads as rewritten:

**"SECTION 9.18.(d)** The State Education Assistance Authority shall report no later than ~~June 1, 2013,~~September 1, 2013, to the Joint Legislative Education Oversight Committee regarding the implementation of this section. The report shall contain, for the 2012-2013 academic year, the amount of scholarship and grant money disbursed, the number of students eligible for the funds, the number of eligible students receiving the funds, and a breakdown of the eligible private postsecondary institutions that received the funds."

**SECTION 9.2.(c)** Section 9.18(i) of S.L. 2011-145 reads as rewritten:

**"SECTION 9.18.(i)** Subsections (a), (d), and (i) of this section become effective July 1, 2011. Article 34 of Chapter 116 of the General Statutes, as enacted by subsection (a) of this section, applies to the 2012-2013 academic year and each subsequent academic year, except that the rule-making authority for the State Education Assistance Authority under G.S. 116-283(a) becomes effective immediately on July 1, 2011. Subsections (b), (c), (e), (f), (g), and (h) of this section become effective July 1, ~~2012,~~2012, except that the State Education

Assistance Authority may continue to make payments pursuant to G.S. 116-43.5 until August 1, 2012, to students who attended certain private institutions of higher education in the 2011-2012 academic year."

**SECTION 9.2.(d)** Of the funds appropriated by this act to the Board of Governors for the 2012-2013 fiscal year and allocated to the State Education Assistance Authority for the North Carolina Need-Based Scholarships for Students Attending Private Institutions of Higher Education pursuant to Article 34 of Chapter 116 of the General Statutes, the State Education Assistance Authority may use up to two hundred eighty-one thousand five hundred seventeen dollars (\$281,517) to make the payments authorized by subsection (c) of this section to students who attended certain private institutions of higher education in the 2011-2012 academic year.

## **UNC/REPEAL OBSOLETE OR REDUNDANT REPORTING REQUIREMENTS**

**SECTION 9.4.(a)** G.S. 116-11(10a) reads as rewritten:

"(10a) The Board of Governors, the State Board of Community Colleges, and the State Board of Education, in consultation with nonprofit postsecondary educational institutions shall plan a system to provide an exchange of information among the public schools and institutions of higher education to be implemented no later than June 30, 1995. As used in this section, "institutions of higher education" shall mean (i) public higher education institutions defined in G.S. 116-143.1(a)(3), and (ii) those nonprofit postsecondary educational institutions as described in G.S. 116-280 that choose to participate in the information exchange. The information shall include:

- a. The number of high school graduates who apply to, are admitted to, and enroll in institutions of higher education;
- b. College performance of high school graduates for the year immediately following high school graduation including each student's: need for remedial coursework at the institution of higher education that the student attends; performance in standard freshmen courses; and continued enrollment in a subsequent year in the same or another institution of higher education in the State;
- c. The progress of students from one institution of higher education to another; and
- d. Consistent and uniform public school course information including course code, name, and description.

The Department of Public Instruction shall generate and the local school administrative units shall use standardized transcripts in an automated format for applicants to higher education institutions. The standardized transcript shall include grade point average, class rank, end-of-course test scores, and uniform course information including course code, name, units earned toward graduation, and credits earned for admission from an institution of higher education. The grade point average and class rank shall be calculated by a standard method to be devised by the institutions of higher education. ~~The Board of Governors shall coordinate a joint progress report on the implementation of the system to provide an exchange of information among the public and independent colleges and universities, the community colleges, and the public schools. The report shall be made to the Joint Legislative Education Oversight Committee no later than February 15, 1993, and annually thereafter."~~

**SECTION 9.4.(b)** G.S. 116-11(12a) reads as rewritten:

"(12a) The Board of Governors of The University of North Carolina shall implement, administer, and revise programs for meaningful professional development for professional public school employees based upon the evaluations and recommendations made by the State Board of Education under G.S. 115C-12(26). The programs shall be aligned with State education goals and directed toward improving student academic achievement. ~~The Board of Governors shall submit to the State Board of Education an annual report evaluating the professional development programs administered by the Board of Governors."~~



**SECTION 9.4.(c)** G.S. 116D-3(a)(1) is repealed.

**SECTION 9.4.(d)** Section 7 of S.L. 1989-936, as amended by S.L. 1991-346, reads as rewritten:

"Sec. 7. The Board of Governors of The University of North Carolina shall adopt standards to create and enhance an organized program of public service and technical assistance to the public schools. This program shall:

- (1) Provide systematic access for public schools to consultation and advice available from members of the faculties of the constituent institutions;
- (2) Facilitate and encourage research in the public schools and the application of the results of this research;
- (3) Link the education faculties of the constituent institutions with public school teachers and administrators through public service requirements for the education faculties; and
- (4) Create partnerships among all constituent institutions, their schools or departments of education, and the maximum number of public schools that could benefit from these partnerships.

~~The Board of Governors shall report on an annual basis to the Joint Legislative Commission on Governmental Operations on its progress in implementing the provisions of this section."~~

**SECTION 9.4.(e)** Section 1.1 of S.L. 2000-3 reads as rewritten:

"Section 1.1. The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

- (1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.
- (2) ~~The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.~~
- (3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy."

**SECTION 9.4.(f)** Section 6 of S.L. 2000-3 reads as rewritten:

~~"Section 6. Repair and Renovation Reports. – The Board of Governors of The University of North Carolina shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of all of the University's capital facilities, including a status report on all repair, renovation, and maintenance projects being undertaken and an assessment of needs for additional funding to repair, renovate, and maintain the facilities.~~

The Board of Governors of The University of North Carolina shall also study the repairs and renovations formula currently utilized with respect to funding for the Repairs and Renovations Reserve Account to determine whether it adequately takes into account all of the appropriate maintenance needs of each constituent and affiliated institution, and shall recommend to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee any changes necessary to improve the formula. The Board shall make recommendations on the scope and adequacy of the methodology used to calculate the funding for the repairs and renovations reserve as specified in G.S. 143-15.2."

**SECTION 9.4.(g)** Section 13 of S.L. 2001-496 is repealed.

## **NC GRADUATES IN PRIMARY CARE CENTERS/CHANGE REPORT DATE**

**SECTION 9.5.** G.S. 143-613(d) reads as rewritten:

"(d) The progress of the private and State-operated medical schools and State-operated health professional schools towards increasing the number and proportion of graduates entering primary care shall be monitored annually by the Board of Governors of The University of North Carolina. Monitoring data shall include (i) the entry of State-supported graduates into primary care residencies and clinical training programs, and (ii) the specialty practices by a physician and each midlevel provider who were State-supported graduates as of a date five years after graduation. The Board of Governors shall certify data on graduates, their residencies and clinical training programs, and subsequent careers by ~~October 1~~ November 15 of each calendar year, beginning in ~~October of 1995~~, November of 2012, to the Fiscal Research Division of the Legislative Services Office and to the Joint Legislative Education Oversight Committee."

## **PERMANENT TRANSFER OF FUNDING FOR MILITARY ONE-STOP & BRAC OUTREACH**

**SECTION 9.7.** The Military One-Stop & BRAC Outreach program previously vested in Fayetteville State University is transferred to The University of North Carolina General Administration with all of the elements of a Type I transfer as defined in G.S. 143A-6. The program transfer shall include the sum of two hundred fifty-one thousand five hundred dollars (\$251,500).

## **STUDY UNC TUITION SURCHARGE**

**SECTION 9.8.** The Fiscal Research Division, in cooperation with The University of North Carolina, shall study the tuition surcharge mandated by G.S. 116-143.7. As part of the study, the Fiscal Research Division shall examine the surcharge's effect, if any, on the number of credit hours taken by students at constituent institutions of The University of North Carolina and the resulting effect on the timely achievement of graduation; the number of students subject to the surcharge in each of the last five academic years; and the revenue generated by the surcharge. In its study, the Fiscal Research Division shall also examine the methods that The University of North Carolina employs to provide notice to a student that the student is approaching the credit hour limit and will be charged the tuition surcharge if the student exceeds that limit.

The Fiscal Research Division shall report its findings and recommendations, including any legislative recommendations, by January 1, 2013, to the Joint Legislative Education Oversight Committee and to the Education Appropriation Subcommittees of the House of Representatives and the Senate.

## **UNC STUDENT FEES/INSTITUTIONAL TRUST FUNDS**

**SECTION 9.9.** G.S. 116-36.1(g) is amended by adding a new subdivision to read:

"(12) Any other moneys collected by an institution as student fees previously approved by the Board of Governors."

## **UNC ACQUISITION AND DISPOSITION OF REAL PROPERTY**

**SECTION 9.10.(a)** G.S. 116-31.12 reads as rewritten:

"**§ 116-31.12. Acquisition and disposition of real property by lease.**

Notwithstanding G.S. 143-341(4), and in addition to the powers granted in G.S. 116-198.34(5), the Board of Governors may authorize the constituent institutions and the General Administration to acquire or dispose of real property by lease if the lease is for a term of not more than 10 years. The Board of Governors shall establish a policy for acquiring and disposing of an interest in real property for the use of The University of North Carolina and its constituent institutions by lease. This policy may delegate authorization of the acquisition or disposition of real property by lease to the boards of trustees of the constituent institutions or to the President of The University of North Carolina. The Board of Governors shall submit all initial policies adopted pursuant to this section to the State Property Office for review prior to adoption by the Board. Any subsequent changes to these policies adopted by the Board of Governors shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the President of The University of North Carolina. After the acquisition or disposition of an interest in real property by lease, The University of

North Carolina shall promptly file a report concerning the acquisition or disposition to the Secretary of Administration. Acquisitions and dispositions of an interest in real property by lease pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or to the provisions of ~~Article 6~~ Article 6 or 7 of Chapter 146 of the General Statutes."

**SECTION 9.10.(b)** G.S. 116-198.34(5) reads as rewritten:

"(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial Campus, on the Horace Williams Campus, ~~or on a Millennial Campus~~ or on a Kannapolis Research Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision for a period in excess of 10 years are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes."

**SECTION 9.10.(c)** The Board of Governors of The University of North Carolina shall report to the Joint Legislative Commission on Governmental Operations by September 1, 2014, regarding the following:

- (1) How often the constituent institutions and General Administration used the authority to dispose of real property pursuant to G.S. 116-31.12 or G.S. 116-198.34(5).
- (2) The types of real properties that were disposed of by lease under that statutory authority.
- (3) An analysis and evaluation of what effect, if any, the authorization for the disposition of real property by lease has made with regard to the overall efficiency of real estate management by the constituent institutions and General Administration.

**SECTION 9.10.(d)** Subsections (a) and (b) of this section expire on June 30, 2015.

#### **UNC PARTNERSHIP FOR NATIONAL SECURITY**

**SECTION 9.13.** The University of North Carolina may use funds available to it for the 2012-2013 fiscal year to continue and expand its work on the UNC Partnership for National Security to benefit the United States Marine Corps at Camp Lejeune and to build further its faculty and student capabilities in developing technologies for the special operations community. The Partnership works to connect the resources of The University of North Carolina system to the needs of our military, its service members, veterans, their families, and the defense industry in North Carolina. Partnership activities include all of the following: degree program development for service members and the defense industry; short courses, training, and subject matter expertise exchange; science and technology product development for the battle space; and scholar support, such as internships for The University of North Carolina system students, faculty research, and senior service college fellows. The Partnership's work has included the expansion of a "UNC at Fort Bragg" program that was previously in place for the Army.

#### **UNC/FUNDS FOR CAMPUSES SPECIALIZING IN THE ARTS AND SCIENCES**

**SECTION 9.14.(a)** Of funds appropriated to the Board of Governors of The University of North Carolina in Section 2.1 of this act to restore the management flexibility reduction, the sum of three million dollars (\$3,000,000) shall be allocated to the campuses specializing in the arts and sciences listed below as follows:

- (1) \$1,000,000 for the University of North Carolina School of the Arts.
- (2) \$1,000,000 for the University of North Carolina at Asheville.
- (3) \$1,000,000 for the North Carolina School of Science and Mathematics.

The Board of Governors shall allocate the remainder of these funds in accordance with Section 9.6 of S.L. 2011-145.

**SECTION 9.14.(b)** The Board of Governors shall not reduce State funds to these three campuses for the 2012-2013 fiscal year as a result of the allocations directed in subsection (a) of this section.

## **LIABILITY INSURANCE**

**SECTION 9.15.** G.S. 116-11 is amended by adding a new subdivision to read:

"(13a) The Board of Governors may authorize the President to purchase commercial insurance of any kind to cover all risks or potential liability of the University, the Board of Governors, boards of trustees, other administrative or oversight boards, the President, the University benefit plan administrators, and employees of the University relating to the management, direction, and administration of University employee benefit plans, including the risks and potential liability related to benefit plan investments managed by the University.

Members of the Board of Governors, boards of trustees, other administrative and oversight boards, and employees of the University shall be considered State employees for purposes of Articles 31 and 31A of Chapter 143 of the General Statutes. To the extent that the President purchases commercial liability insurance coverage in excess of one hundred fifty thousand dollars (\$150,000) per claim for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-299.4 shall not apply. To the extent that the President purchases commercial insurance coverage for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-300.6(a) shall not apply.

The purchase of insurance by the President under this section shall not be construed to waive sovereign immunity or any other defense available to the University, the Board of Governors, boards of trustees, other administrative and oversight boards, the President, University benefit plan administrators, and employees of the University in an action or contested matter in any court, agency, or tribunal. The purchase of insurance by the President shall not be construed to alter or expand the limitations on claims or payments established in G.S. 143-299.2 or limit the right of the University, the Board of Governors, boards of trustees, other administrative or oversight boards, the President, University benefit plan administrators, and employees of the University to defense by the State as provided by G.S. 143-300.3."

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

### **NC PRE-K**

**SECTION 10.1.(a)** The Division of Child Development and Early Education shall require the NC Pre-K contractor to issue multiple-year contracts for licensed private child care centers providing NC Pre-K classrooms.

**SECTION 10.1.(b)** The Division of Child Development and Early Education (Division) shall create a pilot program that provides funding for NC Pre-K classrooms on a per classroom basis. The pilot program shall include three different NC Pre-K contractual regions that are geographically diverse. The local NC Pre-K administrator shall contract with the provider for operation of a classroom established pursuant to the pilot program. The Division shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations/Base Budget Committee on Health and Human Services, and the Fiscal Research Division on the pilot program no later than January 31, 2013. The report shall include the following:

- (1) The number of students served.
- (2) The amount of funds paid for each classroom.
- (3) The amount of funds paid per student.
- (4) The attendance information on students in the pilot program as compared to those students in a classroom having a traditional funding structure.
- (5) Information on the number of students and students' families using the Subsidized Early Education for Kids (SEEK) system.

- (6) A cost comparison of the classroom pilots to the average cost per student through the per student funding methodology.

**SECTION 10.1.(c)** The Division of Child Development and Early Education shall continue the implementation of the NC Pre-K program. The NC Pre-K program shall serve children who reach the age of four on or before August 31 of that school year and who meet eligibility criteria.

**SECTION 10.1.(c1)** G.S. 110-91(2) reads as rewritten:

"(2) Health-Related Activities. – ~~The Commission shall adopt rules for child care facilities to ensure that all children receive nutritious food and beverages according to their developmental needs. The Commission shall consult with the Division of Child Development of the Department of Health and Human Services to develop nutrition standards to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:~~

- a. ~~Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.~~
- b. ~~Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.~~
- c. ~~Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.~~
- d. ~~Limiting or prohibiting the serving of juice from a bottle.~~
- e. ~~Creating an exception from the rules for parents of children who have medical needs, special diets, or food allergies.~~
- f. ~~Creating an exception from the rules to allow a parent or guardian, or to allow the center upon the request of a parent or guardian, to provide to a child food and beverages that may not meet the nutrition standards.~~

g. Nutrition standards. – The Commission shall adopt rules for child care facilities to ensure that food and beverages provided by a child care facility are nutritious and align with children's developmental needs. The Commission shall consult with the Division of Child Development and Early Education of the Department of Health and Human Services to develop nutrition standards to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:

- 1. Limiting or prohibiting the serving of sweetened beverages, other than one hundred percent (100%) fruit juice to children of any age.
- 2. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.
- 3. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.
- 4. Limiting or prohibiting the serving of juice from a bottle.

h. Parental exceptions. –

- 1. Parents or guardians of a child enrolled in a child care facility may (i) provide food and beverages to their child that may not meet the nutrition standards adopted by the Commission and (ii) opt out of any supplemental food program provided by the child care facility. The child care facility shall not provide food or beverages to a child whose parent or guardian has opted out of any supplemental food program provided by the child care facility and whose parent or guardian is providing food and beverages for the child.
- 2. The Commission, the Division of Child Development and Early Education of the Department of Health and Human Services, or any State agency or contracting entity with a State agency shall not evaluate the nutritional value or

adequacy of the components of food and beverages provided by a parent or guardian to his or her child enrolled in a child care facility as an indicator of environmental quality ratings.

- i. Rest time. – Each child care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit."

**SECTION 10.1.(d)** Other than developmental disabilities or other chronic health issues, the Division of Child Development and Early Education shall not consider the health of a child as a factor in determining eligibility for participation in the NC Pre-K program.

**SECTION 10.1.(e)** All entities operating NC Pre-K classrooms shall adhere to all of the policies prescribed by the Division of Child Development and Early Education regarding programmatic standards and classroom requirements.

**SECTION 10.1.(f)** The Division of Child Development and Early Education shall establish a standard decision-making process to be used by local NC Pre-K committees in awarding NC Pre-K classroom slots and student selection.

**SECTION 10.1.(g)** The Division of Child Development and Early Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

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

## **REVISE CHILD CARE SUBSIDY RATES PROVISION**

**SECTION 10.2.** Section 10.1 of S.L. 2011-145 is amended by adding the following new subsection to read:

**"SECTION 10.1.(g1)** The Department of Health and Human Services, Division of Child Development and Early Education, shall require all county departments of social services to include on any forms used to determine eligibility for child care subsidy whether the family waiting for subsidy is receiving assistance through the NC Pre-K program or Head Start."

## **CHILD CARE ALLOCATION FORMULA/DIRECTION**

**SECTION 10.2A.** Section 10.2(a) of S.L. 2011-145 is amended by adding the following new subdivisions to read:

**"SECTION 10.2.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.
- (3) For fiscal year 2012-2013, the Division of Child Development and Early Education shall base the formula identified in subdivision (1) of this subsection on the same data source used for the 2011-2012 fiscal year.

- (4) The Department of Health and Human Services shall allocate to counties all State funds appropriated for child care subsidy and shall not withhold funds during the 2012-2013 fiscal year."

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES  
ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT  
ADJUSTMENTS**

**SECTION 10.3.(a)** Section 10.5(c) of S.L. 2011-145 is repealed.

**SECTION 10.3.(b)** Section 10.5 of S.L. 2011-145 is amended by adding the following new subsection to read:

**"SECTION 10.5.(c1)** The North Carolina Partnership for Children, Inc., shall develop and implement a salary schedule for the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of local partnerships. The salary schedule shall set the maximum amount of State funds that may be used for the salary of the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. In establishing a salary schedule, the North Carolina Partnership for Children, Inc., shall base the schedule on the following criteria:

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

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

**SECTION 10.3.(c)** Section 10.5(e) of S.L. 2011-145, as amended by Section 21A of S.L. 2011-391, reads as rewritten:

**"SECTION 10.5.(e)** The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the biennium. Of the funds the North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall equal to at least ~~seven percent (7%)~~ ten percent (10%) and in-kind donated resources equal to no more than three percent (3%) for a total match requirement of ~~ten percent (10%)~~ thirteen percent (13%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

- (1) Be verifiable from the contractor's records.
- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
- (3) Not include expenses funded by State funds.
- (4) Be supplemental to and not supplant preexisting resources for related program activities.
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
- (6) Be otherwise allowable under federal or State law.

- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
- (8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a ~~ten percent (10%)~~ thirteen percent (13%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly."

**SECTION 10.3.(d)** To the extent possible, the North Carolina Partnership for Children, Inc., shall not reduce subsidy expenditures for the 2012-2013 fiscal year.

**"READ NC" EARLY LITERACY INITIATIVE/DEVELOPMENT OFFICERS/ASSISTANCE TO RURAL PARTNERSHIPS**

**SECTION 10.4.(a)** Of the funds appropriated to the Department of Health and Human Services, Division of Child Development and Early Education, for the North Carolina Partnership for Children, Inc., the sum of three million five hundred thousand dollars (\$3,500,000) for the 2012-2013 fiscal year shall be used by the North Carolina Partnership for Children, Inc., to develop and administer an early literacy initiative pilot program, to be known as "Read NC," hire four North Carolina Partnership for Children, Inc., development officers, and provide additional funds for rural partnerships; provided, however, the Department shall not expend the funds appropriated in this section for the 2012-2013 fiscal year until January 1, 2013, pending a determination by the Office of State Budget and Management that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section 10.9G of this act. "Read NC" will focus on increasing the early literacy skills of children who are most at risk for reading below grade level. The pilot program shall be distributed geographically to ensure adequate representation of the diverse areas of the State.

**SECTION 10.4.(b)** The focus of the pilot program will be to actively engage parents, child care teachers, and communities to help young children build a firm foundation for language acquisition and literacy skills. To that end, the pilot program shall do the following:

- (1) Educate parents in essential early literacy practices.
- (2) Increase the quality of early literacy programming in child care.
- (3) Increase early literacy opportunities for young children and families in community settings by incorporating the following programs:
  - a. "Reach Out and Read," a program that supports doctors in their efforts to "prescribe" reading to young children and families during well-child visits through early literacy guidance and book sharing, free books for children to keep, and literacy-rich waiting rooms.
  - b. "Raising a Reader" (RAR), a program that rotates bright red bags filled with award-winning books into children's homes on a weekly basis, exposing children on average to over 100 books per rotation cycle, and pairs this book rotation with parent training and information on how to effectively share books to promote family literacy habits, language and literacy skills, and a love of learning.
  - c. "Motheread/Fatheread," a program that combines the teaching of literacy skills with child development and family empowerment issues.
  - d. "Dolly Parton Imagination Library," a program that provides a free, age-appropriate book each month to children ages birth to five years.

**SECTION 10.4.(c)** The Division of Child Development and Early Education and the North Carolina Partnership for Children, Inc., shall report by April 1, 2013, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Health and Human Services, the Senate Appropriations/Base Budget Committee on Health and Human Services, and the House of Representatives Appropriations Subcommittee on Health and Human Services on the progress in complying with this section.



**SECTION 10.4.(d)** The North Carolina Partnership for Children, Inc., shall include in its assistance to local partnerships training and assistance with fund-raising activities. Of the funds designated under subsection (a) of this section, the North Carolina Partnership for Children, Inc., shall hire a staff of four individuals who are qualified in the areas of grant writing and fund-raising to assist local partnerships in raising the amount of non-State funds required by law. The staff hired pursuant to this subsection shall be located regionally and be accessible to participate in the various local partnerships' activities.

**SECTION 10.4.(e)** Of the funds designated under subsection (a) of this section, the North Carolina Partnership for Children, Inc., shall provide assistance to local partnerships located in rural areas of the State. The North Carolina Partnership for Children, Inc., shall establish eligibility criteria for the use of funds pursuant to this subsection based on child poverty, child population, and counties that are identified as being the most economically distressed.

#### **MEDICAID THERAPIES LIMIT REVISED**

**SECTION 10.5.** Section 10.37(a)(2) of S.L. 2011-145 is repealed.

#### **MEDICAID ELIGIBILITY/COLA DISREGARD**

**SECTION 10.6.(a)** Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

**"§ 108A-54.4. Income disregard for federal cost-of-living adjustments.**

An increase in a Medical Assistance Program recipient's income due solely to a cost-of-living adjustment to federal Social Security and Railroad Retirement payments shall be disregarded when determining income eligibility for the Medical Assistance Program. This section shall not be deemed to render a recipient eligible for the Medical Assistance Program if all other eligibility requirements are not met."

**SECTION 10.6.(b)** The Department of Health and Human Services shall apply to the Centers for Medicare and Medicaid Services for any necessary approvals to implement the income disregard required in subsection (a) of this section.

**SECTION 10.6.(c)** Subsection (a) of this section becomes effective January 1, 2013. The remainder of this section is effective when it becomes law. G.S. 108A-54.4, as enacted by subsection (a) of this section, expires on December 31, 2017.

#### **MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION SERVICES**

**SECTION 10.7.(a)** The Department of Health and Human Services, Division of Medical Assistance, in consultation with the Department of Transportation, Public Transportation Division, shall develop and issue a Request for Proposal (RFP) for the management of nonemergency medical transportation (NEMT) services for Medicaid recipients.

**SECTION 10.7.(b)** The Department of Health and Human Services and the Department of Transportation shall consider at least all of the following information in developing the RFP required by this section:

- (1) An analysis of nonemergency transportation brokerage services implemented in other states that examines:
  - a. State-level governance and program performance evaluation.
  - b. Assignment of geographic regions for operating and monitoring purposes.
  - c. Quality of transportation service delivery and recipient access.
  - d. Accuracy of eligibility determinations.
  - e. Pricing models.
  - f. Contract structure, including terms and conditions.
  - g. Cost of service.
- (2) Assessment of the current coordination of human services transportation within North Carolina and the potential impact of brokerage services on transit system funding and operations.
- (3) A cost-benefit analysis of implementing a statewide NEMT brokerage model for Medicaid recipients.

**SECTION 10.7.(c)** The Division of Medical Assistance shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the

Joint Legislative Oversight Committee on Transportation by September 15, 2012, on the analysis required by subdivisions (1), (2), and (3) of subsection (b) of this section.

**SECTION 10.7.(d)** The Division shall not enter into a contract with a vendor to provide NEMT services until (i) the Division meets the reporting requirements of subsection (c) of this section and (ii) the Department of Health and Human Services (DHHS) determines that it would be cost-effective to contract for NEMT services. The Secretary of DHHS shall only proceed with a vendor contract if the Secretary determines that DHHS can justify savings through the contract and ensure appropriate safety and quality of services for Medicaid recipients.

#### **MODIFY AND IMPROVE PHARMACY SERVICES**

**SECTION 10.8.** Section 10.48 of S.L. 2011-145 reads as rewritten:

**"SECTION 10.48.(a)** The Department of Health and Human Services shall revise its pharmacy dispensing fees under the Medicaid Program in order to encourage a greater proportion of prescriptions dispensed to be generic prescriptions and thereby achieve savings of fifteen million dollars (\$15,000,000) in the 2011-2012 fiscal year and twenty-four million dollars (\$24,000,000) in the 2012-2013 fiscal year.

**"SECTION 10.48.(a1)** In addition to the savings required by subsection (a) of this section, for the 2012-2013 fiscal year, the Department shall lower the fees paid to pharmacies for dispensing prescription drugs and expand prior authorization requirements to achieve a savings of at least five million two hundred seventy-nine thousand six hundred one dollars (\$5,279,601). Any expansion of prior authorization requirements shall be consistent with the limitations set forth in Section 10.31(d)(2)r.5A. of S.L. 2011-145.

**"SECTION 10.48.(a2)** For the 2012-2013 fiscal year, the Department shall achieve a savings of at least one million three hundred ninety-one thousand nine hundred six dollars (\$1,391,906) through the implementation of a special pharmacy program for hemophilia drugs. The savings shall be achieved primarily through the use of the federal 340B Drug Pricing Program for the dispensing of hemophilia drugs under the Medicaid Program.

**"SECTION 10.48.(b)** The Department shall report its progress in achieving the savings required by subsection (a) of this section for the 2012-2013 fiscal year on November 1, 2011, January 1, 2012, November 1, 2012, and quarterly thereafter to the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Subcommittee on Health and Human Services and to the Fiscal Research Division. If any report required by this subsection reveals that those savings required by subsections (a) and (a1) of this section are not being achieved, the Department shall reduce prescription drug rates by an amount sufficient to achieve the savings.

**"SECTION 10.48.(c)** The Department shall apply to the Centers for Medicare and Medicaid Services by July 15, 2012, for any necessary approvals to implement the changes required by this section."

#### **STUDY ELECTRONIC PRIOR AUTHORIZATION FOR MEDICAID PRESCRIPTIONS**

**SECTION 10.8A.** The Department of Health and Human Services shall study the implementation of a system for the Medicaid program that would exchange standard electronic prior authorization requests with health care providers for drugs and devices using electronic data interchange standards consistent with those adopted by the National Council of Prescription Drug Programs for pharmacy benefits managers to exchange standard electronic prior authorization requests with health care providers. As part of its study, the Department shall review the experience of other states, including start-up costs and annual savings, to provide an estimate of the potential costs and savings for the State. No later than March 1, 2013, the Department shall report its findings to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

#### **SMART CARD PILOT PROGRAM**

**SECTION 10.9.(a)** S.L. 2011-117 is repealed.

**SECTION 10.9.(b)** The Department of Health and Human Services shall implement a smart card pilot program that involves enrollment, distribution, and use of smart cards by designated vendors and recipients as replacements for currently used Medicaid assistance cards. The Provider and Recipient Services Unit of the Division of Medical

Assistance (DMA) shall administer the pilot program. The Department may contract with a third-party vendor or vendors to develop and execute the pilot program. If the Department elects to use a third-party vendor or vendors to develop and execute the pilot program, the Department shall select the vendor or vendors through a Request for Proposal process conducted prior to implementation of the pilot program. In developing and implementing the pilot program, the Department shall comply with all applicable information technology procurement requirements. The smart card pilot program shall not expand beyond the areas described in subsection (c) of this section unless the expansion is approved by an act of the General Assembly.

**SECTION 10.9.(c)** The purpose of the pilot program is to evaluate the feasibility of the smart card program in different geographical regions of the State. DMA shall select a region of the State to participate in the pilot program that is served by Community Care of North Carolina and meets all other requirements set forth in this section. The pilot program shall be conducted in two urban areas and two rural areas with a representative group of Medicaid recipients from each area.

**SECTION 10.9.(d)** The pilot program shall include and evaluate the use of at least two different types of available technology that are designed to do all of the following:

- (1) Authenticate recipients at the onset and completion of each point of transaction in order to prevent card sharing and other forms of fraud.
- (2) Deny ineligible persons at the point of transaction.
- (3) Authenticate providers at the point of transaction to prevent phantom billing and other forms of provider fraud.
- (4) Secure and protect the personal identity and information of recipients.
- (5) Reduce the total amount of medical assistance expenditures by reducing the average cost per recipient.

**SECTION 10.9.(e)** The pilot program may include all of the following:

- (1) A secure Web-based information system for recording and reporting authenticated transactions.
- (2) A secure Web-based information system that interfaces with the appropriate State databases to determine eligibility of recipients.
- (3) A system that gathers analytical information to be provided to business intelligence companies in order to assist in business intelligence processes.
- (4) A smart card with the ability to store multiple recipients' information on one card.
- (5) An image of the recipient stored on both the smart card and database.

**SECTION 10.9.(f)** The pilot program shall not include a requirement for preenrollment of recipients.

**SECTION 10.9.(g)** In conducting the pilot program, the Department may do any of the following:

- (1) Incorporate additional or alternative methods of authentication of recipients.
- (2) Enter and store billing codes, deductible amounts, and bill confirmations.
- (3) Allow electronic prescribing services and prescription database integration and tracking in order to prevent medical error through information sharing and to reduce pharmaceutical abuse and lower health care costs.
- (4) Implement quick-pay incentives for providers who use electronic prescribing services, electronic health records, electronic patient records, or computerized patient records that automatically synchronize with recipients' smart cards and electronically submit a claim.
- (5) Adapt smart cards, fingerprint scanners, and card readers for use by other State programs administered by the Department in order to reduce costs associated with the necessity of multiple cards per recipient.

**SECTION 10.9.(h)** During the pilot program, the Department shall evaluate the feasibility of expanding the pilot program, including the need to develop rules and policies related to all of the following:

- (1) Lost, forgotten, or stolen cards.
- (2) Enrollment of all recipients, regardless of age, for participation in the program.
- (3) Distribution and activation of smart cards for designated recipients.

**SECTION 10.9.(i)** The Department shall work with the Division of Motor Vehicles to ensure that State data, such as drivers license photos and other identification data, is leveraged to reduce program cost.

**SECTION 10.9.(j)** By no later than March 1, 2013, the Department shall submit a detailed written report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Senate Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall include (i) detailed results of the pilot in the four different geographic regions of the State, including cost savings achieved in each region; (ii) costs associated with implementation of the pilot program, including payments to vendors; and (iii) an evaluation of the feasibility of, and issues associated with, implementing the smart card program statewide.

**SECTION 10.9.(k)** Of the funds appropriated from the General Fund to the Department of Health and Human Services for the 2012-2013 fiscal year, the sum of up to one million dollars (\$1,000,000) may be used to implement the smart card pilot program authorized by this section.

#### **STATE AUDITOR AUDIT DIVISION OF MEDICAL ASSISTANCE**

**SECTION 10.9A.(a)** The State Auditor shall conduct a performance audit of the North Carolina Medicaid Program and the Division of Medical Assistance operated within the Department of Health and Human Services. The audit shall examine the program's effectiveness; results of the program; the utilization of outside vendor contracts, including the number, cost, and duration of such contracts; fiscal controls and Medicaid forecasting; and compliance with requirements of the Centers for Medicare and Medicaid Services and the requirements of State law.

**SECTION 10.9A.(b)** The State Auditor shall give a preliminary report on the performance audit required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by November 1, 2012, and shall complete the performance audit by February 1, 2013.

**SECTION 10.9A.(c)** Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, from the General Fund for the 2012-2013 fiscal year to fund contracts, the Department shall transfer to the North Carolina Office of the State Auditor the amount of funds necessary to complete the performance audit required by this section.

#### **PED/FRD JOINT STUDY MEDICAID ORGANIZATION**

**SECTION 10.9B.(a)** The Program Evaluation Division and the Fiscal Research Division of the General Assembly shall jointly study the feasibility of creating a separate Department of Medicaid and make a joint recommendation on this issue to the 2013 Regular Session of the General Assembly no later than February 15, 2013.

**SECTION 10.9B.(b)** The joint study directed by subsection (a) of this section shall include all of the following:

- (1) A review of how other states administer Medicaid programs, including the following aspects:
  - a. State Plan development and policy management.
  - b. Payment of claims.
  - c. Budget forecasting.
  - d. Rate-setting.
  - e. Appeals.
  - f. Involvement in management of care.
- (2) An analysis of benefits and disadvantages of Medicaid becoming a stand-alone State department, including the following considerations:
  - a. Overhead costs to be saved or increased as a result of any proposed changes.
  - b. Identification of any efficiencies to be gained from such reorganization.
  - c. Identification of any costs that would be incurred as a result of this reorganization.

- d. Whether it is feasible to also move any other divisions or programs within the Department of Health and Human Services (DHHS) into a new Department of Medicaid.
- (3) Whether moving Medicaid into its own department would have any adverse impact on funding streams to and administration of other agencies within DHHS.
- (4) Identification of various Medicaid organizational structures and their costs and savings.

### **REMOVE AUTHORITY FOR MEDICAID PROVIDER RATE AND SERVICE REDUCTION**

**SECTION 10.9C.(a)** Except as otherwise provided in this act to achieve Medicaid pharmacy program savings or in Section 10.48 of S.L. 2011-145, notwithstanding any other provision of law, for the 2012-2013 fiscal year, the Department of Health and Human Services shall not reduce Medicaid provider payment rates or Medicaid optional services.

**SECTION 10.9C.(b)** The requirements of subsection (a) of this section shall not affect (i) a Medicaid provider payment rate reduction or Medicaid optional service reduction made prior to the effective date of this act; (ii) any applications for Medicaid program modifications authorized by S.L. 2011-145 that are in the process of being approved by the Centers for Medicare and Medicaid Services as of the effective date of this act; or (iii) a reduction in Medicaid provider payment rates or optional services required by a change in federal law or regulation.

### **OUTPATIENT IMAGING SERVICES**

**SECTION 10.9D.(a)** The Department of Health and Human Services shall not enter into a new contract with a vendor to provide outpatient imaging services for the Medicaid Program prior to March 31, 2013.

**SECTION 10.9D.(b)** Prior to entering into any new contract with a vendor to provide outpatient imaging services, if the Department of Health and Human Services determines that the new contract shall utilize a radiology decision support program rather than a capitated model, the Department shall 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 to demonstrate that the transition to a radiology decision support system shall result in spending by the State on imaging services for Medicaid patients at an amount that is less than or equal to the actual amount spent on outpatient imaging services under the most recent radiology management services vendor contract.

### **MEDICAID OPTION/SPECIAL CARE AND MEMORY CARE UNITS**

**SECTION 10.9E.(a)** The Department of Health and Human Services, Division of Medical Assistance, shall develop and submit to the Centers for Medicare and Medicaid Services an application for a home- and community-based services program under Medicaid State Plan 1915(i) authority for elderly individuals who (i) are typically served in special care and memory care units that meet the criteria of the State-County Special Assistance Program and (ii) have been diagnosed with a progressive, degenerative, irreversible disease that attacks the brain and results in impaired memory, thinking, and behavior. The home- and community-based services program developed by the Department pursuant to this section shall focus on providing these elderly individuals with personal care services necessary to ameliorate the effects of gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and loss of language skills.

**SECTION 10.9E.(b)** The Division shall implement the program upon approval of the application by the Centers for Medicare and Medicaid Services.

**SECTION 10.9E.(c)** On or before April 1, 2013, the Division shall provide a report on the status of approval and implementation of the program to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

### **PERSONAL CARE SERVICES/ADL ELIGIBILITY**

**SECTION 10.9F.(a)** Section 10.38 of S.L. 2011-145 is repealed.

**SECTION 10.9F.(b)** Section 10.37(a)(1) of S.L. 2011-145, as amended by Section 25 of S.L. 2011-391, reads as rewritten:

**"AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN THE MEDICAID PROGRAM**

**"SECTION 10.37.(a)** The Department of Health and Human Services, Division of Medical Assistance, may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary:

(1) ~~In-Home Personal Care Services for Children~~ provision. – ~~In order to enhance in-home aide services to Medicaid recipients, the~~ The Department of Health and Human Services, Division of Medical Assistance, ~~Assistance (DMA)~~, shall:

- a. ~~No longer provide~~ Provide services under PCS and PCS Plus whenever CMS approves the elimination of the PCS and PCS Plus programs and the implementation of the following two new services:
  1. ~~In-Home Care for Children (IHCC).~~ Services to assist families to meet the ~~in-home~~ personal care needs of children, including those individuals under the age of 21 receiving comprehensive and preventive child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
  2. ~~In-Home Care for Adults (IHCA).~~ Services to meet the eating, dressing, bathing, toileting, and mobility needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level. The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. ~~IHCA shall serve individuals at the highest level of need for in-home care who are able to remain safely in the home.~~
- b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage Policy for each of these programs, to ~~include:~~ include up
  1. ~~For IHCC, up to 60 hours per month in accordance with an~~ independent assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee. Additional hours may be authorized when the services are required to correct or ameliorate defects and physical and mental illnesses and conditions in this age group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved by DMA or its designee.
  2. ~~For IHCA, up to 80 hours per month in accordance with an~~ assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee.
- c. Implement the following ~~program~~ limitations and restrictions to apply to ~~both IHCC and IHCA~~ the provision of personal care services to children:
  1. Additional services to children required under federal EPSDT requirements shall be provided to qualified recipients ~~in the IHCC Program.~~ recipients.
  2. Services shall be provided in a manner that supplements, rather than supplants, family roles and responsibilities.
  3. Services shall be authorized in amounts based on assessed need of each recipient, taking into account care and services

- provided by the family, other public and private agencies, and other informal caregivers who may be available to assist the family. All available resources shall be utilized fully, and services provided by such agencies and individuals shall be disclosed to the DMA assessor.
4. ~~Services shall be directly related to the hands-on assistance and related tasks to complete each qualifying ADL in accordance with the IHCC or IHCA~~the personal care service assessment and plan of care, as applicable.
  5. ~~Services provided under IHCC and IHCA shall not include household chores not directly related to the qualifying ADLs, nonmedical transportation, financial management, and non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting.~~
  6. ~~Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA assessor when there is no family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.~~
- d. Utilize the following process for admission evaluation or reevaluation to the IHCC and IHCA programs: provide personal care services to children:
1. The recipient shall be seen by his or her primary or attending physician, who shall provide written authorization for referral for the service and written attestation to the medical necessity for the service.
  2. All assessments for ~~admission to IHCC and IHCA,~~the provision of services, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business or provider of ~~in-home or~~ personal care services of any type.
  3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet ~~needs for hands-on personal assistance in the five qualifying ADLs.~~needs.
- e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of personal care services provided under the IHCC and IHCA programs,services, including, but not limited to:
1. Priority independent reassessment of recipients before the anniversary date of their initial ~~admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs.~~assessment.
  2. Priority independent reassessment of recipients requesting a change of service provider.
  3. Targeted independent reassessments of recipients prior to their anniversary dates when the current provider assessment indicates they may not qualify for ~~the program~~personal care services or for the amount of services they are currently receiving.
  4. Targeted independent reassessment of recipients receiving services from providers with a history of ~~program noncompliance.~~noncompliance in providing personal care services to children.

5. ~~Provider desk and on-site reviews and recoupment of all identified overpayments or improper payments.~~
  6. ~~Recipient reviews, interviews, and surveys.~~
  7. The use of mandated electronic transmission of referral forms, plans of care, and reporting forms.
  8. The use of mandated electronic transmission of uniform reporting forms for recipient complaints and critical incidents.
  9. The use of automated systems to monitor, evaluate, and profile provider performance against established performance indicators.
  10. Establishment of rules that implement the requirements of 42 C.F.R. § 441.16.
- f. ~~Time line for implementation of new IHCC and IHCA programs.~~
1. ~~Subject to approvals from CMS, DMA shall make every effort to implement the new IHCC and IHCA programs by January 1, 2013.~~
  2. ~~DMA shall ensure that individuals who qualify for the IHCC and IHCA programs shall not experience a lapse in service and, if necessary, shall be admitted on the basis of their current provider assessment when an independent reassessment has not yet been performed and the current assessment documents that the medical necessity requirements for the IHCC or IHCA program, as applicable, have been met.~~
  3. ~~Prior to the implementation date of the new IHCC and IHCA programs, all recipients in the PCS and PCS Plus programs shall be notified pursuant to 42 C.F.R. § 431.220(b) and discharged, and the Department shall no longer provide services under the PCS and PCS Plus programs, which shall terminate. Recipients who qualify for the new IHCC and IHCA programs shall be admitted and shall be eligible to receive services immediately."~~

**SECTION 10.9F.(c)** A Medicaid recipient who meets each of the following criteria is eligible for personal care services:

- (1) The recipient has 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.
- (2) The recipient resides either in a private living arrangement, a residential facility licensed by the State of North Carolina as an adult care home, or a combination home as defined in G.S. 131E-101(1a).

The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. Personal care services shall be available for up to 80 hours per month in accordance with an assessment conducted under subsection (d) of this section and a plan of care developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee. Personal care services shall not include nonmedical transportation; financial management; non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and household chores not directly related to the qualifying ADLs.

**SECTION 10.9F.(d)** All assessments for personal care services, continuation of service, and change of status reviews shall be performed by an independent assessment entity (IAE). The IAE shall not be an owner of a provider business or provider of personal care services of any type.

A recipient shall be assessed by the IAE after the recipient's primary or attending physician provides written authorization for referral for the service and written attestation to the medical necessity for the service. The IAE shall determine and authorize the amount of service to be provided as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for personal care services in the five qualifying ADLs.



**SECTION 10.9F.(e)** The Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services by September 1, 2012, on the implementation of this section and on its progress in making independent assessments of recipients.

**SECTION 10.9F.(f)** The Department of Health and Human Services shall apply to the Centers for Medicare and Medicaid Services by July 15, 2012, for a Medicaid State Plan Amendment to implement this section.

**SECTION 10.9F.(g)** Subsections (c) and (d) of this section become effective January 1, 2013.

#### **APPROPRIATIONS CONTINGENT UPON ADEQUACY OF FUNDING FOR MEDICAID BUDGET**

**SECTION 10.9G.** Notwithstanding any other provision of this act or any other provision of law, the Department of Health and Human Services shall not, under any circumstances, expend any of the funds appropriated in this act for the 2012-2013 fiscal year for the following purposes until January 1, 2013, pending a determination by the Office of State Budget and Management that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year:

- (1) Funds appropriated to the Division of Child Development and Early Education pursuant to Section 10.4 of this act for "Read NC" Early Literacy Initiative, Development Officers, and assistance to rural partnerships.
- (2) Funds appropriated to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the following:
  - a. Additional psychiatric care beds at Broughton Hospital.
  - b. Additional local inpatient psychiatric beds or bed days available to local management entities or managed care organizations under the State-administered three-way contract pursuant to Section 10.10 of this act.
- (3) Funds appropriated to the Division of Public Health pursuant to Section 10.14(a)(5) of this act for local community health and wellness initiatives.

#### **FUNDS FOR INPATIENT PSYCHIATRIC BEDS OR BED DAYS**

**SECTION 10.10.** Section 10.8(b) of S.L. 2011-145 reads as rewritten:

**"SECTION 10.8.(b)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644) for the 2011-2012 fiscal year and the sum of ~~twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644)~~ thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars (\$38,121,644) for the 2012-2013 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or bed ~~days-days~~; provided, however, the Department shall not expend nine million dollars (\$9,000,000) of the funds appropriated in this section for the 2012-2013 fiscal year until January 1, 2013, pending a determination by the Office of State Budget and Management that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section 10.9G of House Bill 950, 2012 Regular Session. In addition, at the discretion of the Secretary of Health and Human Services, existing funds allocated to LMEs for community-based mental health, developmental disabilities, and substance abuse services may be used to purchase additional local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State in LME catchment ~~areas~~areas, including any catchment areas served by managed care organizations, and according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division

within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community hospitals, including beds or bed days being purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2012, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds appropriated under this subsection."

## **EXAMINATION OF THE STATE'S DELIVERY OF MENTAL HEALTH SERVICES**

**SECTION 10.11.(a)** The Joint Legislative Oversight Committee on Health and Human Services shall appoint a subcommittee to examine the State's delivery of mental health services. As part of its examination, the subcommittee shall review all of the following:

- (1) The State's progress in reforming the mental health system to deliver mental health services to individuals in the most integrated setting appropriate, without unnecessary institutionalization.
- (2) The State's capacity to meet its growing mental health needs with community-based supports.
- (3) The process for determining the catchment areas served by the State's psychiatric hospitals, with consideration of both of the following:
  - a. Factors used in assigning the geographic groupings of local management areas and managed care organizations into catchment areas.
  - b. Alternatives to the current process for determining the catchment areas served by the State's psychiatric hospitals, including a determination of whether there is a more efficient and equitable manner of assigning hospital catchment areas.

**SECTION 10.11.(b)** The subcommittee shall report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services on or before January 15, 2013, at which time it shall terminate.

## **FUNDS FOR FAMILY PLANNING SERVICES BY LOCAL HEALTH DEPARTMENTS**

**SECTION 10.12.** Of the funds appropriated in this act to the Department of Health and Human Services for the 2012-2013 fiscal year, none shall be allocated to renewing, extending, or entering into new contracts for the provision of family planning services and pregnancy prevention activities with providers other than local health departments. Upon the expiration of any contracts in effect during the 2011-2012 fiscal year between the Division of Public Health and private providers of family planning services and pregnancy prevention activities, the Department shall reallocate three hundred forty-three thousand dollars (\$343,000) of these contract funds to local health departments. Local health departments receiving funds under this section shall not contract with private providers for the provision of family planning services or pregnancy prevention activities. These services and activities shall be provided directly by local health department recipients or by other governmental entities contracted by local health department recipients. This section does not apply to contracts administered by the Department pursuant to G.S. 130A-131.15A.

## **COMMUNITY HEALTH GRANT FUNDING**

**SECTION 10.13.(a)** By no later than January 1, 2013, the Department of Health and Human Services shall enter into contracts obligating the entire amount of funds appropriated in this act for community health centers for the 2012-2013 fiscal year. These funds shall be used only for community health grants to nonprofit or public health care safety nets that provide primary and preventive medical services to uninsured or medically indigent patients, including free clinics, community health care centers, rural health centers, school-based health centers, and local health departments. The Department shall not use these funds to supplant any reduction in funding prescribed by the General Assembly for the 2012-2013 fiscal year.

**SECTION 10.13.(b)** By no later than March 1, 2013, the Department of Health and Human Services shall submit a written report on community health grants awarded during the 2012-2013 fiscal year to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall include at least all of the following:

- (1) The identity and a brief description of the community health activities performed by each grantee.
- (2) The amount of funding awarded to each grantee.
- (3) The number of persons served by each grantee.

## **FUNDS FOR COMMUNITY-BASED HEALTH AND WELLNESS INITIATIVES**

**SECTION 10.14.(a)** Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the 2012-2013 fiscal year for community-based health and wellness programs and initiatives shall be used only for the following:

- (1) Programs to prevent and reduce tobacco use by students in grades kindergarten through 12. The Department shall not spend any funds allocated to these programs for statewide marketing and media campaigns for tobacco cessation and prevention. This subdivision shall not be construed to prohibit the use of these funds for (i) local or community-based tobacco cessation and prevention campaigns, (ii) tobacco cessation and prevention campaigns conducted on the premises of North Carolina elementary schools, middle schools, and high schools, or (iii) the North Carolina Tobacco Use Quitline known as QuitlineNC.
- (2) ChecKmeds.
- (3) Medication Assistance Program.
- (4) Roanoke Chowan Telehealth Network.
- (5) Local health department initiatives, provided, however, the Department shall not use these funds for local health department initiatives until January 1, 2013, pending a determination by the Office of State Budget and Management (OSBM) that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section 10.9G of this act. Upon a determination by OSBM that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, local health departments shall use these funds only for local community health and wellness initiatives to promote healthy behaviors, including, but not limited to, tobacco cessation, improved nutrition, increased physical activity, disease prevention, and school nurse positions. Funds received by local health departments pursuant to this section shall not supplant existing funds for local health and wellness programs or initiatives.

**SECTION 10.14.(b)** By December 1, 2013, the Department shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the use of these funds. The report shall include at least all of the following:

- (1) The identity and a brief description of each grantee and each program or initiative offered by the grantee.

- (2) The amount of funding awarded to each grantee.
- (3) The number of persons served by each grantee, broken down by program or initiative.

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

**SECTION 10.15.** Section 31.11A(c) of S.L. 2011-145, as amended by Section 61A of S.L. 2011-391, reads as rewritten:

"**SECTION 31.11A.(c)** Subsection (a) of this section becomes effective ~~July 1, 2012~~ July 1, 2013."

### **AIDS DRUG ASSISTANCE PROGRAM PILOT**

**SECTION 10.16.(a)** The Department of Health and Human Services, Division of Public Health, shall develop a pilot program to enroll individuals receiving services under the Aids Drug Assistance Program (ADAP) in Inclusive Health North Carolina. The Department shall not implement the pilot program until it obtains actuarial services to ensure the cost neutrality or cost savings of enrolling ADAP recipients in Inclusive Health North Carolina. If an actuary determines that implementation will be cost neutral or achieve savings, the Department shall implement the pilot program for the period commencing January 1, 2013, and terminating December 31, 2013. The purposes of the pilot are (i) to determine cost savings to ADAP through enrollment of ADAP recipients in a preexisting conditions insurance program (PCIP) and (ii) to inform the Department of best practices in transitioning ADAP recipients to Medicaid as they become eligible. The Department shall select up to three HIV/AIDS care provider agencies with the highest number of ADAP recipients to participate in the pilot. The Department shall ensure that the total number of ADAP recipients participating in the pilot meets all of the following requirements:

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

**SECTION 10.16.(b)** The Department may contract with a vendor to evaluate the results of the pilot program. By no later than April 1, 2014, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the House Appropriations Subcommittee on Health and Human Services on the results of the pilot program. The report shall include all of the following:

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

**SECTION 10.16.(c)** The Department shall use funds appropriated to it to develop and implement the pilot program authorized by this section. The Division of Public Health shall manage the number of ADAP recipients enrolled in Inclusive Health North Carolina as part of the pilot program and the number of ADAP recipients receiving services only through ADAP in order to ensure that pilot program expenditures do not exceed available funds.

### **REDUCE FUNDING FOR NONPROFIT ORGANIZATIONS**

**SECTION 10.18.(a)** Section 10.18 of S.L. 2011-145 is repealed.

**SECTION 10.18.(b)** For fiscal year 2012-2013, the Department of Health and Human Services shall reduce the amount of funds allocated to nonprofit organizations by five million dollars (\$5,000,000) on a recurring basis. The Department shall not, under any circumstances, use any funds, including State funds, federal funds, special revenue funds, or departmental receipts, to supplement the reduced amount of funding to be allocated to nonprofit organizations pursuant to this subsection. In achieving the reductions required by this subsection, the Department (i) shall minimize reductions to funds allocated to nonprofit

organizations for the provision of direct services and (ii) shall not reduce funds allocated to nonprofit organizations to pay for direct services to individuals with developmental disabilities.

## **REPORTS BY NON-STATE ENTITIES RECEIVING DIRECT STATE APPROPRIATIONS**

**SECTION 10.19.(a)** The Department of Health and Human Services shall require the following non-State entities to match ten percent (10%) of the total amount of State appropriations received each fiscal year. In addition, the Department shall direct these entities to submit a written report annually, beginning December 1, 2012, of all activities funded by State appropriations to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division:

- (1) North Carolina Senior Games, Inc.
- (2) ARC of North Carolina.
- (3) ARC of North Carolina – Wilmington.
- (4) Autism Society of North Carolina.
- (5) The Mariposa School for Children with Autism.
- (6) Easter Seals UCP of North Carolina.
- (7) Easter Seals UCP of North Carolina and Virginia.
- (8) ABC of North Carolina Child Development Center.
- (9) Residential Services, Inc.
- (10) Oxford House, Inc.
- (11) Brain Injury Association of North Carolina.
- (12) Food Bank of Central and Eastern North Carolina, Inc.
- (13) Food Bank of the Albemarle.
- (14) Manna Food Bank.
- (15) Second Harvest Food Bank of Metrolina, Inc.
- (16) Second Harvest Food Bank of Northwest North Carolina, Inc.
- (17) Second Harvest Food Bank of Southeast North Carolina
- (18) Prevent Blindness NC.

**SECTION 10.19.(b)** The report required by subsection (a) of this section shall include the following information about the fiscal year preceding the year in which the report is due:

- (1) The entity's mission, purpose, and governance structure.
- (2) A description of the types of programs, services, and activities funded by State appropriations.
- (3) Statistical and demographical information on the number of persons served by these programs, services, and activities, including the counties in which services are provided.
- (4) Outcome measures that demonstrate the impact and effectiveness of the programs, services, and activities.
- (5) A detailed program budget and list of expenditures, including all positions funded and funding sources.
- (6) The source and amount of any matching funds received by the entity.

## **REPORT ON LAPSED SALARY FUNDS**

**SECTION 10.20.** Beginning no later than November 1, 2012, the Department of Health and Human Services shall submit quarterly reports to the Joint Legislative Oversight Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the use of lapsed salary funds by each Division within the Department. For each Division, the report shall include the following information about the preceding calendar quarter:

- (1) The total amount of lapsed salary funds.
- (2) The number of full-time equivalent positions comprising the lapsed salary funds.
- (3) The Fund Code for each full-time equivalent position included in the number reported pursuant to subdivision (2) of this section.

- (4) The purposes for which the Department expended lapsed salary funds.

#### **REVISE DATES/TANF BENEFIT IMPLEMENTATION**

**SECTION 10.22.** Section 10.55 of S.L. 2011-145 reads as rewritten:

**"SECTION 10.55.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,~~"2012-2015," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, ~~2010,2012,~~ through September 30, ~~2012,2015.~~ The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2011 General Assembly.

**"SECTION 10.55.(b)** The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,2012-2015,~~ as approved by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

**"SECTION 10.55.(c)** Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for ~~fiscal year 2011-years 2012~~ through ~~2012,2015,~~ pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, ~~2009,2012.~~ For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, ~~2012,2015.~~

**"SECTION 10.55.(d)** For the ~~2011-2012~~2012-2013 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the ~~2010-2011~~2011-2012 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

**"SECTION 10.55.(e)** In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the ~~2011-2012~~2012-2013 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division."

#### **EQUALIZE SPECIAL ASSISTANCE PAYMENTS UNDER IN-HOME, ADULT CARE HOME, AND RENTAL ASSISTANCE PROGRAMS**

**SECTION 10.23.(a)** G.S. 108A-47.1 reads as rewritten:

**"§ 108A-47.1. Special Assistance in-home payments.**

**(a)** The Department of Health and Human Services may use funds from the existing State-County Special Assistance budget to provide Special Assistance payments to eligible individuals 18 years of age or older in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special Assistance. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be ~~seventy five percent (75%)~~one hundred percent (100%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. ~~The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State.~~

(b) All county departments of social services shall participate in the State-County Special Assistance in-home program by making Special Assistance in-home slots available to individuals who meet the eligibility requirements established by the Department pursuant to subsection (a) of this section. By February 15, 2013, the Department shall establish a formula to determine the need for additional State-County Special Assistance in-home slots for each county. Beginning July 1, 2014, and each July 1 thereafter, the Department shall review and revise the formula as necessary."

**SECTION 10.23.(b)** County departments of social services with established State-County Special Assistance in-home slots that have filled some but not all slots as of February 15, 2013, shall maintain at least the same number of slots during the 2012-2013 fiscal year as the average number of slots filled during the 2011-2012 fiscal year.

**SECTION 10.23.(c)** County departments of social services with established State-County Special Assistance in-home slots that have not filled any of these slots as of February 15, 2013, shall begin participating in the Special Assistance in-home program effective February 15, 2013, by filling all their established slots.

**SECTION 10.23.(d)** County departments of social services with no established State-County Special Assistance in-home slots shall begin participating in the Special Assistance in-home program effective February 15, 2013. The Department shall determine the designated number of slots to be established and filled in these counties by assessing the need for these slots based upon a percentage of the caseload for all State-County Special Assistance within that county.

**SECTION 10.23.(e)** Effective February 15, 2013, notwithstanding G.S. 108A-47.1(a) and within existing appropriations for State-County Special Assistance, the Secretary of the Department of Health and Human Services may waive the fifteen percent (15%) cap on Special Assistance in-home payments, as the Secretary deems necessary.

**SECTION 10.23.(f)** G.S. 143B-139.5 reads as rewritten:

**"§ 143B-139.5. Department of Health and Human Services; adult care State/county share of costs-costs; maintenance of State/county budget allocations for State-County Special Assistance programs.**

State funds available to the Department of Health and Human Services shall pay fifty percent (50%), and the counties shall pay fifty percent (50%) of the authorized rates for care in adult care homes including area mental health agency-operated or contracted-group homes. The Department shall maintain the State's appropriation to the State-County Special Assistance program at one hundred percent (100%) of the State certified budget enacted by the General Assembly for the 2012-2013 fiscal year. The Department shall use these appropriated funds for the State-County Special Assistance program, the State-County Special Assistance in-home program, and rental assistance. Each county department of social services shall maintain its allocation to the State-County Special Assistance program at one hundred percent (100%) of the county funds budgeted for this program for the 2011-2012 fiscal year. Each county shall use these funds for the State-County Special Assistance program, the State-County Special Assistance in-home program, and rental assistance."

**SECTION 10.23.(g)** Section 10.59 of S.L. 2011-145 reads as rewritten:

**"STATE-COUNTY SPECIAL ASSISTANCE**

**"SECTION 10.59.(a)** The maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred eighty-two dollars (\$1,182) per month per resident ~~unless adjusted by the Department in accordance with subsection (d) of this section.~~ resident. The eligibility of Special Assistance recipients residing in adult care homes on September 30, 2009, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from the adoption of this maximum monthly rate, provided these recipients are otherwise eligible.

**"SECTION 10.59.(b)** The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars (\$1,515) per month per resident ~~unless adjusted by the Department in accordance with subsection (d) of this section.~~ resident.

**"SECTION 10.59.(c)** ~~Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH PCS) under federal law. As determined, and with any necessary approval from~~

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

~~"SECTION 10.59.(d) The Department of Health and Human Services shall recommend rates for State County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive State County Special Assistance funds and shall ensure that cost reporting is done for State County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers."~~

~~SECTION 10.23.(h) This section becomes effective February 15, 2013.~~

## **TRANSITIONS TO COMMUNITY LIVING INITIATIVE**

**SECTION 10.23A.(a)** The General Assembly finds that the State's long-term care industry plays a vital role in ensuring that citizens are afforded opportunities for safe housing and adequate client-centered supports in order to live as independently as possible in their homes and communities across the State. This role is consistent with citizens of the State having the opportunity to live in the most appropriate, integrated settings of their choice. The General Assembly also is committed to the development of a plan that continues to advance the State's current system into a statewide system of person-centered, affordable services and supports that emphasize an individual's dignity, choice, and independence and provides new opportunities and increased capacity for community housing and community supports.

**SECTION 10.23A.(b)** Blue Ribbon Commission on Transitions to Community Living. – There is established the Blue Ribbon Commission on Transitions to Community Living (Commission). The Commission shall (i) examine the State's system of community housing and community supports for people with severe mental illness, severe and persistent mental illness, and intellectual and developmental disabilities and (ii) develop a plan that continues to advance the State's current system into a statewide system of person-centered, affordable services and supports that emphasize an individual's dignity, choice, and independence. In the execution of its duties, the Commission shall consider the following:

- (1) Policies that alter the State's current practices with respect to institutionally based services to community-based services delivered as close to an individual's home and family as possible.
- (2) Best practices in both the public and private sectors in managing and administering long-term care to individuals with disabilities.
- (3) An array of services and supports for people with severe mental illness and severe and persistent mental illness, such as respite, community-based supported housing and community-based mental health services, to include evidence-based, person-centered recovery supports and crisis services and supported employment.



- (4) For adults with intellectual and other developmental disabilities, expansion of community-based services and supports, housing options, and supported work. Maximize the use of habilitation services that may be available via the Medicaid "I" option for individuals who do not meet the ICF-MR level of need.
- (5) Methods to responsibly manage the growth in long-term care spending, including use of Medicaid waivers.
- (6) Options for repurposing existing resources while considering the diverse economic challenges in communities across the State.
- (7) Opportunities for systemic change and maximization of housing, and service and supports funding streams, including State-County Special Assistance and the State's Medicaid program.
- (8) The appropriate role of adult care homes and other residential settings in the State.
- (9) Other resources that might be leveraged to enhance reform efforts.

**SECTION 10.23A.(c)** The Commission shall be composed of 32 members as follows:

- (1) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Six members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Secretary of the Department of Health and Human Services (DHHS) or the Secretary's designee.
- (4) Director of the Housing Finance Agency or the Director's designee.
- (5) Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of DHHS or the Director's designee.
- (6) Director of the Division of Medical Assistance of DHHS or the Director's designee.
- (7) Two mental health consumers or their family representatives.
- (8) Two developmental disabilities consumers or their family representatives.
- (9) Two persons in the field of banking or representing a financial institution with housing finance expertise.
- (10) Two representatives of local management entities/managed care organizations.
- (11) A county government representative.
- (12) A North Carolina Association, Long Term Care Facilities representative.
- (13) A North Carolina Assisted Living Association representative.
- (14) A family care home representative.
- (15) A representative of group homes for adults with developmental disabilities.
- (16) A representative of group homes for individuals with mental illness.
- (17) Two representatives of service providers with proven experience in innovated housing and support services in the State.

The Secretary of the Department of Health and Human Services shall ensure adequate staff representation and support from the following: Division of Mental Health, Developmental Disabilities and Substance Abuse Services, Division of Aging and Adult Services, Division of Health Services Regulations, Division of Social Services, and other areas as needed.

The Commission shall appoint a Subcommittee on Housing composed of 15 members and a Subcommittee on Adult Care Homes.

The chairs shall jointly appoint members described in subdivisions (7) through (17) of this subsection and shall fill vacancies in those positions. The Commission shall meet at the call of the chairs. Members of the Commission shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission may contract for consultant services as provided in G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may exercise all of the powers provided under G.S. 120-19 through

G.S. 120-19.4 while in the discharge of its official duties. The funds needed to support the cost of the Commission's work shall be transferred from the Department of Health and Human Services upon request of the Legislative Services Director.

**SECTION 10.23A.(d)** Transitions to Community Living Fund. – There is established the Transitions to Community Living Fund (Fund) to facilitate implementation of the plans required in subsections (e) and (f) of this section.

**SECTION 10.23A.(e)** Of the amount appropriated to the Fund established in subsection (d) of this section, the sum of ten million three hundred thousand dollars (\$10,300,000) is appropriated to support the Department of Health and Human Services in its plan for transitioning individuals with severe mental illness and severe and persistent mental illness into community living arrangements, including establishing a rental assistance program. If the State executes an agreement with the U.S. Department of Justice (USDOJ) in response to the USDOJ findings dated July 28, 2011, or implements a plan in response to the USDOJ findings, these funds shall be used to implement the requirements of the first year of the agreement or the plan. In the event such an agreement is reached, a recurring appropriation will be necessary to fully implement it. The Department may issue temporary rules to implement this subsection.

**SECTION 10.23A.(f)** Of the amount appropriated to the Fund established in subsection (d) of this section, the sum of thirty-nine million seven hundred thousand dollars (\$39,700,000) is designated for implementation of the State's plan to provide temporary, short-term assistance to adult care homes as they transition into the State's Transitions to Community Living Initiative. The General Assembly recognizes that while transformation of the system is being undertaken, adult care homes provide stable and safe housing and care to many of North Carolina's frail and elderly population, and it is necessary during this time of transition and transformation of the statewide system that the industry remain able to provide such care.

Upon certification by the Department of Health and Human Services, in consultation with a local adult care home resident discharge team, as defined in G.S. 131D-2.1(3a), that a resident who is no longer eligible to receive Medicaid reimbursable assistance and for whom a community placement has not yet been arranged cannot be safely and timely discharged into the community, the Department may make a monthly payment to the adult care home to support the facility's continuing provision of services to the resident. The monthly payment provided by the Department to an adult care home pursuant to this subsection shall not exceed six hundred ninety-four dollars (\$694) per month per resident for a period not to exceed three months for each resident. At the expiration of this three-month period, the monthly payment shall be reduced by twenty-five percent (25%) and shall not exceed five hundred twenty dollars and fifty cents (\$520.50) per month per resident. Upon implementation of the home-and community-based services program for elderly individuals typically served in special care or memory care units, to be developed by the Department under Medicaid State Plan 1915(i) authority pursuant to Section 10.9E of this act, the Department shall terminate all monthly payments pursuant to this subsection for continuing services provided to residents of special care or memory care units. The Department shall terminate all monthly payments pursuant to this subsection on June 30, 2013. Notwithstanding any other provision of this subsection, the Department is prohibited from making any monthly payments under this subsection to an adult care home for services provided to any resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

The Department of Health and Human Services shall administer these funds but may, as needed, contract with a vendor for administration.

**SECTION 10.23A.(g)** The Department shall report its progress in complying with subsection (e) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than January 2, 2013, and submit a final report no later than April 1, 2013.

**SECTION 10.23A.(h)** The Commission shall issue an interim report by October 1, 2012, and a final plan to the 2013 General Assembly no later than February 1, 2013, at which time the Commission shall expire.

**SECTION 10.23A.(i)** Subsection (f) of this section expires on June 30, 2013, and any unobligated funds designated for the purposes of that subsection shall revert to the Transitions to Community Living Fund established in subsection (d) of this section.

**SECTION 10.23A.(j)** Nothing in subsection (d), (e), or (f) of this section is intended to create or shall be construed to create a right or entitlement for any individual, facility, or provider of services.

**TELECOMMUNICATIONS RELAY SERVICE**

**SECTION 10.24.(a)** G.S. 62-157(d1) reads as rewritten:

"(d1) The Department of Health and Human Services shall utilize revenues from the wireless surcharge collected under subsection (i) of this section to ~~fund the Regional Resource Centers within~~ support the Division of Services for the Deaf and the Hard of Hearing, in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General Statutes."

**SECTION 10.24.(b)** G.S. 62-157(e) reads as rewritten:

"(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129. The Department shall administer all programs and services, including the Regional Resource Centers within the Division of Services for the Deaf and the Hard of Hearing in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General Statutes."

**DHHS BLOCK GRANTS**

**SECTION 10.25.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

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

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	\$ 60,285,413
02.	Work First County Block Grants	83,386,330
03.	Work First Electing Counties	2,378,213
04.	Adoption Services – Special Children's Adoption Fund	2,026,877
05.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
06.	Child Welfare Collaborative	754,115

Division of Child Development

07.	Subsidized Child Care Program	59,645,662
08.	Swap Child Care Subsidy	6,352,644

Division of Public Health

09.	Teen Pregnancy Initiatives	2,500,000
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DHHS Administration

10.	Division of Social Services	2,482,260
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11.	Office of the Secretary	34,042
Transfers to Other Block Grants		
Division of Child Development		
12.	Transfer to the Child Care and Development Fund	71,773,001
13.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	1,300,000
14.	Transfer to Social Services Block Grant for Child Protective Services	5,040,000
15.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,148,001
<b>TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS</b>		<b>\$ 316,558,949</b>

**TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)  
EMERGENCY CONTINGENCY FUNDS**

Local Program Expenditures

Division of Social Services

01.	Work First County Block Grants	\$ 11,066,985
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<b>TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS</b>		<b>\$ 11,066,985</b>
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**SOCIAL SERVICES BLOCK GRANT**

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF \$4,148,001)	\$ 32,249,206
02.	Child Protective Services (Transfer from TANF)	5,040,000
03.	State In-Home Services Fund	2,101,113
04.	Adult Protective Services	1,346,047
05.	State Adult Day Care Fund	2,155,301
06.	Child Protective Services/CPS Investigative Services- Child Medical Evaluation Program (Carousel Center for Abused Children \$134,592)	744,047
07.	Special Children Adoption Incentive Fund	500,000
08.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	1,300,000

09.	Home and Community Care Block Grant (HCCBG)	1,834,077
10.	Maternity Homes	925,085
11.	Child Advocacy Centers	375,000
12.	Work First – Boys and Girls Clubs	2,452,500
13.	Food Banks	1,000,000
14.	Child Care Subsidy	2,598,319
15.	Guardianship	4,356,604
16.	UNC Cares Contract	247,920
16A.	Foster Care Services	1,497,138
Division of Public Health		
16B.	Tobacco Cessation	2,728,000
18.	Prevent Blindness	150,000
Division of Vocational Rehabilitation		
19.	Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program	188,263
Division of Central Management and Support		
19A.	ALS Association Jim "Catfish" Hunter Chapter	400,000
DHHS Program Expenditures		
Division of Services for the Blind		
20.	Independent Living Program	3,633,077
21.	Accessible Electronic Information for Blind and Disabled Persons	75,000
Division of Health Service Regulation		
22.	Adult Care Licensure Program	411,897
23.	Mental Health Licensure and Certification Program	205,668
DHHS Administration		
24.	Division of Aging and Adult Services	624,454
25.	Division of Social Services	604,311
26.	Office of the Secretary/Controller's Office	138,058
27.	Division of Child Development	15,000
28.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665

29.	Division of Health Service Regulation	128,562
<b>TOTAL SOCIAL SERVICES BLOCK GRANT</b>		<b>\$ 68,257,174</b>

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

Local Program Expenditures

Division of Social Services

01.	Low-Income Energy Assistance Program (LIEAP)	\$ 14,688,575
02.	Crisis Intervention Program (CIP)	33,255,130

Local Administration

Division of Social Services

03.	County DSS Administration	4,444,717
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DHHS Administration

04.	Office of the Secretary/DIRM	219,490
05.	Office of the Secretary/Controller's Office	9,779

Transfers to Other State Agencies

Department of Commerce

06.	Weatherization Program	8,464,517
07.	Heating Air Repair and Replacement Program (HARRP)	4,073,690
08.	Local Residential Energy Efficiency Service Providers – Weatherization	19,825
09.	Local Residential Energy Efficiency Service Providers – HARRP	180,041
10.	Department of Commerce Administration – Weatherization	19,825
11.	Department of Commerce Administration – HARRP	180,041

Department of Administration

12.	N.C. Commission on Indian Affairs	87,736
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<b>TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT</b>		<b>\$ 65,643,366</b>
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**CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

Local Program Expenditures

Division of Child Development

01.	Child Care Services (Smart Start \$7,000,000)	\$ 154,695,081
02.	Electronic Tracking System	3,000,000
03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001
04.	Quality and Availability Initiatives (TEACH Program \$3,800,000)	26,484,816

DHHS Administration

Division of Child Development

05.	DCDEE Administrative Expenses	6,000,000
06.	Local Subsidized Child Care Services Support (4% Administrative Allowance)	15,898,602

Division of Central Administration

07.	DHHS Central Administration – DIRM Technical Services	775,000
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**TOTAL CHILD CARE AND DEVELOPMENT FUND  
BLOCK GRANT** \$ 278,626,500

**MENTAL HEALTH SERVICES BLOCK GRANT**

Local Program Expenditures

01.	Mental Health Services – Adult	\$ 8,870,595
02.	Mental Health Services – Child	5,121,991
03.	Administration	100,000

**TOTAL MENTAL HEALTH SERVICES BLOCK GRANT** \$ 14,092,586

**SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

Local Program Expenditures

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

01.	Substance Abuse Services – Adult	\$ 15,328,802
02.	Substance Abuse Treatment Alternative for Women	6,050,300
03.	Substance Abuse – HIV and IV Drug	3,919,723
04.	Substance Abuse Prevention – Child	7,186,857
05.	Substance Abuse Services – Child	4,940,500
06.	Administration	454,000

Division of Public Health		
07.	Risk Reduction Projects	575,654
08.	Aid-to-Counties	190,295
<b>TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>		<b>\$ 38,646,131</b>

**MATERNAL AND CHILD HEALTH BLOCK GRANT**

Local Program Expenditures

Division of Public Health		
01.	Children's Health Services	\$ 8,487,547
02.	Women's Health (March of Dimes \$350,000; Teen Pregnancy Prevention Initiatives \$650,000; Perinatal Quality Collaborative \$250,000; 17P Project \$47,000)	8,404,244
03.	Oral Health	42,268

DHHS Program Expenditures

Division of Public Health		
04.	Children's Health Services	1,250,000
05.	Women's Health	136,628
06.	State Center for Health Statistics	164,318
07.	Quality Improvement in Public Health	2,774
08.	Health Promotion	89,374

DHHS Administration

Division of Public Health		
09.	Division of Public Health Administration	600,000

<b>TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT</b>		<b>\$ 19,259,071</b>
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**PREVENTIVE HEALTH SERVICES BLOCK GRANT**

Local Program Expenditures

Division of Public Health		
01.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	180,470

DHHS Program Expenditures



Division of Public Health

02.	State Center for Health Statistics	160,000
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$ 340,470

**COMMUNITY SERVICES BLOCK GRANT**

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	\$ 18,075,488
02.	Limited Purpose Agencies	1,004,194

DHHS Administration

03.	Office of Economic Opportunity	1,004,194
TOTAL COMMUNITY SERVICES BLOCK GRANT		\$ 20,083,876

**GENERAL PROVISIONS**

**SECTION 10.25.(b)** Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

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

**SECTION 10.25.(c)** Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

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

Notwithstanding the provisions of this subsection, for the 2012-2013 fiscal year, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old children.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of

Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.25.(d)** Appropriations from federal Block Grant funds are made for the fiscal year ending June 30, 2013, according to the schedule enacted for State fiscal year 2012-2013 or until a new schedule is enacted by the General Assembly.

**SECTION 10.25.(e)** All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

**SECTION 10.25.(f)** If the Preventive Health Services Block Grant is funded at the federal level and the State receives a block grant for Preventive Health Services, the 2011-2012 allocation plan shall remain in effect for the 2012-2013 fiscal year.

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

**SECTION 10.25.(g)** The sum of eighty-three million three hundred eighty-six thousand three hundred thirty dollars (\$83,386,330) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used for Work First County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

**SECTION 10.25.(h)** The sum of two million four hundred eighty-two thousand two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used to support administration of TANF-funded programs.

**SECTION 10.25.(i)** The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for the 2012-2013 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Counties shall maintain their level of expenditures in local funds for Child Protective Services' workers. Of the block grant funds appropriated for Child Protective Services' workers, the total expenditures from State and local funds for the 2012-2013 fiscal year shall not be less than the total expended from State and local funds for the 2011-2012 fiscal year.

**SECTION 10.25.(j)** The sum of two million twenty-six thousand eight hundred seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for the 2012-2013 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

**SECTION 10.25.(k)** The sum of seven hundred fifty-four thousand one hundred fifteen dollars (\$754,115) appropriated in this section to the Department of Health and Human

Services in TANF funds for the 2012-2013 fiscal year shall be used to continue support for the Child Welfare Collaborative.

## **SOCIAL SERVICES BLOCK GRANT**

**SECTION 10.25.(l)** The sum of thirty-two million two hundred forty-nine thousand two hundred six dollars (\$32,249,206) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used for County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

**SECTION 10.25.(m)** The sum of one million three hundred thousand dollars (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used to support various child welfare training projects as follows:

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

**SECTION 10.25.(n)** The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

**SECTION 10.25.(o)** Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

**SECTION 10.25.(p)** The sum of five million forty thousand dollars (\$5,040,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

**SECTION 10.25.(q)** The sum of two million four hundred fifty-two thousand five hundred dollars (\$2,452,500) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the Social Services Block Grant for Boys and Girls Clubs for the 2012-2013 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of Social Services Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs and encourage them to submit joint applications for the funds if appropriate. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(r)** The sum of nine hundred twenty-five thousand eighty-five dollars (\$925,085) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used for maternity homes. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(s)** The sum of one hundred fifty thousand dollars (\$150,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Public Health, shall be allocated to Prevent Blindness North Carolina to be used for direct service programs. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(s1)** The sum of four hundred thousand dollars (\$400,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to

the Department of Health and Human Services, Division of Central Management and Support, shall be allocated to the ALS Association, Jim "Catfish" Hunter Chapter, to be used to provide patient care and community services to persons with ALS and their families. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(t)** The sum of seventy-five thousand dollars (\$75,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Services for the Blind, shall be used to provide accessible electronic information for blind and disabled persons. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(u)** The sum of three hundred seventy-five thousand dollars (\$375,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(v)** Social Services Block Grant funds allocated for the 2012-2013 fiscal year for child medical evaluations and the Carousel Center for Abused Children are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(w)** The sum of one million dollars (\$1,000,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be allocated to North Carolina Food Bank agencies to be used to purchase and distribute food staples for emergency food assistance. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.25.(w1)** The sum of four million three hundred fifty-six thousand six hundred four dollars (\$4,356,604) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of the General Statutes. The Department may expend funds appropriated in this section to support (i) existing corporate guardianship contracts during the 2012-2013 fiscal year and (ii) guardianship contracts transferred to the State from local management entities or managed care organizations during the 2012-2013 fiscal year.

#### **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

**SECTION 10.25.(x)** Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

**SECTION 10.25.(y)** The sum of fourteen million six hundred eighty-eight thousand five hundred seventy-five dollars (\$14,688,575) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services. County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year.

#### **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

**SECTION 10.25.(z)** Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.25.(aa)** If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may

move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

#### **MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.25.(bb)** 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 2012-2013 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 10.25.(cc)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

#### **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

##### **B.R.I.D.G.E. YOUTHFUL OFFENDERS/PRIORITY AND REPORTING**

**SECTION 11.1.(a)** The Division of Adult Correction of the Department of Public Safety shall give priority to the B.R.I.D.G.E. Youthful Offenders Program operated in cooperation with the North Carolina Forest Service when assigning youthful offenders from the Western Youth Institution to work programs.

**SECTION 11.1.(b)** The North Carolina Forest Service shall submit an annual report on the B.R.I.D.G.E. Youthful Offenders Program no later than October 1 of each year beginning October 1, 2012, to the Fiscal Research Division, the Chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Chairs of the House Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Oversight Committee on Justice and Public Safety. The report shall include the following information for the prior fiscal year:

- (1) The number of youthful offenders within the custody of the Division of Adult Correction eligible for B.R.I.D.G.E.
- (2) The number of youthful offenders participating in B.R.I.D.G.E.
- (3) The average daily participation in B.R.I.D.G.E.
- (4) The average duration of participation in B.R.I.D.G.E.
- (5) Summary of activities of B.R.I.D.G.E. participants.

##### **FOREST FIRES/ANNUAL REPORT**

**SECTION 11.2.** Article 75 of Chapter 106 of the General Statutes is amended by adding a new section to read:

**"§ 106-911. Annual report on wildfires.**

No later than October 1 of each year, beginning October 1, 2012, the Commissioner shall submit a written report on wildfires in the State to the chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division of the General Assembly. The report shall include the following information for all major or project wildfires during the prior fiscal year:

- (1) The date, location, and impacts (property damage and any casualties) from the wildfire.
- (2) The following data for firefighters and related support personnel involved in fighting the wildfire:
  - a. Total overtime hours worked.
  - b. Total compensation paid for overtime.
  - c. The portion of compensation paid that was reimbursed to the State.
- (3) The fiscal impact of the wildfire, including total costs, reimbursable costs, and costs incurred by the State."

**CLARIFY REQUIREMENTS TO RECEIVE NC AGRICULTURE COST SHARE PROGRAM FUNDS OR AGRICULTURE WATER RESOURCES ASSISTANCE**

**SECTION 11.2A.(a)** G.S. 106-850(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

- ...
- (10) To be eligible for cost share funds under this program, each applicant must establish that he or she is engaged in farming by providing any of the following to the Soil and Water Conservation Commission with his or her application ~~a copy of the applicant's federal tax Schedule F (Form 1040) for the most recent tax year showing the applicant's profit or loss from farming-application:~~
- a. A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.
  - b. A copy of the farm's agricultural exemption certificate issued to the farm owner or operator by the Department of Revenue.
  - c. For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g).
- (11) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program."

**SECTION 11.2A.(b)** G.S. 139-60 reads as rewritten:

**"§ 139-60. Agricultural Water Resources Assistance Program.**

...

(c1) To be eligible for assistance under this program, each applicant must establish that he or she is engaged in farming by providing to the Soil and Water Conservation Commission with his or her application ~~a copy of the applicant's federal tax Schedule F (Form 1040) for the most recent tax year showing the applicant's profit or loss from farming-application:~~

- (1) A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.
- (2) A copy of the farm's agricultural exemption certificate issued to the farm owner or operator by the Department of Revenue.
- (3) For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g).

(c2) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program.

...."

**SOUTHEASTERN NORTH CAROLINA AGRICULTURAL CENTER AND FARMERS MARKET/STUDY OPTIONS**

**SECTION 11.3.(a)** The Department of Agriculture and Consumer Services shall study the operating model of the Southeastern North Carolina Agricultural Center and Farmers Market and recommend alternative operating models. The alternative operating models should be evaluated based on a goal of limiting subsidies from State funds in support of facility operations to no more than fifty percent (50%) of the facility's operating budget. At a minimum, the Department should consider the following alternatives:

- (1) Changing the services provided, with particular emphasis on options for the retail farmers market.
- (2) Pooling staff, resources, and profits between the Center and other similar facilities operated by the Department.
- (3) Contracting with a private entity to operate the Center or some portion of the Center's operations.

- (4) If there is no operating model under which continued operation of the Center is viable with State subsidies limited to fifty percent (50%) or less of the Center's operating budget, options for closure of the Center and alternative uses of the property, including transfer of ownership of some or all of the facilities of the Center to a unit of local government.

**SECTION 11.3.(b)** The Department shall report its findings and recommendations to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division on or before February 1, 2013.

## **RESEARCH STATIONS NONREVERTING FUND**

**SECTION 11.4.** Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

**"§ 106-6.3. Create special revenue fund for research stations.**

The Research Stations Fund is established as a special revenue fund within the Department of Agriculture and Consumer Services, Division of Research Stations. This Fund shall consist of receipts from the sale of commodities produced on the Department's research stations and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in research stations operated by the Department's Research Station Division."

## **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

### **WATER INFRASTRUCTURE FUND CLOSING FEE CONFORMING CHANGES**

**SECTION 12.01.** G.S. 159G-24 reads as rewritten:

**"§ 159G-24. Fee imposed on a loan or grant from ~~Wastewater Reserve or Drinking Water Reserve.~~ Water Infrastructure Fund.**

(a) Amount. – A loan awarded from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is subject to a fee of two and one-half percent ~~(2½%)(2%)~~ of the loan. A grant awarded from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is subject to a fee of one and one-half percent (1½%) of the grant. The fee is payable when a loan or grant is awarded.

(b) Departmental Receipt. – The fee on a loan from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is a departmental receipt and must be applied to the Department's and the Local Government Commission's costs in administering loans from these Reserves. The Department and the Local Government Commission must determine how to allocate the fee receipts between their agencies. The fee on a grant from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is a departmental receipt of the Department and must be applied to the Department's costs in administering grants from these Reserves."

### **DENR POSITIONS TO STAFF FOSSIL FUEL OVERSIGHT BODY**

**SECTION 12.1.** Should Senate Bill 820 of the 2012 Regular Session of the General Assembly become law and require the Department of Environment and Natural Resources to provide staff to the Mining and Energy Commission, then the Department may fund staff positions using savings from reclassifying and consolidating salaries, benefits, and associated operating costs from vacant positions and shall fill these reclassified and consolidated positions in a timely manner in order to provide support for the Mining and Energy Commission.

### **DENR TO CENTRALIZE OVERSIGHT OF ITS REGIONAL OFFICES**

**SECTION 12.2.(a)** The Department of Environment and Natural Resources shall centralize and expand its oversight of the Department's regional offices by taking the following actions:

- (1) The Department shall create a mission statement for the regional offices.
- (2) In order to gather comparative data across the regional offices measuring their performance in carrying out their mission, the Department shall expand

its existing performance measures pertinent to customer service delivery and process consistency. The expanded performance measures shall include timelines and milestones.

- (3) The Department shall implement a new customer survey during the 2012-2013 fiscal year and use the findings of the survey to craft future goals for addressing customer service concerns. In order to consistently track customer service data, the survey shall be repeated every other year.
- (4) The Department shall conduct a review of its regional offices and divisions to identify best practices for ensuring consistency across the Department and create a plan for implementing those best practices across regional offices and divisions.

**SECTION 12.2.(b)** The Department shall report no later than February 1, 2013, to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division regarding (i) its progress, findings, and recommendations regarding the requirements of this section and (ii) its progress in establishing and implementing findings and recommendations regarding its operations from the public listening sessions conducted by the Department in 2011.

### **DRINKING WATER STATE REVOLVING FUND**

**SECTION 12.3.** 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 2012-2013 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.

### **TRANSFER GEODETIC SURVEY SECTION FROM DENR TO THE DIVISION OF EMERGENCY MANAGEMENT OF THE DEPARTMENT OF PUBLIC SAFETY**

**SECTION 12.4.(a)** All functions, powers, duties, and obligations previously vested in the Geodetic Survey Section of the Division of Land Resources of the Department of Environment and Natural Resources are transferred to and vested in the Division of Emergency Management of the Department of Public Safety by a Type I transfer, as defined in G.S. 143A-6.

**SECTION 12.4.(b)** G.S. 102-1.1 reads as rewritten:

#### **"§ 102-1.1. Name and description in relation to 1983 North American Datum.**

From and after the date and time the North Carolina Geodetic Survey Section in the ~~Division of Land Resources of the Department of Environment and Natural Resources~~ Division of Emergency Management of the Department of Public Safety receives from the National Geodetic Survey, official notice of a complete, published definition of the North American Datum of 1983 including the State plane coordinate constants applicable to North Carolina, the official survey base for North Carolina shall be a system of plane coordinates to be known as the "North Carolina Coordinate System of 1983," said system being defined as a Lambert conformal projection of the "Geodetic Reference System (GRS 80 Ellipsoid)" having a central meridian of 79° – 00' west from Greenwich and standard parallels of latitude of 34° – 20' and 36° – 10' north of the equator, along which parallels the scale shall be exact. All coordinates of the system are expressed in metres, the x coordinate being measured easterly along the grid and the y coordinate being measured northerly along the grid. The U.S. Survey Foot, 1 meter = 39.37 inches or 3.2808333333 feet, shall be used as a conversion factor. The origin of the coordinates is hereby established on the meridian 79° – 00' west from Greenwich at the intersection of the parallels 33° – 45' north latitude, such origin being given the coordinates x = 609,601.22 metres, y = 0 metres. The precise position of said system shall be as marked on the ground by triangulation or traverse stations or monuments established in conformity with the standards adopted by the National Geodetic Survey for first- and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1983, and whose plane coordinates have been computed on the system defined. Whenever plane coordinates are used in the description or identification of surface area or location within this State, the coordinates shall be identified as "NAD 83", indicating North American Datum of 1983, or as "NAD 27", indicating North American Datum of 1927."

**SECTION 12.4.(c)** G.S. 102-8 reads as rewritten:



**"§ 102-8. Administrative agency.**

The administrative agency of the North Carolina Coordinate System shall be the ~~Department of Environment and Natural Resources~~ Department of Public Safety through its appropriate division hereinafter called the "agency."

**SECTION 12.4.(d)** G.S. 102-10 reads as rewritten:

**"§ 102-10. Prior work.**

The system of stations, monuments, traverses, computations, and other work which has been done or is under way in North Carolina by the so-called North Carolina Geodetic Survey, under the supervision of the United States Coast and Geodetic Survey, is, where consistent with the provisions of this Chapter, hereby made a part of the North Carolina Coordinate System. The surveys, notes, computations, monuments, stations, and all other work relating to the coordinate system, which has been done by said North Carolina Geodetic Survey, under the supervision of and in cooperation with the United States Coast and Geodetic Survey and federal relief agencies, hereby are placed under the direction of, and shall become the property of, the administrative agency. All persons or agencies having in their possession any surveys, notes, computations, or other data pertaining to the aforementioned coordinate system, shall turn over to the Department of ~~Environment and Natural Resources~~Public Safety such data upon request."

**SECTION 12.4.(e)** G.S. 102-12 reads as rewritten:

**"§ 102-12. Control system map.**

The agency shall prepare for publication and cause to be ~~published before July 1, 1962,~~published a map or maps setting forth the location of monuments for both horizontal and vertical control, together with such other pertinent data as the agency may direct for implementation of the North Carolina Coordinate System. The agency shall furnish such map or maps to any person or may make such charge as will defray the expense of printing and distribution. It shall be the responsibility of the agency to maintain this map, make revisions as often as necessary to provide up-to-date information and furnish up-to-date copies to the register of deeds of each county in the State."

**SECTION 12.4.(f)** G.S. 47-30(f) reads as rewritten:

**"§ 47-30. Plats and subdivisions; mapping requirements.**

...  
(f) Plat to Contain Specific Information. – Every plat shall contain the following specific information:

- ...  
(9) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey where the monument is within 2,000 feet of the subject property. Where the North Carolina Grid System coordinates of the monument are on file in the North Carolina Geodetic Survey Section in the ~~Division of Land Resources of the Department of Environment and Natural Resources,~~ Division of Emergency Management of the Department of Public Safety, the coordinates of both the referenced corner and the monuments used shall be shown in X (easting) and Y (northing) coordinates on the plat. The coordinates shall be identified as based on "NAD 83," indicating North American Datum of 1983, or as "NAD 27," indicating North American Datum of 1927. The tie lines to the monuments shall also be sufficient to establish true north or grid north bearings for the plat if the monuments exist in pairs. Within a previously recorded subdivision that has been tied to grid control, control monuments within the subdivision may be used in lieu of additional ties to grid control. Within a previously recorded subdivision that has not been tied to grid control, if horizontal control monuments are available within 2,000 feet, the above requirements shall be met; but in the interest of bearing consistency with previously recorded plats, existing bearing control should be used where practical. In the absence of grid control, other appropriate natural monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used.

...."  
**SECTION 12.4.(g)** Notwithstanding G.S. 147-33.83, the North Carolina Geodetic Survey Section shall continue to provide free of charge to the Department of Environment and Natural Resources the services provided by the Section to the Department on or prior to the effective date of this act, including the following:

- (1) Surveying assistance and expertise, including all of the following:
  - a. Review of survey plats related to development proposals, remediation activities, and redevelopment of contaminated sites.
  - b. Establishment of oyster lease boundaries.
  - c. Surveys of submerged lands.
  - d. Survey activities required to establish the location of mean high water.
- (2) Providing surveying assistance and expertise to the Department of Justice related to DENR cases, including expert testimony in administrative contested cases or judicial proceedings.
- (3) Providing technical training and assistance to DENR agencies in surveying and in the use of GPS and GPS software.
- (4) Reviewing proposed purchases of GPS equipment by DENR agencies.
- (5) Surveying lands managed by or lands proposed for acquisition by DENR agencies.

**SECTION 12.4.(h)** The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfer under this section. The Revisor of Statutes may, where necessitated by this section, correct any reference in the General Statutes and make any other conforming changes.

**SECTION 12.4.(i)** Any references in this act to the North Carolina Geodetic Survey Section of the Division of Land Resources of the Department of Environment and Natural Resources shall be construed to refer to the North Carolina Geodetic Survey Section of the Division of Emergency Management of the Department of Public Safety.

## **PROHIBIT THE CONSTRUCTION OF NEW PIERS/SATELLITE AREAS**

**SECTION 12.5.(a)** G.S. 143B-289.44(b) reads as rewritten:

"(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special and nonreverting fund. The North Carolina Aquariums Fund shall be used for repair, renovation, expansion, maintenance, educational exhibit construction, and operational expenses at existing aquariums, to pay the debt service and lease payments related to the financing of expansions of ~~aquariums, including other relevant satellite areas, aquariums,~~ and to match private funds that are raised for these purposes."

**SECTION 12.5.(b)** Notwithstanding G.S. 143B-289.44(b), as rewritten by subsection (a) of this section, the North Carolina Aquariums Fund may continue to be used for the North Carolina Aquarium Pier at Nags Head.

**SECTION 12.5.(c)** Part 5C of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-289.45. Satellite areas prohibited absent General Assembly authorization.**

Notwithstanding any other provision of law, State funds shall not be used for any of the following purposes unless specifically authorized by the General Assembly:

- (1) Construction of any satellite area.
- (2) Commencement of any capital project in connection with the construction or acquisition of any satellite area.
- (3) Operation of any satellite area.

For purposes of this section, the term "satellite area" means any property or facility that is to be operated by the Division of North Carolina Aquariums that is located somewhere other than on the site of the aquariums at Pine Knoll Shores, Roanoke Island, and Fort Fisher."

**SECTION 12.5.(d)** Notwithstanding G.S. 143B-289.45, as enacted by subsection (c) of this section, the Division of North Carolina Aquariums may continue to operate the North Carolina Aquarium Pier at Nags Head.

**SECTION 12.5.(d1)** Grants for projects with partnering local municipalities awarded prior to the effective date of this act may be transferred to the local partnering municipality for completion or fulfillment.

**SECTION 12.5.(e)** This section is effective when it becomes law.

## **WILDLIFE RESOURCES COMMISSION BUDGET**

**SECTION 12.6.** The Office of State Budget and Management, the State Controller, the Fiscal Research Division, and the Wildlife Resources Commission shall jointly implement, beginning with the 2013-2014 fiscal year, the use of Budget Code 14350 for budgeting the expenditures and receipts of any Wildlife Resources Commission programs that utilize General Fund appropriations. Receipts from any source utilized to support programs that receive General Fund appropriations shall be expended from Budget Code 14350. It is the intent of the General Assembly that the budgeting change required by this section not adversely impact current federal funding or future funding eligibility. The Governor's Continuation Budget for the 2013-2014 fiscal year shall present the Wildlife Resources Commission operating budget in Budget Code 14350.

## **CLEAN WATER MANAGEMENT TRUST FUND**

**SECTION 12.7.(a)** Notwithstanding the provisions of G.S. 113A-253(d), up to three million dollars (\$3,000,000) may be used for the 2012-2013 fiscal year for the costs of administering the Clean Water Management Trust Fund, including costs to support the Board of Trustees of the Clean Water Management Trust Fund and its staff, the operating costs of the Board of Trustees of the Clean Water Management Trust Fund and its staff, and the costs of making debt payments to retire debt as provided under G.S. 113A-253(c).

**SECTION 12.7.(b)** The Board of Trustees of the Fund shall give priority consideration to any Clean Water Management Trust Fund application requesting State matching funds for infrastructure programs and for the Readiness and Environmental Protection Initiative or any other United States Department of Defense program that provides for military buffers and protects the overall military training mission.

## **AQUARIUM BUDGETING CLARIFICATION**

**SECTION 12.8.** The Department of Environment and Natural Resources shall budget all line items related to daily operations of the State aquariums in Budget Code 14300. The Department may continue to use Budget Code 24300 for special events, activities, debt service, and other items not related to daily operations of the State aquariums.

## **PART XIII. DEPARTMENT OF COMMERCE**

### **NER BLOCK GRANTS**

**SECTION 13.1.** Section 14.1 of S.L. 2011-145 reads as rewritten:

"**SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal year ending ~~June 30, 2012~~, June 30, 2013, according to the following schedule:

### **COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$ 1,000,000
<del>02. State Technical Assistance</del>	<del>450,000</del>
03. Scattered Site Housing	<del>8,000,000</del> <u>7,200,000</u>
04. Economic Development	<del>7,210,000</del> <u>7,000,000</u>
05. Small Business/Entrepreneurship	<del>3,000,000</del> <u>2,500,000</u>
06. NC Catalyst	<del>5,000,000</del> <u>4,500,000</u>
07. Infrastructure	<del>19,740,000</del> <u>20,300,000</u>
<del>08. Capacity Building</del>	<del>600,000</del>
<b>TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – <del>2012</del><u>2013</u> Program Year</b>	<b>\$ <del>45,000,000</del> <u>\$42,500,000</u></b>

**"SECTION 14.1.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

**"SECTION 14.1.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

**"SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State Administration; ~~up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;~~ up to ~~eight million dollars (\$8,000,000)~~ seven million two hundred thousand dollars (\$7,200,000) may be used for Scattered Site Housing; up to ~~seven million two hundred ten thousand dollars (\$7,210,000)~~ seven million dollars (\$7,000,000) may be used for Economic Development; up to ~~three million dollars (\$3,000,000)~~ two million five hundred thousand dollars (\$2,500,000) may be used for Small Business/Entrepreneurship; up to ~~five million dollars (\$5,000,000)~~ four million five hundred thousand dollars (\$4,500,000) shall be used for NC Catalyst; up to ~~nineteen million seven hundred forty thousand dollars (\$19,740,000)~~ twenty million three hundred thousand dollars (\$20,300,000) may be used for ~~Infrastructure;~~ up to ~~six hundred thousand dollars (\$600,000) may be used for Capacity Building-Infrastructure.~~ If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

**"SECTION 14.1.(e)** The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.
- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

**"SECTION 14.1.(f)** By ~~September 1, 2011,~~ September 1, 2012, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

- (1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.
- (2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.
- (3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

**"SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section are limited to the installation of public water or

sewer lines and improvements to water or sewer treatment plants that have specific problems such as being under moratoriums or special orders of consent. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

#### DEPARTMENT OF COMMERCE/TRAVEL EXPENSES

**SECTION 13.2.** The Department of Commerce shall not provide per diem, subsistence, or travel allowances for any State employee who is not an employee of the Department. Nothing in this section shall prohibit a member of a State board or commission, State officer or employee, or member of the General Assembly who travels on official business with an employee of the Department of Commerce from receiving per diem, subsistence, and travel allowances from their respective board or commission, department, or agency at the rate set forth in G.S. 138-5, 138-6, and 120-3.1.

#### NC SMALL BUSINESS CONTRACTOR AUTHORITY/REPORTING REQUIREMENT

**SECTION 13.3.** G.S. 143B-472.102 reads as rewritten:  
**"§ 143B-472.102. Authority creation; powers.**

- ...  
(j) Powers and Duties. – The Authority has the following powers and duties:
    - ...  
(9) To report quarterly to the Joint Legislative Commission on Governmental Operations on the activities of the Authority, including the amount of rates, sureties, and bonds. The Authority shall comply with the provisions of this subdivision only in the fiscal years in which funds are appropriated by the State to the Authority to perform the powers and duties authorized in this Part.
- ...."

#### DEPARTMENT OF COMMERCE/CHANGES TO STATUTORY REPORTING REQUIREMENTS

**SECTION 13.4.(a)** G.S. 143B-434.01 reads as rewritten:  
**"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

...  
(e) Environmental Scan. – The first step in developing the Plan shall be to develop an environmental scan based on the input from economic development parties and the public and on information about the economic environment in North Carolina. To prepare the scan, the Board shall gather the following information. ~~Thereafter, the information shall be updated periodically.~~ information and ensure that the information is updated periodically. The updated information may be provided in whatever format and through whatever means is most efficient.

...  
(f) Needs Assessment. ~~The Board, using data from the public input sessions and the environmental scan, shall prepare an assessment of economic development strengths, weaknesses, threats, and opportunities within the State by Region and by county. An assessment shall also be conducted of each county to determine distressed areas existing within the county. The assessment will include the identification of key development issues within each geographic area and options available to address each issue.~~

...  
(k) Annual Report. ~~Evaluation. – The Plan shall contain a section devoted to measuring results, to be called "An Annual Report on Economic Development for the State of North Carolina". The Annual Report shall contain a comparison of actual results with The Board shall annually evaluate the State's economic performance based upon the statistics listed in this subsection and upon the Board's stated goals and objectives in its Plan. and significant and meaningful statistics to allow policymakers to adjust strategy and tactics as necessary to achieve the formulated goals. The statistics upon which the evaluation is made should be available to policymakers. The information may be provided in whatever format and through whatever means is most efficient.~~

The Annual Report shall break down data by Regions and counties including:

...

(9) ~~An evaluation of the State's economic performance as indicated by the above statistics with the goals and objectives outlined in the Plan.~~

(l) ~~Accountability.~~ – The Board shall make all data, plans, and reports available to the ~~General Assembly and Assembly,~~ the Joint Legislative Commission on Governmental ~~Operations~~ Operations, the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the House of Representatives Appropriations Subcommittee on Natural and Economic Resources at appropriate times and upon request. The Board shall prepare and make available on an annual basis public reports on each of the major sections of the Plan and the Annual Report indicating the degree of success in attaining each development objective."

**SECTION 13.4.(b)** G.S. 143B-435.1 reads as rewritten:

**"§ 143B-435.1. Clawbacks.**

...  
(d) ~~Report.~~ – ~~The~~ By April 1 and October 1 of each year, the Department of Commerce shall report to the Revenue Laws Study ~~Committee by April 1 and October 1 of each year~~ Committee, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on (i) all clawbacks that have been triggered under ~~programs it administers~~ the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the Industrial Development Fund and Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid."

**SECTION 13.4.(c)** G.S. 143B-437.01(c) and (c1) are repealed.

**SECTION 13.4.(d)** G.S. 143B-437.07 reads as rewritten:

**"§ 143B-437.07. Economic development grant reporting.**

(a) ~~Report.~~ – The Department of Commerce must publish on or before ~~March~~ October 1 of each year the information required by this subsection, itemized by business entity, for each business or joint private venture to which the State has, in whole or in part, granted one or more economic development incentives during the previous ~~five calendar years.~~ The Department must provide the General Assembly with updated supplemental information consistent with this subsection on a quarterly basis in the form and manner requested by the General Assembly-fiscal year. The information in the report must include all of the following:

...  
(2) The date of the award and the date of the award agreement.

...  
(b) ~~Online Posting-Posting/Written Submission.~~ – The Department of Commerce must post on its Internet Web site a summary of the report compiled in subsection (a) of this section. The summary report must include the information required by subdivisions (2), (9), (11), and (12) of subsection (a) of this section. By October 1 of each year, the Department of Commerce must submit the written report required by subsection (a) of this section to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly.

(c) ~~Economic Development Incentive.~~ – An economic development incentive includes any grant ~~program administered by the Department of Commerce that disburses or awards monies to businesses. Examples of these grant programs include the~~ from the following programs: Job Development Investment Grant Program, Program; the Job Maintenance and Capital Development Fund, Fund; One North Carolina Fund, Fund; and the Industrial Development Fund, including the Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

**SECTION 13.4.(e)** G.S. 143B-437.08 is amended by adding a new subsection to read:

**"§ 143B-437.08. Development tier designation.**

...  
(k) Report. – By November 30 of each year, the Secretary of Commerce shall submit a written report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on the tier rankings required by subsection (c) of this section, including a map of the State whereupon the tier ranking of each county is designated."

**SECTION 13.4.(f)** G.S. 143B-437.55(d) is repealed.

**ALIGN ONE NORTH CAROLINA FUND WITH JDIG PROGRAM**

**SECTION 13.6.(a)** The General Assembly acknowledges the importance of ongoing economic growth and development in this State. To that end, it is the intent of the General Assembly to fund the commitments of the One North Carolina Fund, as evidenced by the General Assembly's past and recurring appropriations to the Fund and as set forth in this section, and to establish a funding structure that aligns with the funding structure that is and has been used with the Job Development Investment Grant Program. The General Assembly has continued this level of commitment while remaining fiscally responsible in addressing the other critical, high-priority needs of the State.

**SECTION 13.6.(b)** G.S. 143B-437.71 is amended by adding a new subsection to read:

"(b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal year may not exceed fourteen million dollars (\$14,000,000)."

**SECTION 13.6.(c)** G.S. 143B-437.72(b) is amended by adding a new subdivision to read:

"(b) Company Performance Agreements. – An agreement between a local government and a grantee business must contain the following provisions:

- (1) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location and commitments regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained.
- (2) A commitment to provide proof satisfactory to the local government and the State of new jobs created or existing jobs retained and the salary level of those jobs.
- (3) A provision that funds received under the agreement may be used only for a purpose specified in G.S. 143B-437.71(b).
- (4) A provision allowing the State or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.
- (5) A provision establishing the method for determining compliance with the agreement.
- (6) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement.
- (6a) A provision establishing that a business that has completed performance and become entitled to a final disbursement of funds under the agreement must timely request, in writing to the Secretary of Commerce, a disbursement of funds within not more than one year from the date of completed performance or forfeit the disbursement.
- (6b) A provision establishing that a business that anticipates becoming entitled to a disbursement of funds under the agreement shall notify the Secretary of Commerce of the potential payment no later than March 1 of the fiscal year preceding the fiscal year in which the performance is anticipated to be completed.
- (7) A provision requiring recapture of grant funds if a business subsequently fails to comply with the terms of the agreement.
- (8) Any other provision the State or the local government finds necessary to ensure the proper use of State or local funds."

**SECTION 13.6.(d)** G.S. 143B-437.74 reads as rewritten:

**"§ 143B-437.74. ~~Reports.~~Reports; study.**

(a) Reports. – The Department of Commerce shall publish a report on the use of funds in the One North Carolina Fund at the end of each fiscal quarter. The report shall contain information on the commitment, disbursement, and use of funds allocated under the One North Carolina Fund. The report is due no later than one month after the end of the fiscal quarter and must be submitted to the following:

- (1) The Joint Legislative Commission on Governmental Operations.
- (2) The chairs of the House of Representatives and Senate Finance Committees.
- (3) The chairs of the House of Representatives and Senate Appropriations Committees.
- (4) The Fiscal Research Division of the General Assembly.

(b) Study. – The Department of Commerce shall conduct a study to determine the minimum funding level required to implement the One North Carolina Fund successfully. The Department shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of each year."

**SECTION 13.6.(e)** Part 2H of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-437.75. Cash flow requirements.**

Notwithstanding any other provision of law, moneys allocated from the One North Carolina Fund shall be budgeted and funded on a cash flow basis. The Office of State Budget and Management shall periodically transfer funds from the One North Carolina Fund established pursuant to G.S. 143B-437.71 to the Department of Commerce in an amount sufficient to satisfy Fund allocations to be transferred pursuant to G.S. 143B-437.72 to be paid during the fiscal year."

**SECTION 13.6.(f)** Article 9 of Chapter 143C of the General Statutes is amended by adding a new section to read:

**"§ 143C-9-8. One North Carolina Fund Reserve.**

(a) The State Controller shall establish a reserve in the General Fund to be known as the One North Carolina Fund Reserve. Funds from the One North Carolina Fund Reserve shall not be expended or transferred except in accordance with G.S. 143B-437.75.

(b) It is the intent of the General Assembly to appropriate funds annually to the One North Carolina Fund Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the One North Carolina Fund Program established pursuant to G.S. 143B-437.71."

**SECTION 13.6.(g)** G.S. 143B-437.52 reads as rewritten:

**"§ 143B-437.52. Job Development Investment Grant Program.**

...  
(b) ~~Cap and Priority.~~ – ~~The maximum number of grants the Committee may award in each calendar year is 25.~~ In selecting between applicants, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park.

(c) ~~Ceiling.~~ Awards. – The maximum amount of total annual liability for grants awarded in any single calendar year under this Part, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, ~~may not exceed~~ is fifteen million dollars (\$15,000,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed this amount.

...."

**SECTION 13.6.(h)** The Department of Commerce shall report to the Joint Legislative Economic Development and Global Engagement Oversight Committee no later than October 1, 2012, the following information for each One North Carolina Fund allocation, itemized by recipient: (i) the date of the award, (ii) the date of each disbursement, (iii) the amount of the funds allocated, (iv) the amount and form of the local match requirement, and (v) the date the local match requirement was fulfilled. The Joint Legislative Economic Development and Global Engagement Oversight Committee shall review the report and shall



make any recommendations to the General Assembly upon the convening of the 2013 Regular Session.

## **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

**SECTION 13.7.** Section 14.8 of S.L. 2011-145 reads as rewritten:

**"SECTION 14.8.** ~~The~~ For the 2012-2013 fiscal year, the North Carolina Industrial Commission may shall retain the additional revenue generated as a result of an increase in the fee charged to parties for the filing of compromised settlements. These funds shall be used for the purpose of replacing existing computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase and to develop and administer the needed databases and new Electronic Case Management System, including the establishment of two time-limited positions for application development and support and mainframe migration. The Commission may not retain any fees under this section unless they are in excess of the former two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromised settlement."

## **EMPLOYMENT SECURITY RESERVE FUND**

**SECTION 13.8.(a)** Section 14.4 of S.L. 2011-145 reads as rewritten:

**"SECTION 14.4.(a)** Funds from the Employment Security ~~Commission~~ Reserve Fund shall be available to the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security ~~Commission~~ Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2011-2012~~ 2012-2013 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

**"SECTION 14.4.(b)** There is appropriated from the Employment Security ~~Commission~~ Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, the sum of twenty million dollars (\$20,000,000) for the ~~2011-2012~~ 2012-2013 fiscal year to be used for the following purposes:

- (1) \$19,500,000 for the operation and support of local Employment Security ~~Commission offices~~ offices operated by the Division of Employment Security.
- (2) \$200,000 to operate the system that tracks former participants in State education and training programs.
- (3) \$300,000 to maintain compliance with Chapter 96 of the General Statutes, which directs the ~~Commission~~ Department of Commerce, Division of Employment Security, to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

**"SECTION 14.4.(c)** There is appropriated from the Employment Security ~~Commission~~ Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, an amount not to exceed one million dollars (\$1,000,000) for the ~~2011-2012~~ 2012-2013 fiscal year to fund State initiatives not currently funded through federal grants.

**"SECTION 14.4.(d)** There is appropriated from the Worker Training Trust Fund to the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, the sum of one million dollars (\$1,000,000) for the ~~2011-2012~~ 2012-2013 fiscal year to fund "Opportunity NC," which provides work-based training opportunities to recipients of unemployment insurance benefits. Opportunity NC must meet all of the following factors:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.
- (2) The training is for the benefit of the trainee.
- (3) The trainees do not displace regular employees, but work under their close observation.
- (4) The employer who provides the training derives no immediate advantage from the activities of the trainees, and, on occasion, the employer's operations may actually be impeded.

- (5) The trainees are not necessarily entitled to a job at the conclusion of the training period.
- (6) The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

**"SECTION 14.4.(e)** Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the ~~Employment Security Commission of North Carolina Department of Commerce, Division of Employment Security,~~ may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one hundred million dollars (\$100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall be used for the operation of the unemployment insurance program.

**"SECTION 14.4.(f)** There is appropriated from the Employment Security Reserve Fund to the Department of Commerce, Division of Employment Security, the amount needed for the 2012-2013 fiscal year to fund the interest payment due to the federal government for the debt owed to the U.S. Treasury for unemployment benefits."

### **WORKER TRAINING TRUST FUND**

**SECTION 13.9.** Of the funds appropriated in this act to the Department of Commerce for the Worker Training Trust Fund, the sum of seventy-five thousand dollars (\$75,000) in nonrecurring funds for the 2012-2013 fiscal year is allocated to the North Carolina Rural Entrepreneurship through Action Learning (NC REAL) to support curriculum development, materials, and training for Small Business Centers.

### **WINE AND GRAPE GROWERS COUNCIL TRANSFERRED TO DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**SECTION 13.9A.(a)** All functions, powers, duties, and obligations previously vested in the Wine and Grape Growers Council within the Division of Travel and Tourism of the Department of Commerce are transferred to and vested in the Markets Division of the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

**SECTION 13.9A.(b)** Part 2J of Article 10 of Chapter 143B of the General Statutes is recodified as Article 62A of Chapter 106 of the General Statutes, and the reserved sections of redesignated Article 62 of Chapter 106 are redesignated as sections of Article 62A and read as rewritten:

~~Part 2J~~Article 62A. Wine and Grape Growers Council.

~~"§ 143B-437.90.~~ **§ 106-755.1. North Carolina Wine and Grape Growers Council – Creation; powers and duties.**

There is created the North Carolina Wine and Grape Growers Council of the Department of ~~Commerce.~~ Agriculture and Consumer Services. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State;
- (2) To assure orderly growth and development of North Carolina's grape and wine industry;
- (3) To achieve public awareness of the quality of North Carolina grapes and wine;
- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;
- (7) To receive and disburse funds;

- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;
- (9) To contract for research services to improve viticultural and enological practices in North Carolina;
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;
- (12) To acquire any licenses or permits necessary for performance of the duties of the Council; and
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.
- (14) By September 1 of each year, to report to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on the activities of the Council, the status of the wine and grape industry in North Carolina and the United States, progress on the development and implementation of the State Viticulture Plan, and any contracts or agreements entered into by the Council for research, education, or marketing.

~~"§ 143B-437.91, § 106-755.2.~~ **North Carolina Wine and Grape Growers Council – Composition; terms; reimbursement.**

(a) The North Carolina Wine and Grape Growers Council shall consist of 10 members who shall be appointed by the ~~Secretary of Commerce~~ Commissioner of Agriculture as provided in this section. The members of the Council shall be divided into an advisory committee for the Vinifera Group and an advisory committee for the Muscadines Group for the purpose of performing the powers and duties prescribed in G.S. 143B-437.90 and for the purpose of promoting North Carolina wineries and tourism related to the wineries.

(b) Each advisory committee shall consist of five members, who shall be appointed by the ~~Secretary of Commerce~~ Commissioner of Agriculture to serve two-year terms, which shall be staggered. The members appointed shall be chosen from among individuals who have education or experience in the wine industry or in the field of tourism. No member of an advisory committee may serve for more than two consecutive terms. Initial terms shall commence September 1, 2011.

(c) Each advisory committee shall meet at least twice each calendar year during which time each committee shall discuss issues related to the Council's powers and duties, including ways in which to promote and advertise North Carolina wineries and ways in which to improve, use, and distribute State maps showing winery locations. The Vinifera Group shall meet at the NC Shelton Badgett Viticulture Center at Surry Community College, and the Muscadines Group shall meet at Duplin Community College. After each meeting, each advisory committee shall report to the ~~Secretary of Commerce~~ Commissioner of Agriculture with its recommendations. Notwithstanding any other provision of law, committee members shall receive no salary, per diem, subsistence, travel reimbursement, or other stipend or reimbursement as a result of serving on their respective committees.

(d) Each advisory committee shall elect from the membership of each committee a chair and vice-chair. Vacancies resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term. A majority of the members of each committee shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of each committee shall be necessary for action to be taken by the committee."

**COUNCIL OF GOVERNMENT FUNDS**

**SECTION 13.10.** Section 14.12A(a) of S.L. 2011-145 is repealed.

## **GRASSROOTS SCIENCE PROGRAM**

**SECTION 13.11.** Section 14.11 of S.L. 2011-145 is amended by adding a new subsection to read as follows:

**"SECTION 14.11.(b1)** Any reductions in funds in the 2012-2013 fiscal year shall be taken on a pro rata basis from the museums listed in subsection (b) of this section."

## **REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS**

**SECTION 13.12.** Section 14.13 of S.L. 2011-145, as amended by Section 37 of S.L. 2011-391, reads as rewritten:

### **"REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS**

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

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

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and
- (2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of ~~one hundred seventy-four thousand eight hundred ninety dollars (\$174,890)~~ one hundred sixty-one thousand eight hundred sixty-one dollars (\$161,861) in the ~~2011-2012~~ 2012-2013 fiscal year, which sum represents (i) the total interest earnings in the prior fiscal year on the estimated balance of the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and
- (3) Next, the Department shall redistribute the sum of ~~one hundred seventy-four thousand eight hundred ninety dollars (\$174,890)~~ one hundred sixty-one thousand eight hundred sixty-one dollars (\$161,861) in the ~~2011-2012~~ 2012-2013 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

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

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

## **BIOFUELS CENTER OF NORTH CAROLINA**

**SECTION 13.12A.** Section 14.14 of S.L. 2011-145 is amended by adding a new subsection to read as follows:

**"SECTION 14.14.(a1)** Any reductions in funds in the 2012-2013 fiscal year shall be taken on a pro rata basis from the programs listed in subsection (a) of this section."

**NORTH CAROLINA BIOTECHNOLOGY CENTER**

**SECTION 13.12B.** Section 14.15 of S.L. 2011-145 is amended by adding a new subsection to read as follows:

**"SECTION 14.15.(a1)** Any reductions in funds in the 2012-2013 fiscal year shall be taken on a pro rata basis from the programs listed in subsection (a) of this section."

**RURAL CENTER/RURAL JOBS FUND**

**SECTION 13.13.** Section 14.20(d) of S.L. 2011-145 reads as rewritten:

**"SECTION 14.20.(d)** Rural Jobs Infrastructure Grants. – A Rural Jobs Infrastructure Grant is available to supplement other funds to be applied to the construction or installation costs of an eligible project. Other funds contributed to the project may include federal funds, State funds, and local funds, including contributions from private sector enterprises that may benefit from the proposed improvements. A Rural Jobs Infrastructure Grant is subject to the following provisions:

- (1) Eligibility. – A local government unit is eligible for a Rural Jobs Infrastructure Grant if it is a rural county or is located in a rural county.
- (2) Maximum grant amount. – Grant funds shall be available based upon the number of private sector jobs to be created as a result of the investment from the Rural Jobs Infrastructure Grant Fund. An applicant for a grant may request up to five thousand dollars (\$5,000) per job to be created. An applicant for a Rural Jobs Infrastructure Grant shall not receive more than five hundred thousand dollars (\$500,000) for a proposed infrastructure project. Notwithstanding the provisions of this subdivision, the Rural Center may, if it deems it reasonable and appropriate based upon the number of private sector jobs created and/or the anticipated benefits to the community, award grant funds to a local government that exceed five thousand dollars (\$5,000) per job to be created, provided that the average amount of the total grant funds from the funds appropriated in subsection (a) of this section does not exceed five thousand dollars (\$5,000) per job to be created.
- (3) Matching funds. – A local government unit shall match a Rural Jobs Infrastructure Grant on a dollar-for-dollar basis. As part of the matching funds, recipients of grant funds under the provisions of this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The required applicant cash-matching contribution shall come from local resources and may not be derived from other State or federal grant funds or from funds provided by the Rural Center."

**RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 13.13A.** Section 14.16(a) of S.L. 2011-145 reads as rewritten:

**"SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc., (Rural Center) the sum of ~~three million five hundred eighty-three thousand six hundred ninety-one dollars (\$3,583,691)~~ two million nine hundred twenty-two thousand eight hundred forty-six dollars (\$2,922,846) for ~~each year in the 2011-2013 biennium~~ the 2012-2013 fiscal year shall be allocated as follows:

	2011-2012	2012-2013
Center Administration, Technical Assistance, & Oversight	\$1,302,173	<del>\$1,302,173</del> \$1,062,047
Research and Demonstration Grants	\$294,120	<del>\$294,120</del> \$239,883
Institute for Rural Entrepreneurship	\$114,570	<del>\$114,570</del> \$93,443
Community Development Grants	\$844,250	<del>\$844,250</del> \$688,568
Microenterprise Loan Program	\$155,610	<del>\$155,610</del> \$126,915
Water/Sewer/Business Development Matching Grants	\$701,955	<del>\$701,955</del> \$572,512
Statewide Water/Sewer Database	\$79,523	<del>\$79,523</del> \$64,859

**RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

**SECTION 13.14.** Section 14.17 of S.L. 2011-145 reads as rewritten:

**"SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of ~~sixteen million five hundred five thousand seven hundred fifty eight dollars (\$16,505,758)~~ thirteen million four hundred sixty-two thousand forty-three dollars (\$13,462,043) for each year in the ~~2011-2013 biennium~~ the 2012-2013 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. The grants under this Program shall not be subject to the provisions of G.S. 143-355.4.
- (2) To provide matching grants or loans to local governments in distressed areas that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide grants and technical assistance to reinvigorate the economies of towns with populations of less than 7,500, and to invest in economic innovation that stimulates business and job growth in distressed areas.
- (4) Recipients of grant funds appropriated under this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds or from funds provided by the Rural Center.

...  
**"SECTION 14.17.(c)** ~~During each year of the 2011-2013 biennium,~~ For the 2012-2013 fiscal year, the Rural Center may use up to ~~three hundred twenty nine thousand one hundred seventy eight dollars (\$329,178)~~ three percent (3%) of the funds appropriated in this act ~~section~~ to cover its expenses in administering the North Carolina Economic Infrastructure Program.  
 ...."

**OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

**SECTION 13.14A.** Section 14.18(a) of S.L. 2011-145 reads as rewritten:

**"SECTION 14.18.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of ~~two hundred eighty seven thousand two hundred eighty dollars (\$287,280)~~ two hundred thirty-four thousand three hundred five dollars (\$234,305) for each year in the ~~2011-2013 biennium~~ the 2012-2013 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers (OICenters)."

**REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STUDY**

**SECTION 13.15.** The Legislative Research Commission is authorized to study the funding and alignment of the membership of each of the regional economic development commissions listed in Section 14.13 of S.L. 2011-145, as amended by Section 37 of S.L. 2011-391, in order to determine (i) whether the needs of each member organization are being adequately served by the commission of which it is a member and (ii) whether there are areas in which improvement in service can be made in the most cost-effective manner.

**PART XIV. DEPARTMENT OF PUBLIC SAFETY****DIVISION OF ADULT CORRECTION/RELEASE DATES**

**SECTION 14.1.** Notwithstanding any other provision of law, the Division of Adult Correction may establish more than two release dates per month for inmates leaving prison.

**INMATE MEDICAL COSTS**

**SECTION 14.2.(a)** Section 19.20 of S.L. 2009-451, as amended by Section 15A of S.L. 2009-575 and Section 19.6(h) of S.L. 2010-31, is repealed.

**SECTION 14.2.(b)** Section 18.10(d) of S.L. 2011-145 reads as rewritten:

**"SECTION 18.10.(d)** ~~The Department of~~ Division of Adult Correction shall report to the Joint Legislative Commission on Governmental Operations Oversight Committee on Justice and Public Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than November 1, 2011 ~~November 1, 2011~~ November 1, 2012, and quarterly thereafter on:

- (1) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted ~~providers; and~~ providers.
- (2) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
- (3) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.
- (4) The volume of inpatient medical services provided to Medicaid-eligible inmates, the cost of treatment, and the estimated savings of paying the nonfederal portion of Medicaid for the services.
- (5) The status of the Division's efforts to contract with hospitals to provide secure wards in each of the State's five prison regions."

#### **JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT POSITIONS**

**SECTION 14.2A.(a)** Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of Public Safety may reclassify existing vacant positions within the Department to create new probation parole officer, parole case analyst, and judicial service coordinator positions in order to meet the increasing caseloads resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

**SECTION 14.2A.(b)** The Department of Public Safety shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 1, 2013, on the following:

- (1) The position number, position type, salary, and position location of each new position created under the authority of this section.
- (2) The position number, position type, fund code, and position location of each vacant position used to create new positions under the authority of this section.

#### **TECHNICAL REVOCATION CENTER STUDY**

**SECTION 14.3.** The Division of Adult Correction of the Department of Public Safety shall study the feasibility of creating a technical violation center to house probationers ordered to serve a period of 90 days in confinement due to a technical violation of the condition of their probation. The study would determine the feasibility and cost-effectiveness of using such a center operated by the Community Corrections Section for confinements resulting from technical corrections rather than placing the probationers in State prison facilities. The Department shall report its findings and recommendations to the Office of State Budget and Management and the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than January 1, 2013.

#### **DEPARTMENT OF PUBLIC SAFETY MANAGEMENT FLEXIBILITY REDUCTIONS**

**SECTION 14.3A.** In implementing the management flexibility reductions required by this act for the 2012-2013 fiscal year, the Department of Public Safety shall not do any of the following:

- (1) Close Bladen Correctional Center.
- (2) Reduce community program funding in either the Division of Adult Correction or the Division of Juvenile Justice.
- (3) Eliminate any district level State Highway Patrol trooper positions.

## **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 14.4.** Funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice for the 2012-2013 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Division of Juvenile Justice regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Division of Juvenile Justice shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2012-2013 fiscal year and the allocation of funds by program and purpose. Any Juvenile Accountability Incentive Block Grant awarded to North Carolina is subject to the provisions of G.S. 143C-7-1 and shall not obligate the State financially in future fiscal years.

## **REPEAL REQUIREMENT REGARDING THE STAFFING TREATMENT MODEL AT YOUTH DEVELOPMENT CENTERS**

**SECTION 14.5.** Section 17.7 of S.L. 2011-145 is repealed.

## **MULTIPURPOSE GROUP HOME FUNDS**

**SECTION 14.6.** Of the funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice, the sum of five hundred fifty thousand dollars (\$550,000) shall be used to continue operating a multipurpose group home in Craven County.

## **JUVENILE CRIME PREVENTION COUNCIL FUNDS**

**SECTION 14.7.** Section 17.4(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 17.4.(b)** Of the funds appropriated by this act for the ~~2011-2012~~2012-2013 fiscal year to the ~~Department of Juvenile Justice and Delinquency Prevention~~ Department of Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars (\$121,600) shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State."

## **STRATEGIC PLAN FOR FACILITY CLOSURE, CONSTRUCTION, AND REPAIR**

**SECTION 14.8.** The Department of Public Safety shall study the population dynamics of detention and secure confinement at the Youth Development Centers operated by the Department and shall submit a strategic plan for facility closure, construction, and repair and renovation to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1, 2013. The strategic plan required by this section shall include cost estimates for any proposed projects.

## **STUDY USES FOR EDGECOMBE YOUTH DEVELOPMENT CENTER**

**SECTION 14.9.** The Department of Public Safety, in consultation and cooperation with the Department of Health and Human Services, shall study potential uses for the facilities at the Edgecombe Youth Development Center and recommend all possible means of continuing those facilities in productive use after the closure of that Center. The Department shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2012.

## **PART XV. DEPARTMENT OF JUSTICE**

### **ITEMIZED BILLING FOR LEGAL SERVICES PROVIDED TO STATE AGENCIES**

**SECTION 15.1.** Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

**"§ 114-8.5. Itemized billing for legal services provided to State agencies.**

Whenever the Department of Justice charges a State agency, board, or commission for legal services rendered by the Department, the Department shall do so by providing the agency,



board, or commission with an invoice that includes at least all of the following information for all charges:

- (1) The case or matter for which the agency, board, or commission is being charged.
- (2) The name of each attorney who worked on each case or matter and the number of hours worked by each attorney.
- (3) The hourly rate being charged by each attorney."

#### **BIANNUAL REPORTING ON ATTORNEY ACTIVITY**

**SECTION 15.2.** Beginning on February 1, 2013, and every six months thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous two quarters. The reports required by this section shall be filed with the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and with the Fiscal Research Division of the General Assembly as follows:

- (1) Agency-specific work. – A report on the work of Department of Justice attorneys for State agencies. This report shall include at least all of the following information:
  - a. The amount of time spent working for each State department and agency.
  - b. The amount of time spent on each case for each State department and agency.
  - c. The amount billed to each State agency for the legal services provided.
- (2) Other work. – A report on the work of Department of Justice attorneys that is not on behalf of a particular State agency. The report required by this subdivision shall include all of the information required by subdivision (1) of this section. The report shall include at least all of the following information:
  - a. The amount of time spent by each unit of the Department of Justice.
  - b. The amount of time spent on each particular matter for each unit of the Department of Justice.

#### **CONSOLIDATE OFFICE OF MANAGED CARE PATIENT ASSISTANCE PROGRAM BY TRANSFERRING THE DEPARTMENT OF JUSTICE, HEALTH INSURANCE CONSUMER PROTECTION UNIT, TO THE DEPARTMENT OF INSURANCE**

**SECTION 15.3.(a)** The Department of Justice, Health Insurance Consumer Protection Unit, and any portion of the Managed Care Patient Assistance Program managed by the Department of Justice is transferred to the Department of Insurance. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

**SECTION 15.3.(b)** G.S. 143-730(a) reads as rewritten:

"(a) The Office of Managed Care Patient Assistance Program is established in ~~an existing State agency or department designated by the Governor. The Director of the Office of Managed Care Patient Assistance Program shall be appointed by the Governor.~~ the Department of Insurance."

#### **ESTABLISH HUMAN TRAFFICKING COMMISSION**

**SECTION 15.3A.(a)** Establishment. – There is established in the Department of Justice the North Carolina Human Trafficking Commission.

**SECTION 15.3A.(b)** Members. – The Commission shall consist of 12 members as follows:

- (1) The President Pro Tempore of the Senate shall appoint one representative from each of the following:
  - a. The public at large.
  - b. A county sheriff's department.
  - c. A city or town police department.
- (2) The Speaker of the House of Representatives shall appoint one representative from each of the following:
  - a. The public at large.

- b. A county sheriff's department.
- c. A city or town police department.
- (3) The Governor shall appoint one representative from the public at large.
- (4) The following persons, or their designees, shall serve as ex officio members of the Commission:
  - a. The Secretary of Public Safety.
  - b. The Secretary of Administration.
  - c. The Secretary of Labor.
  - d. The Secretary of Health and Human Services.
  - e. The Attorney General.

**SECTION 15.3A.(c) Powers.** – The Commission shall have the following powers:

- (1) To apply for and receive, on behalf of the State, funding from federal, public or private initiatives, grant programs, or donors that will assist in examining and countering the problem of human trafficking in North Carolina.
- (2) To commission, fund, and facilitate quantitative and qualitative research to explore the specific ways human trafficking is occurring in North Carolina and the links to international and domestic human trafficking, and to assist in creating measurement, assessment, and accountability mechanisms.
- (3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services.
- (4) To suggest new policies, procedures, or legislation to further the work of eradicating human trafficking and to provide assistance and review with new policies, procedures, and legislation.
- (5) To assist in developing regional response teams or other coordinated efforts to counter human trafficking at the level of law enforcement, legal services, social services, and nonprofits.
- (6) To identify gaps in law enforcement or service provision and recommend solutions to those gaps.
- (7) To consider whether human trafficking should be added to the list of criminal convictions that require registration under the sex offender and public protection registration program.

**SECTION 15.3A.(d) Terms.** – Members shall serve until the Commission terminates.

**SECTION 15.3A.(e) Meetings.** – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

**SECTION 15.3A.(f) Quorum.** – A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

**SECTION 15.3A.(g) Vacancies.** – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

**SECTION 15.3A.(h) Removal.** – The Commission may remove a member for misfeasance, malfeasance, nonfeasance, or neglect of duty.

**SECTION 15.3A.(i) Compensation.** – Commission members shall receive no per diem for their services but shall be entitled to receive travel allowances in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as appropriate.

**SECTION 15.3A.(j) Staffing.** – The Department of Justice shall be responsible for staffing the Commission.

**SECTION 15.3A.(k) Termination.** – The Commission established under this section shall terminate on December 31, 2014.

**REQUIRE PLANNING OF WESTERN REGIONAL LABORATORY**

**SECTION 15.4.** From funds available, the Department of Justice shall plan a Western Regional Laboratory to be located on the Edneyville Campus of the Training Academy. The Department shall report on the plan to the Chairs of the House of

Representatives and Senate Appropriations Committees, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and to the Fiscal Research Division no later than February 1, 2013. The report shall include (i) the plans developed pursuant to this section; (ii) the estimated cost of completing the laboratory; (iii) the estimated cost of operating the laboratory during its first five years of operation; (iv) an estimated time line for completion of the laboratory; and (v) any other relevant information.

#### **NO ELIMINATION OF CRIME LAB POSITIONS**

**SECTION 15.5.** In implementing the management flexibility reductions required by this act for the 2012-2013 fiscal year, the Department of Justice shall not eliminate positions at laboratory facilities.

### **PART XVI. JUDICIAL DEPARTMENT**

#### **STUDY MANAGEMENT OF MAGISTRATE SCHEDULES**

**SECTION 16.1.** The Administrative Office of the Courts shall study the management of magistrate schedules throughout the General Court of Justice and make recommendations to (i) provide for more efficient use of the magistrates established for each county; and (ii) ensure that each county has sufficient coverage to adequately respond to law enforcement and the public. The Administrative Office of the Courts shall report its finding and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

#### **FAMILY COURT PROGRAMS**

**SECTION 16.2.** The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

#### **FOREIGN LANGUAGE INTERPRETERS FOR THE COURTS**

**SECTION 16.3.(a)** G.S. 7A-314(f) is repealed.

**SECTION 16.3.(b)** G.S. 7A-343 reads as rewritten:

##### **"§ 7A-343. Duties of Director.**

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

- ...
- (9c) Prescribe policies and procedures for the appointment and payment of foreign language ~~interpreters in those cases specified in G.S. 7A-314(f).~~ interpreters. These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.
- .....

**SECTION 16.3.(c)** The Judicial Department may use funds appropriated and funds available to the Department to provide assistance to persons with limited proficiency in English to assist the court in the fair, efficient, and accurate transaction of business and provide more meaningful access to the courts.

#### **EXTEND SUNSET ON PILOT PROJECT FOR ELECTRONIC FILING IN DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE COUNTY**

**SECTION 16.4.(a)** Section 15.13(b) of S.L. 2010-31 reads as rewritten:

**"SECTION 15.13.(b)** This section expires ~~June 30, 2012.~~ June 30, 2014."

**SECTION 16.4.(b)** This section becomes effective June 30, 2012.

#### **EXPAND USES FOR COURT INFORMATION TECHNOLOGY FUND**

**SECTION 16.5.(a)** G.S. 7A-343.2 reads as rewritten:

**"§ 7A-343.2. Court Information Technology and Facilities Fund.**

(a) Fund. – The Court Information Technology and Facilities Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

- (1) All monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.
- (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate State judicial facilities and the judicial and county courthouse phone systems. All other monies in the Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report by August 1 and February 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The report must include the following:

- (1) Amounts credited in the preceding six months to the Fund.
- (2) Amounts expended in the preceding six months from the Fund and the purposes of the expenditures.
- (3) Proposed expenditures of the monies in the Fund."

**SECTION 16.5.(b)** G.S. 7A-304 reads as rewritten:

**"§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Costs under this section may not be waived unless the judge makes a written finding of just cause to grant such a waiver.

- ...
- (2a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

....."  
**SECTION 16.5.(c)** G.S. 7A-305 reads as rewritten:

**"§ 7A-305. Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

- ...
- (1a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

...

(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more counterclaims or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

- ...
- (2) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

....."  
**SECTION 16.5.(d)** G.S. 7A-306 reads as rewritten:

**"§ 7A-306. Costs in special proceedings.**

(a) In every special proceeding in the superior court, the following costs shall be assessed:

...  
(1a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

....

**SECTION 16.5.(e)** G.S. 7A-307 reads as rewritten:

**"§ 7A-307. Costs in administration of estates.**

(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal property by affidavit, the following costs shall be assessed:

...

(1a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

....

**SECTION 16.5.(f)** G.S. 7A-49.5(d) reads as rewritten:

"(d) Any funds received by the Administrative Office of the Courts from the vendor selected pursuant to subsection (c) of this section, other than applicable statutory court costs, as a result of electronic filing, shall be deposited in the Court Information Technology and Facilities Fund in accordance with G.S. 7A-343.2."

**SECTION 16.5.(g)** G.S. 7A-109(d) reads as rewritten:

"(d) In order to facilitate public access to court records, except where public access is prohibited by law, the Director may enter into one or more nonexclusive contracts under reasonable cost recovery terms with third parties to provide remote electronic access to the records by the public. Costs recovered pursuant to this subsection shall be remitted to the State Treasurer to be held in the Court Information Technology and Facilities Fund established in G.S. 7A-343.2."

**SECTION 16.5.(h)** G.S. 7A-455.1(f) reads as rewritten:

"(f) Of each appointment fee collected under this section, the sum of fifty-five dollars (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology and Facilities Fund under G.S. 7A-343.2. These fees shall not revert."

**SECTION 16.5.(i)** This section is effective when it becomes law, and expires June 30, 2013.

**WAIVER OF MEDIATION FEES TO REQUIRE FINDING OF JUST CAUSE**

**SECTION 16.6.(a)** G.S. 7A-38.7 reads as rewritten:

**"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to three dollars (\$3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. The court may waive or reduce a fee assessed under this section only upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to grant the waiver or reduction.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section and shall attach the receipt to the dismissal form."

**SECTION 16.6.(b)** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be

assessed when a case is dismissed. ~~Costs under this section may not be waived unless the judge makes a written finding of just cause to grant such a waiver. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.~~

- ...
- (7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. ~~The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.~~
- (8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation under subdivision (7) of this subsection. ~~The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.~~
- (9) For the support and services of the State Bureau of Investigation DNA Database and DNA Databank, the sum of two dollars (\$2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

....

**SECTION 16.6.(c)** This section becomes effective July 1, 2012, and applies to fees waived on or after that date.

#### **COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 16.7.** Section 15.4 of S.L. 2011-145 reads as rewritten:

**"SECTION 15.4.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on ~~June 30, 2011, June 30, 2012,~~ for the purchase or repair of office or information technology equipment during the ~~2011-2012 fiscal year, 2012-2013 fiscal year.~~ Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on ~~Governmental Operations and Operations,~~ the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public ~~Safety-Safety,~~ and the Office of ~~State Budget and Management~~ on the equipment to be purchased or repaired and the reasons for the purchases."

#### **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

**SECTION 16.8.** Section 15.16(a) of S.L. 2011-145 reads as rewritten:

**"SECTION 15.16.(a)** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices

currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the ~~2011-2012 fiscal year~~ 2011-2013 biennium and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."

#### **OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

**SECTION 16.9.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office 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.

#### **PART XVII. OFFICE OF THE STATE AUDITOR**

##### **EXEMPT OCCUPATIONAL LICENSING BOARDS FROM PAYING FOR AUDITS UNDER CERTAIN CIRCUMSTANCES**

**SECTION 17.1.** G.S. 93B-4 reads as rewritten:

**"§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.**

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

~~The cost of all audits shall be paid from funds of the occupational licensing board audited.~~

(b) Each occupational licensing board with a budget of at least fifty thousand dollars (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor."

##### **SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS – AUDIT**

**SECTION 17.2.** G.S. 116-30.8 reads as rewritten:

**"§ 116-30.8. Special responsibility constituent institutions: annual audit by State Auditor or certified public accountant.**

Each special responsibility constituent institution shall be audited annually. The Chancellor of the special responsibility constituent institution may use State funds to contract with the State Auditor or with a certified public accountant to perform the audit. The contract for audit services may be for up to three years in duration. The audit shall be provided to the Chancellor and Board of Trustees of the special responsibility institution, the Board of Governors of The University of North Carolina, and the State Auditor. The audit shall also be included in the State's Comprehensive Annual Financial Report (CAFR).

The Board of Governors of The University of North Carolina shall ensure that all special responsibility constituent institutions are audited in accordance with this section."

##### **AUDITOR PUBLISH COST OF AUDITS**

**SECTION 17.3.** Article 5A of Chapter 147 of the General Statutes is amended by adding a new section to read:

**"§ 147-64.6C. Cost of audit report published.**

Each audit report shall itemize the number of staff hours used in conducting the audit and in preparation of the audit report and the total cost of conducting the audit and preparing the audit report."

## AGENCY PUBLISH COST OF AUDITS

**SECTION 17.4.** Article 5A of Chapter 147 of the General Statutes is amended by adding a new section to read:

**"§ 147-64.6D. Cost of CPA audit report published.**

Each audit report prepared for a State agency by a Certified Public Accountant shall itemize the number of hours used in conducting the audit and in preparation of the audit report and the total cost of conducting the audit and preparing the audit report."

## PART XVIII. DEPARTMENT OF CULTURAL RESOURCES

### ROANOKE ISLAND COMMISSION REPORTING REQUIREMENT

**SECTION 18.1.** G.S. 143B-131.4 reads as rewritten:

**"§ 143B-131.4. Commission reports.**

Before July 1, 1995, the Commission shall submit to the General Assembly a comprehensive report incorporating specific recommendations of the Commission for development and promotion of the Elizabeth II State Historic Site and Visitor Center. After the initial report, the Commission shall submit a quarterly report to the General Assembly within 30 days of the convening of each Regular Session of the General Assembly. Chairs of the House Appropriations Subcommittee on General Government and the Chairs of the Senate Appropriations Committee on General Government and Information Technology and to the Fiscal Research Division of the General Assembly. The report shall include:

- (1) A summary of actions taken by the Commission consistent with the powers and duties of the Commission set forth in G.S. 143B-131.2.
- (2) Recommendations for legislation and administrative action to promote and develop the Elizabeth II State Historic Site and Visitor Center.
- (3) An accounting of funds received and expended."

### MODIFY STATE HISTORIC SITES SPECIAL FUND TO INCLUDE STATE HISTORY MUSEUMS

**SECTION 18.2.** G.S. 121-7.7 reads as rewritten:

**"§ 121-7.7. State Historic Sites and Museums special fund.**

(a) Fund. – The State Historic Sites and Museums Fund is created as a special, interest-bearing revenue fund in the Division of State Historic ~~Sites~~.Sites and the Division of State History Museums. The Fund consists of all receipts derived from the lease or rental of property or facilities, disposition of structures or products of the land, private donations, and admissions and fees collected at the State Historic ~~Sites~~.Sites, State History Museums, and Maritime Museums. The revenues in the Fund may be used only for the operation, interpretation, maintenance, preservation, development, and expansion of the individual State Historic ~~Site~~.Site, State History Museum, and Maritime Museum where the receipts are generated. The respective Division and the staff from each State Historic Site, State History Museum, and Maritime Museum will determine how the funds will be used at that Historic ~~Site~~.Site, State History Museum, and Maritime Museum.

(b) Application. – This section applies to the individual State Historic Sites and State History and Maritime Museums owned by or under the control of the Division of State Historic ~~Sites~~.Sites and the Division of State History Museums, with the exception of the Bentonville Battlefield State Historic ~~Site~~.Site and the North Carolina Transportation Museum. The Bentonville Battlefield State Historic Site is subject to G.S. 121-7.5. The North Carolina Transportation Museum is subject to G.S. 121-7.6.

(c) Reports. – The Department of Cultural Resources must submit to the Joint Legislative Commission on Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on General Government, and the Fiscal Research Division by September 30 of each year a report on the Fund that includes the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

### REQUIRE DEPARTMENT OF CULTURAL RESOURCES AND ROANOKE ISLAND COMMISSION TO DEVELOP FIVE-YEAR PLANS FOR CERTAIN HISTORIC SITES



**SECTION 18.3.** The Department of Cultural Resources shall develop comprehensive five-year plans for the Tryon Palace Historic Sites and Gardens and the North Carolina Transportation Museum. The Roanoke Island Commission shall develop a comprehensive five-year plan for the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, and all other properties under the administration of the Department of Cultural Resources located on Roanoke Island. The plans shall describe in detail revenue and expenditure projections, proposed reductions in scope or expenditures, and each site's plans to further develop non-State sources of funding in accordance with the reductions in appropriations implemented in S.L. 2011-145, including the feasibility of privatization. The Department and the Roanoke Island Commission shall submit their reports to the Chairs of the House Appropriations Subcommittee on General Government and the Chairs of the Senate Appropriations Committee on General Government and Information Technology by February 1, 2013.

## **PART XIX. GENERAL ASSEMBLY**

### **PROGRAM EVALUATION DIVISION TO STUDY THE DUTIES AND SERVICES OF THE NORTH CAROLINA HUMAN RELATIONS COMMISSION AND THE CIVIL RIGHTS DIVISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

**SECTION 19.1.** Section 20.2 of S.L. 2011-145, as amended by Section 45(b) of S.L. 2011-391, reads as rewritten:

**"SECTION 20.2.(a)** ~~The Legislative Research Commission is authorized to~~Program Evaluation Division shall study the duties and services of the North Carolina Human Relations Commission and the Civil Rights Division of the Office of Administrative Hearings to determine whether there is unnecessary overlap and duplication of services and recommend the placement of the Commission and Division in the appropriate agency or agencies.

**"SECTION 20.2.(b)** ~~The Legislative Research Commission may make an interim report by May 1, 2012, to the Chairs of the House Appropriations Subcommittee on General Government and the Chairs of the Senate Appropriations Committee on General Government and Information Technology.~~Program Evaluation Division shall report its findings upon the convening of the 2013 General Assembly.

**"SECTION 20.2.(c)** This section is effective when it becomes law."

## **PART XX. DEPARTMENT OF INSURANCE**

### **DOI TO STUDY FIRE PROTECTION GRANT FUND**

**SECTION 20.1.(a)** The Department of Insurance shall study how the fund distribution method for the State Fire Protection Grant Fund could more fully meet the requirement of G.S. 58-85A-1(b) that the distribution method be equitable and uniform. The study shall consider the following factors, as well as any other factors the Department finds relevant:

- (1) Whether the basis for determining the amount of compensation due a local fire district or political subdivision for providing local fire protection to State-owned buildings and their contents actually reflects the cost to the local fire district or political subdivision of providing the fire protection services.
- (2) How the division in funds among properties supported by the General Fund, properties supported by the Highway Fund, and properties supported by The University of North Carolina receipts required by G.S. 58-85A-1(c) should be revised to support fire protection services provided to State-owned properties not receiving support from those Funds or receipts.

**SECTION 20.1.(b)** The Department shall report its findings and any recommendations for revision of the fund distribution method to the House and Senate Appropriations Subcommittees on General Government and to the Fiscal Research Division on or before October 1, 2012.

### **INCREASE CONSUMER PROTECTION FUND RETAINED AMOUNT**

**SECTION 20.2.** G.S. 58-2-215 reads as rewritten:  
**"§ 58-2-215. Consumer Protection Fund.**

...

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the continuation budget of the Department of Insurance. Such continuation budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on the Fund exceeds the amount yielded by the application of the official inflation rate, such continuation budget amount shall be the actual expenditures drawn from the Fund, ~~except that the appropriation for the 1995-96 fiscal year shall not exceed the sum of seven hundred fifty thousand dollars (\$750,000) and for the 1996-97 fiscal year shall not exceed the sum of two hundred fifty thousand dollars (\$250,000).~~ Fund. In the event the amount in the Fund exceeds ~~two hundred fifty thousand dollars (\$250,000)~~ five hundred thousand dollars (\$500,000) at the end of any fiscal year, ~~beginning with the 1995-96 fiscal year,~~ such excess shall revert to the General Fund.

...."

## **FUNDING OF BUILDING CODE REVIEWS FOR STATE BUILDINGS**

**SECTION 20.3.** Section 7 of Session Law 2009-474 reads as rewritten:

**"SECTION 7.** The Department of Insurance shall transfer to the Department of Administration four building code review positions selected by the Department of Administration for the purpose of assisting the Department of Administration in administering G.S. 143-341(3) and G.S. 143-139(e). These positions shall be supported by the Insurance Regulatory Fund at one hundred percent (100%) of the full budgeted amount for each position ~~from fiscal year 2009-2010 through fiscal year 2011-2012. Beginning fiscal year 2012-2013, the State Treasurer, as custodian of the State Property Fire Insurance Fund, shall support those positions out of the State Property Fire Insurance Fund.~~ position."

## **DOI TO ASSESS VOLUNTEER SAFETY WORKERS COMPENSATION FUND**

**SECTION 20.4.(a)** The Department of Insurance, from funds available to it, shall contract with an independent actuary to assess the Volunteer Safety Workers Compensation Fund. The assessment shall include the following components:

- (1) Recommendations as to the level of funding required to ensure that the Fund can meet its financial obligations.
- (2) The level and duration of funding required for the Fund to become self-sufficient in the future.
- (3) The nature of the claims paid by the Fund and any claims-related trends that impact the health of the Fund.
- (4) Recommendations as to the appropriate level of premiums to be paid by members or their departments.
- (5) A projection of revenues to the Fund from sources other than State funding.
- (6) A comparison of the projected timing and risk of the cash flow from investments with the cash flow needed to pay claims.

No later than October 1, 2012, the Department shall report the independent actuary's assessment and findings and also provide a comparison of the premiums paid into the Fund and premiums paid by municipal fire departments for their employees' workers compensation insurance to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on General Government, and the Fiscal Research Division.

**SECTION 20.4.(b)** The General Assembly anticipates that local contributions to the fund by premiums or otherwise will need to be increased beginning with fiscal year 2013-2014 to restore the actuarial soundness of the Fund.

## **PART XXI. DEPARTMENT OF THE SECRETARY OF STATE**

### **TREAT FEES COLLECTED BY CHARITABLE LICENSING DIVISION LIKE OTHER FEES COLLECTED BY THE SECRETARY OF STATE**

**SECTION 21.1.** Fees collected under Chapter 131F of the General Statutes shall be deposited into the General Fund.

## **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

### **NC SYMPHONY FUNDING**

**SECTION 22.1.** Section 25.2 of S.L. 2011-145 reads as rewritten:

**"SECTION 25.2.(a)** Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the ~~2011-2012~~2012-2013 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section.

**"SECTION 25.2.(b)** It is the intent of the General Assembly that the NC Symphony achieve its goal of raising the sum of eight million dollars (\$8,000,000) in non-State funding to support the operations of the Symphony. To that end, upon demonstrating to the Office of State Budget and Management that the NC Symphony has reached fund-raising targets in the amounts set forth in this subsection, the NC Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) for the ~~2011-2012~~2012-2013 fiscal year.

**"SECTION 25.2.(c)** The NC Symphony cannot use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set forth in subsection (b) of this section. Funds allocated pursuant to this section are in addition to any other funds allocated to the NC Symphony in this act."

### **AUTHORIZATION TO SPEND FUNDS FOR CERTAIN PURPOSES**

**SECTION 22.2.** Notwithstanding G.S. 143C-6-5, the Office of State Budget and Management may use funds within Budget Code 13005 to do the following:

- (1) Reclassify one or more vacant positions to Senior Economists to provide support in developing Medicaid projections and monitoring Medicaid expenditures.
- (2) Support Integrated Budget Information System ongoing operations and maintenance costs.

## **PART XXII-A. DEPARTMENT OF REVENUE**

### **PROSECUTION OF CASES INVOLVING TAX FRAUD**

**SECTION 22A.1.** The Department of Revenue and the Department of Justice shall enter into an agreement through which the Department of Revenue shall provide funding for an Attorney IV to be employed by the Department of Justice. This position shall be assigned on a full-time basis to assist the Department of Revenue in the investigation and prosecution of cases involving tax fraud.

The agreement shall specify that the attorney shall report periodically to the Secretary of Revenue on his or her work time devoted to prosecution of tax fraud cases rather than to other work within the Department of Justice.

## **PART XXIII. STATE BOARD OF ELECTIONS**

### **HAVA FUNDS/DISABILITY ACCESS**

**SECTION 23.1.** The State Board of Elections shall not expend any Help America Vote Funds (HAVA) Title II Funds for the 2012-2013 fiscal year and, unless prohibited by federal law, shall retain those funds until Maintenance of Effort funds are appropriated, except that voting accessibility funds granted by the Secretary of Health and Human Services under

Section 261 of HAVA may be applied for and expended by the State Board of Elections to improve voting accessibility for the disabled.

## **ELECTION SYSTEM MAINTENANCE CONTRACTS**

**SECTION 23.3.(a)** G.S. 163-165.9(b)(2) reads as rewritten:

"(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board of Elections regarding training and support of the voting system by completing all of the following:

- ...
- (2) The county board of elections shall annually maintain software license and maintenance agreements necessary to maintain the warranty of its voting system. A county board of elections may employ qualified personnel to maintain a voting system in lieu of entering into maintenance agreements necessary to maintain the warranty of its voting system. State Board of Elections is not required to provide routine maintenance to any county board of elections that does not maintain the warranty of its voting system. If the State Board of Elections provides any maintenance to a county that has not maintained the warranty of its voting system, the county shall reimburse the State for the cost. The State Board of Elections shall annually report to the House and Senate Committees on Appropriations, to the Fiscal Research Division, and to the Joint Legislative Commission on Governmental Operations on implementation of this subdivision. If requested by the county board of elections, the State Board of Elections may enter into contracts on behalf of that county under this subdivision, but such contracts must also be approved by the county board of elections. Any contract entered into under this subdivision shall be paid from non-State funds. Neither a county nor the State Board of Elections shall enter into any contract with any vendor for software license and maintenance agreements unless the vendor agrees to (i) operate a training program for qualification of county personnel under this subsection with training offered within the State of North Carolina and (ii) not dishonor warranties merely because the county is employing qualified personnel to maintain the voting system as long as the county:
- a. Pays the costs of the annual software licensing agreement for that county.
  - b. Ensures that equipment (i) remains in full compliance with State certification requirements and (ii) remains in stock and supply available to the county for up to five years after the vendor discontinues distribution or sale of the equipment.
  - c. Maintains a tracking record to record and timely report all hardware issues and all repairs and provides those records for review by the vendor and by the State Board of Elections.
  - d. Provides that only parts provided by the vendor would be used to repair the vendor's equipment, contingent on (i) the county being able to purchase necessary parts in a timely manner from the vendor and (ii) the vendor providing the equipment at least at the lowest price at which it sells the equipment to any other customer in the United States.
  - e. Accepts financial responsibility for expenses related to voting equipment failure during an election if the failure is caused solely by work of the county technician."

**SECTION 23.3.(b)** In administering G.S. 163-165.9(b)(2), as amended by this section, the State Board of Elections shall work with all county boards of elections interested in obtaining certification for voting equipment maintenance technicians. The State Board of Elections shall work with the county boards of elections to develop a consensus estimate of the percentage of hardware maintenance previously provided by the vendor that will continue to be provided by the vendor rather than by the certified county technicians. In any contract entered into by either a county or the State Board of Elections on behalf of counties for voter equipment maintenance that includes certification of county technicians, the price paid for hardware maintenance agreements shall not exceed the equivalent of the consensus percentage

multiplied by the number of machines multiplied by the price per machine paid to the vendor for hardware maintenance agreements for the 2011-2012 fiscal year.

**SECTION 23.3.(c)** The amendment to G.S. 163-165.9(b)(2) made by subsection (a) of this section applies to contracts entered into, modified, or extended on or after July 1, 2012.

#### **SBOE SUPPLEMENTAL REPORT ON VOTER-OWNED ELECTIONS ACT**

**SECTION 23.5.** The State Board of Elections shall not later than July 25, 2012, provide to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division a supplemental report on the administration and implementation of Article 22J of Chapter 163 of the General Statutes, the Voter-Owned Elections Act, including all certified candidates for the 2012 General Election and the amounts that have been and will be distributed to each such candidate.

#### **PART XXIV. DEPARTMENT OF TRANSPORTATION**

##### **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 24.1.(a)** Section 28.1 of S.L. 2011-145 is repealed.

**SECTION 24.1.(b)** The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2013-2014	\$ 2,162.1 million
For Fiscal Year 2014-2015	\$ 2,281.8 million
For Fiscal Year 2015-2016	\$ 2,407.2 million
For Fiscal Year 2016-2017	\$ 2,523.8 million

**SECTION 24.1.(c)** The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2013-2014	\$ 1,120.0 million
For Fiscal Year 2014-2015	\$ 1,195.5 million
For Fiscal Year 2015-2016	\$ 1,284.0 million
For Fiscal Year 2016-2017	\$ 1,336.9 million

##### **FURTHER PRIVATIZATION OF PRE-CONSTRUCTION ACTIVITIES**

**SECTION 24.2.** For fiscal year 2013-2014, the Department of Transportation shall increase the outsourcing of preliminary engineering projects from fifty percent (50%) of the total funds in the annual work plan, as required by Section 28.9.(3) of S.L. 2011-145, to sixty percent (60%) of the total funds in the annual work plan.

##### **FUNDS FROM INSPECTION PROGRAM ACCOUNT FOR OTHER HIGHWAY FUND USES**

**SECTION 24.3.** Notwithstanding G.S. 20-183.7(d), the sum of five million dollars (\$5,000,000) from the Inspection Program Account within the Highway Fund, as established under G.S. 20-183.7(d), is appropriated and allocated as shown in this act.

##### **CLARIFY USE OF CREDIT RESERVE BALANCE IN HIGHWAY FUND**

**SECTION 24.6.** G.S. 136-44.2 reads as rewritten:

###### **"§ 136-44.2. Budget and appropriations.**

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall include State-maintained, nonhighway modes of transportation as well.

(b) All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be

listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

(f) If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this ~~paragraph-subsection~~. The Director of the Budget ~~may~~ shall allocate ~~part or all of the excess among reserves to a reserve (i) for access and public roads, for unforeseen events requiring prompt action, roads or (ii) for other urgent needs. The amount not allocated to any of these reserves by the Director of the Budget shall be credited to a reserve for maintenance. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of funds in the maintenance reserve. The use of this reserve shall be subject to the following:~~

- (1) Restrictions on use. – No more than five million dollars (\$5,000,000) from this reserve may be spent on a single project. Funds from this reserve being used for an "other urgent need" project cannot be used for administrative costs, information technology costs, or economic development.
- (2) Approval. – The Department of Transportation shall submit for approval to the Director of the Budget all expenditures from the reserve established under this subsection.
- (3) Reporting. – At least five days, not including State holidays or weekend days, prior to submitting an expenditure request to the Director of the Budget under subdivision (2) of this subsection, the Department of Transportation shall submit a report on the expenditure request to the Fiscal Research Division and to the members of the House Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation. Such report shall be certified by the chief financial officer of the Department of Transportation and shall include (i) a project description, (ii) whether the project is for access and public roads or for other urgent needs, (iii) a justification of the project, (iv) the total project cost, (v) the amount of funding for the project coming from the reserve, and (vi) other funding sources for the project.
- (4) Carryforward. – If on the last day of the fiscal year the balance in the reserve established by this subsection is greater than five million dollars (\$5,000,000), then the Director of the Budget shall transfer the amount in excess of that sum to the Reserve for General Maintenance in the Highway Fund.

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate

30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

#### **ADJUST TURNPIKE GAP FUND APPROPRIATIONS**

**SECTION 24.7.(a)** Any funds appropriated to the North Carolina Turnpike Authority under G.S. 136-176(b2) to cover debt service or related financing costs for the Mid-Currituck Bridge project and that remain unencumbered at the end of fiscal year 2011-2012 are hereby transferred back to the Highway Trust Fund to be appropriated and allocated as shown in this act.

**SECTION 24.7.(b)** Notwithstanding G.S. 136-176(b2), the funds appropriated under G.S. 136-176(b2) to the Mid-Currituck Bridge and Garden Parkway projects for fiscal year 2012-2013 are hereby transferred back to the Highway Trust Fund to be appropriated and allocated as shown in this act.

#### **CODIFY MOBILITY FUND FORMULA DEVELOPED BY DEPARTMENT OF TRANSPORTATION**

**SECTION 24.8.(a)** G.S. 136-188 reads as rewritten:

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

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

(b) ~~The~~ Notwithstanding subsections (c) and (d) of this section, the initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Bridge.

(c) To be eligible for funding from the Mobility Fund, a project must meet the following requirements:

- (1) The project must be on statewide or Regional tier facilities.
- (2) The project must be ready to have funds obligated for construction within five years.
- (3) The project must be (i) consistent with MPO/RPO transportation planning efforts, (ii) included in an adopted transportation plan, and (iii) found to be consistent with local land-use plans, where available. As used in this subdivision, "MPO" means metropolitan planning organization and "RPO" means rural transportation planning organization.
- (4) The project must be in a conforming transportation plan if the project is in a non-attainment or maintenance area.
- (5) Only the project's capital costs, including right-of-way acquisition and construction, may be funded. Maintenance, operation, and planning costs may not be funded from the Mobility Fund.
- (6) There is no minimum project capital cost as a threshold for funding a project.

(d) Eligible projects shall be scored and ranked, with the highest scored projects receiving funding priority. Ranking scores shall be determined according to the following formula:

- (1) Mobility benefit-cost. – Eighty percent (80%) of the ranking score shall be the estimated travel time savings in vehicle hours that the project will provide over 30 years divided by the cost of the project to the Mobility Fund.
- (2) Multimodal/intermodal. – Twenty percent (20%) of the ranking score shall be based on whether the project provides an improvement to more than one mode of transportation and what types of other modes of transportation are involved in the project. Using a scale from zero to 100, the Department of Transportation shall provide for the assignment of points under this subdivision. The Department's determination of a point system under this

subdivision shall not be subject to rulemaking under Chapter 150B of the General Statutes."

**SECTION 24.8.(b)** Section 28.33(c) of S.L. 2011-145 is repealed.

### **CIVIL PENALTIES TO BE TREATED AS RECEIPTS FOR TRANSFER TO CIVIL PENALTY AND FORFEITURE FUND**

**SECTION 24.9.** The clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by the Department of Transportation for transfer to the Civil Penalty and Forfeiture Fund and which are currently recorded as revenue in the Highway Fund (Budget Code 84210) shall be eliminated from the Estimated Revenue for the Highway Fund. The corresponding Highway Fund appropriation in Fund 150889 shall also be eliminated.

Rather than recording the proceeds as revenue, the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by the Department of Transportation for transfer to the Civil Penalty and Forfeiture Fund shall be recorded as receipts and budgeted in a totally receipt-supported fund center (150889) in the Highway Fund (Budget Code 84210) for transfer to the Civil Penalty and Forfeiture Fund.

### **POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM**

**SECTION 24.10.(a)** Upon request from the Department of Transportation and notwithstanding any other provision of law to the contrary, the Office of State Budget and Management may authorize the creation of time-limited, full-time equivalent positions within the Department of Transportation and its Division of Motor Vehicles in excess of the positions authorized by this act for the sole purposes of implementing and administering the combined motor vehicle registration and property tax collection system, in accordance with the funding authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this authorization shall terminate no later than June 30, 2014. Following the approval of a request, the Office of State Budget and Management shall direct the transfer of funds from the Combined Motor Vehicle and Registration Account, also known as the Division of Motor Vehicles Taxation Interest Fund for Integrated Computer System, to support personnel and related operating costs for the positions approved under this section.

**SECTION 24.10.(b)** Beginning October 1, 2012, the Office of State Budget and Management shall report quarterly on all transfers of funds from the Combined Motor Vehicle and Registration Account (Combined Account) and positions supported by the Combined Account during the 2012-2013 fiscal year to the House Appropriations Subcommittee on Transportation, the Senate Appropriations Committee on Department of Transportation, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. The report shall include, at a minimum, the following:

- (1) A summary of activities funded by the Combined Account to date.
- (2) Amounts transferred from the Combined Account and expended per activity.
- (3) A detailed listing of positions funded by receipts to the Combined Account, identifying the position number, title, effective date and duration, cost, functions performed, and organizational unit to which the position is assigned.

**SECTION 24.10.(c)** No later than May 1, 2013, the Department of Revenue and the Department of Transportation shall jointly report on the status of the Memorandum of Understanding required by G.S. 105-330.11 to the following: the House Appropriations Subcommittee on Transportation, the Senate Appropriations Committee on Department of Transportation, the cochairs of the House Appropriations Committee, the cochairs of the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division. The report shall identify the estimated recurring costs of system administration and proposed administrative fees to support the costs of combined notice generation and collection of registration fees and vehicle property taxes.

### **REDUCE MOTOR FUEL EXCISE TAX RATE**

**SECTION 24.11.** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012, through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.



## **USE OF UNEXPENDED CONTINGENCY FUNDS**

**SECTION 24.12.** Notwithstanding any other provision of law and not including the funds appropriated in Section 28.6(2) of S.L. 2011-145 for the 2011-2013 fiscal biennium, the sum of twenty-two million dollars (\$22,000,000) is transferred from the unexpended balance of contingency fund appropriations to the Highway Fund. That sum is appropriated and allocated as shown in this act.

## **INCREASE GENERAL FUND TRANSFER FROM HIGHWAY FUND**

**SECTION 24.13.** Notwithstanding Section 28.27(b) of S.L. 2011-145 or any other provision of that act, as amended, the amount transferred from the Highway Fund to the General Fund under that act is hereby increased by eight million dollars (\$8,000,000) in fiscal year 2012-2013.

## **EXEMPT B.S.I.P. SYSTEM FROM INFORMATION TECHNOLOGY HOSTING REQUIREMENT**

**SECTION 24.14.** Section 6A.2(f) of S.L. 2011-145, as amended by Section 11(c) of S.L. 2011-391, reads as rewritten:

**"SECTION 6A.2.(f)** Information Technology Hosting. – State agencies developing and implementing information technology projects/applications shall use the State infrastructure to host their ~~projects~~ projects, except for the SAP Business System Integration Portal (BSIP) system of the North Carolina Department of Transportation. An exception to this requirement may be granted only if approved by either the State Chief Information Officer on the basis of technology requirements or by the Office of State Budget and Management based on cost savings, subject to consultation with the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology.

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

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

## **PRIORITIZE PAVING OF UNPAVED ROADS THROUGHOUT THE STATE**

**SECTION 24.15.** For fiscal year 2012-2013, the Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization, notwithstanding the distribution formula in G.S. 136-17.2A or any other funding distribution formula in law. This section applies to funding for the paving of secondary roads from both the Highway Fund and the Highway Trust Fund.

## **APPLY STATE ETHICS ACT TO METROPOLITAN PLANNING ORGANIZATIONS AND RURAL PLANNING ORGANIZATIONS**

**SECTION 24.16.(a)** G.S. 136-202 is amended by adding a new subsection to read:

**"(e)** A Metropolitan Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."

**SECTION 24.16.(b)** G.S. 136-211 is amended by adding a new subsection to read:

**"(e)** Ethics Requirements. – A Rural Transportation Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."

**SECTION 24.16.(c)** Members of Metropolitan Planning Organizations and Rural Transportation Planning Organizations shall file an initial Statement of Economic Interest with the State Ethics Commission no later than April 15, 2013. All information provided in the Statement of Economic Interest shall be current as of December 31, 2012. The initial Statement of Economic Interest shall be filed electronically.

**SECTION 24.16.(d)** This section becomes effective January 1, 2013.

## **CLARIFY FERRY TOLLING**

**SECTION 24.18.(a)** G.S. 136-82 reads as rewritten:

**"§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may so require, and ~~to prescribe and shall collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient tolls, as established by the Board of Transportation, on the ferry routes.~~ The Board of Transportation shall establish tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

**SECTION 24.18.(b)** The Department of Transportation shall disregard Executive Order No. 116, or any other executive order pertaining to ferry tolls, and shall collect the tolls required by S.L. 2011-145 and this section, except for the Cherry Branch/Minnesott Beach route, for which the Department of Transportation shall not collect the increased tolls required by S.L. 2011-145 during fiscal year 2012-2013.

#### **PUBLIC TRANSPORTATION FUNDING ADJUSTMENTS**

**SECTION 24.19.(a)** The Regional New Starts & Capital Program within the Public Transportation Division of the Department of Transportation is eliminated. The unexpended balance of funds for this program is reallocated to the LYNX Blue Line Extension/Northeast Corridor project.

**SECTION 24.19.(b)** Effective July 1, 2013, G.S. 136-176 is amended by adding a new subsection to read as follows:

**"§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.**

...  
(e) Subject to G.S. 136-17.2A and other funding distribution formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section may also be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

#### **REPEAL PROGRAM EVALUATION DIVISION STUDY OF NORTH CAROLINA RAILROAD COMPANY**

**SECTION 24.20.** Section 28.12A of S.L. 2011-145, as amended by Section 52 of S.L. 2011-391, is repealed.

#### **STUDY INTERSTATE 95 TOLLING**

**SECTION 24.21.(a)** The Department of Transportation shall conduct a comprehensive study of the transportation corridor containing Interstate 95, including, but not limited to, the following:

- (1) The economic impact of tolling the present road on the residents and businesses along the Interstate 95 corridor.
- (2) The impact of tolling the present road on the alternative routes to Interstate 95, including expected increased traffic on those routes, any safety issues created by any increased traffic on those routes, and expected travel time delays for drivers using the alternative routes.
- (3) New or existing alternative routes for Interstate 95.
- (4) Options for funding to make critical repairs and lane mile expansions to Interstate 95 without the use of tolls.

The Department shall solicit feedback on its various tolling proposals from the local governments and residents along the Interstate 95 corridor.

**SECTION 24.21.(b)** The Department of Transportation shall report the results of its study to the 2013 General Assembly by March 1, 2013.

**SECTION 24.21.(c)** Notwithstanding G.S. 136-89.198, the Department of Transportation shall not establish or collect tolls on Interstate 95 prior to July 1, 2014.

## **PART XXV. SALARIES AND BENEFITS**

### **GOVERNOR AND COUNCIL OF STATE**

**SECTION 25.01.(a)** Section 29.1(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.1.(a)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the salary of the Governor set by G.S. 147-11(a) in the amount of one hundred thirty-nine thousand five hundred ninety dollars (\$139,590) annually, payable monthly, shall remain unchanged."

**SECTION 25.01.(b)** G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty nine thousand five hundred ninety dollars (\$139,590)~~ one hundred forty-one thousand two hundred sixty-five dollars (\$141,265) annually, payable monthly."

**SECTION 25.01.(c)** The prefatory language contained in Section 29.1(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.1.(b)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the annual salaries for the members of the Council of State, payable monthly, ~~for the 2011-2013 fiscal biennium shall remain unchanged as follows:~~ are set as follows:"

**SECTION 25.01.(d)** Effective for the 2012-2013 fiscal year, the annual salaries for members of the Council of State, payable monthly, are set as follows:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$124,676
Attorney General	124,676
Secretary of State	124,676
State Treasurer	124,676
State Auditor	124,676
Superintendent of Public Instruction	124,676
Agriculture Commissioner	124,676
Insurance Commissioner	124,676
Labor Commissioner	124,676

### **NONELECTED DEPARTMENT HEADS**

**SECTION 25.02.(a)** Section 29.2(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.2.(a)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the salaries set by G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments ~~remain unchanged~~ are set as follows:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$120,363
Secretary of Cultural Resources	120,363
Secretary of Commerce	120,363
Secretary of Environment and Natural Resources	120,363
Secretary of Health and Human Services	120,363
Secretary of Public Safety	120,363
Secretary of Revenue	120,363
Secretary of Transportation	120,363".

**SECTION 25.02.(b)** Effective July 1, 2012, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments are set as follows:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$121,807
Secretary of Cultural Resources	121,807
Secretary of Commerce	121,807
Secretary of Environment and Natural Resources	121,807
Secretary of Health and Human Services	121,807
Secretary of Public Safety	121,807

Secretary of Revenue 121,807  
 Secretary of Transportation 121,807

**SECTION 25.02.(c)** G.S. 143B-9 reads as rewritten:

**"§ 143B-9. Appointment of officers and employees.**

The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant ~~shall, upon the recommendation of the Governor, be set by the General Assembly, shall be set by the Governor.~~ Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

**SECTION 25.02.(d)** Subsection (c) of this section applies to persons appointed on or after January 1, 2013. Subsection (b) of this section does not apply to such persons.

**CERTAIN EXECUTIVE BRANCH OFFICIALS**

**SECTION 25.1.(a)** Section 29.3 of S.L. 2011-145 reads as rewritten:

**"CERTAIN EXECUTIVE BRANCH OFFICIALS**

**"SECTION 29.3.** Effective for the ~~2011-2013 fiscal biennium, 2012-2013 fiscal year,~~ the annual salaries, payable monthly, for the following executive branch officials ~~shall remain unchanged~~ are set as follows:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	<del>\$109,553</del> \$110,868
State Controller	<del>153,319</del> 155,159
Commissioner of Motor Vehicles	<del>109,553</del> 110,868
Commissioner of Banks	<del>123,198</del> 124,676
<del>Chairman, Employment Security Commission</del>	<del>120,363</del>
<u>Chair, Board of Review, Division of Employment Security</u>	<u>122,255</u>
<u>Members, Board of Review, Division of Employment Security</u>	<u>120,737</u>
State Personnel Director	<del>120,363</del> 121,807
Chairman, Parole Commission	<del>100,035</del> 101,235
<u>Full-time Members of the Parole Commission</u>	<u>93,464</u>
<u>Part-time Members of the Parole Commission</u>	<u>46,178</u> 46,732
Chairman, Utilities Commission	<del>137,203</del> 138,849
Members of the Utilities Commission	<del>123,198</del> 124,676
<del>Executive Director, Agency for Public Telecommunications</del>	<del>92,356</del>
Director, Museum of Art	<del>112,256</del> 113,603
Executive Director, North Carolina Agricultural Finance Authority	<del>106,635</del> 107,915
State Chief Information Officer	<del>153,227</del> 155,066".

**SECTION 25.1.(b)** G.S. 20-2(a) reads as rewritten:

"(a) Commissioner and Assistants. – The Division of Motor Vehicles shall be administered by the Commissioner of Motor Vehicles, who shall be appointed by and serve at the pleasure of the Secretary of the Department of Transportation. The Commissioner shall be paid an annual salary to be fixed by the ~~General Assembly in the Current Operations Appropriations Act~~ Governor and allowed his traveling expenses as allowed by law.

In any action, proceeding, or matter of any kind, to which the Commissioner of Motor Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof of claim, warrants for collection, certificates of tax liability, executions, and other legal documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles by the Assistant Commissioner of Motor Vehicles or by any director or assistant director of any section of the Division of Motor Vehicles or by any other agent or employee of the Division so authorized by the Commissioner of Motor Vehicles."

**SECTION 25.1.(c)** G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as "the Office") which shall be placed for organizational purposes within the Department of Administration. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the Office of State Personnel shall exercise all of its statutory powers in this Chapter independent of control by the Secretary of Administration and shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as "the Director") appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act.~~ Governor. The Director shall serve at the pleasure of the Governor."

**SECTION 25.1.(d)** G.S. 140-5.15(c) reads as rewritten:

"(c) The State-funded portion of the salary of the Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act.~~ Governor."

**SECTION 25.1.(e)** G.S. 147-33.76(c) reads as rewritten:

"(c) The salary of the State Chief Information Officer shall be set by the ~~General Assembly in the Current Operations Appropriations Act.~~ Governor. The State Chief Information Officer shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act."

**SECTION 25.1.(f)** Subsections (b) through (e) of this section apply to persons appointed to the positions of Commissioner of Motor Vehicles, State Personnel Director, Director of the North Carolina Museum of Art, and State Chief Information Officer on or after January 1, 2013. Subsection (a) of this section does not apply to such persons.

**SECTION 25.1.(g)** Effective August 1, 2012, G.S. 143B-721 reads as rewritten:

**"§ 143B-721. Post-Release Supervision and Parole Commission – members; selection; removal; chairman; compensation; quorum; services.**

(a) Effective August 1, 2005, the Post-Release Supervision and Parole Commission shall consist of one full-time member and two half-time members. The three members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The terms of office of any members serving on the Commission on June 30, 2005, shall expire on that date. The terms of office of persons appointed by the Governor as members of the Commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, removal, death or disability of a member shall be for the balance of the unexpired term only.

(a1) Effective August 1, 2012, both half-time commissioners shall begin serving as full-time members of the Commission, and the Post-Release Supervision and Parole Commission shall consist of three full-time members.

(a2) Effective February 1, 2013, an additional member shall be appointed by the Governor to the Commission, and the Post-Release Supervision and Parole Commission shall consist of four full-time members.

(b) All members of the Post-Release Supervision and Parole Commission appointed by the Governor shall possess the recognized ability, training, experience, and character to qualify each person to serve ably on the Commission.

(c) The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a member of the Commission to serve as chair of the Commission at the pleasure of the Governor.

(d) The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full Commission.

(e) The members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6. Notwithstanding any other provision of law, the half-time members of the Commission shall not be subject to the provisions of G.S. 135-3(8)(c).

(f) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Public Safety."

## JUDICIAL BRANCH

**SECTION 25.1A.(a)** Section 29.4(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.4.(a)** Effective for the ~~2011-2013 fiscal biennium,~~2012-2013 fiscal year, the annual salaries, payable monthly, for specified judicial branch officials ~~shall remain unchanged~~are set as follows:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	<del>\$140,932</del> <u>\$142,623</u>
Associate Justice, Supreme Court	<del>137,249</del> <u>138,896</u>
Chief Judge, Court of Appeals	<del>135,061</del> <u>136,682</u>
Judge, Court of Appeals	<del>131,531</del> <u>133,109</u>
Judge, Senior Regular Resident Superior Court	<del>127,957</del> <u>129,492</u>
Judge, Superior Court	<del>124,382</del> <u>125,875</u>
Chief Judge, District Court	<del>112,946</del> <u>114,301</u>
Judge, District Court	<del>109,372</del> <u>110,684</u>
District Attorney	<del>119,305</del> <u>120,737</u>
Administrative Officer of the Courts	<del>126,738</del> <u>128,259</u>
Assistant Administrative Officer of the Courts	<del>115,763</del> <u>117,152</u>
Public Defender	<del>119,305</del> <u>120,737</u>
Director of Indigent Defense Services	<del>123,022</del> <u>124,498</u> ".

**SECTION 25.1A.(b)** The annual salaries of permanent full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by one and two-tenths percent (1.2%).

**SECTION 25.1A.(c)** Section 29.4(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.4.(b)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

- (1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.
- (2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.
- (3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged for the 2011-2013 fiscal biennium.
- (4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged."

**SECTION 25.1A.(d)** The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed seventy-one thousand seven hundred ninety-seven dollars (\$71,797) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-seven thousand six hundred twenty-eight dollars (\$37,628), effective July 1, 2012.

**SECTION 25.1A.(e)** G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

<u>Population</u>	<u>Annual Salary</u>
Less than 100,000	<del>\$ 82,401</del> <u>\$ 83,390</u>
100,000 to 149,999	<del>92,468</del> <u>93,578</u>
150,000 to 249,999	<del>102,536</del> <u>103,766</u>
250,000 and above	<del>112,607</del> <u>113,958</u>

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary

appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

**SECTION 25.1A.(f)** G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	<del>\$32,222</del> \$32,609
Maximum	<del>54,767</del> 55,424

Deputy Clerks	Annual Salary
Minimum	<del>\$27,888</del> \$28,223
Maximum	<del>42,596</del> 43,107"

**SECTION 25.1A.(g)** 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	<del>\$32,633</del> \$33,025
Step 1	<del>35,525</del> 35,951
Step 2	<del>38,671</del> 39,135
Step 3	<del>42,134</del> 42,640
Step 4	<del>45,999</del> 46,551
Step 5	<del>50,335</del> 50,959
Step 6	<del>55,238</del> 55,901"

**SECTION 25.1A.(h)** 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	<del>\$26,528</del> \$26,846
1 or more but less than 3 years of service	<del>27,695</del> 28,027
3 or more but less than 5 years of service	<del>30,044</del> 30,405

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**

**SECTION 25.1B.(a)** Section 29.5 of S.L. 2011-145 reads as rewritten:

**"GENERAL ASSEMBLY**

**"SECTION 29.5.** For the 2011-2013 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 2011-2013 fiscal biennium, 2011-2012 fiscal year, salaries in the legislative branch shall remain unchanged, as follows:

- (1) ~~The salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly.~~
- (2) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
- (3) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.

- (4) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged."

**SECTION 25.1B.(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 four thousand eighty four dollars (\$104,084)~~ one hundred five thousand three hundred thirty-three dollars (\$105,333), payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

**SECTION 25.1B.(c)** G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred eighty dollars (\$380.00)~~ three hundred eighty-five dollars (\$385.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

**SECTION 25.1B.(d)** The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect on June 30, 2012, by one and two-tenths percent (1.2%).

#### **COMMUNITY COLLEGES PERSONNEL**

**SECTION 25.1C.(a)** Section 29.6 of S.L. 2011-145 reads as rewritten:

#### **"COMMUNITY COLLEGES PERSONNEL**

**"SECTION 29.6.(a)** The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the ~~2011-2013 fiscal biennium, 2011-2012 fiscal year.~~

**"SECTION 29.6.(b)** For the ~~2011-2013 fiscal biennium, 2011-2012 fiscal year,~~ the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	\$34,819
Bachelor's Degree	\$37,009
Master's Degree or Education Specialist	\$38,952
Doctoral Degree	\$41,753.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members."

**SECTION 25.1C.(b)** For the 2012-2013 fiscal year, the Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act to the State Board of Community Colleges funds sufficient to provide community college employees a salary increase of one and two-tenths percent (1.2%), including funds for the employers' retirement and social security contributions. These compensation funds may be used for any one or more of the following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, (iv) retention increases, (v) any other compensation increase, (vi) to offset the management flexibility reduction, or (vii) employ personnel. Categories (i) through (v) shall be pursuant to policies adopted by the State Board of Community Colleges. The State Board of Community Colleges shall make a preliminary report on the use of these funds to the 2013



Regular Session of the General Assembly no later than March 1, 2013, and a final report on September 1, 2013.

## **UNIVERSITY OF NORTH CAROLINA SYSTEM**

**SECTION 25.1D.(a)** Section 29.7 of S.L. 2011-145 reads as rewritten:

### **"UNIVERSITY OF NORTH CAROLINA SYSTEM**

**"SECTION 29.7.(a)** The annual salaries of all University of North Carolina EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Math shall remain unchanged for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year.

**"SECTION 29.7.(b)** The annual salaries of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year."

**SECTION 25.1D.(b)** For the 2012-2013 fiscal year, the Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act to the Board of Governors of The University of North Carolina funds sufficient to provide employees who are exempt from the State Personnel Act (EPA) a salary increase of one and two-tenths percent (1.2%), including funds for the employers' retirement and social security contributions. These compensation funds may be used to award compensation increases to EPA employees, pursuant to policies adopted by the Board of Governors, including, but not limited to, any one or more of the following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, and (iv) retention increases. These compensation funds may also be used for one or more of the following (i) to offset the management flexibility reduction, or (ii) employ personnel. The Board of Governors shall make a preliminary report on the use of funds under this subsection to the 2013 Regular Session of the General Assembly no later than March 1, 2013, and a final report on September 1, 2013.

**SECTION 25.1D.(c)** For the 2012-2013 fiscal year, the Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act to the Board of Governors of The University of North Carolina funds sufficient to provide to employees who are subject to the State Personnel Act (SPA) a salary increase of one and two-tenths percent (1.2%), including funds for the employers' retirement and social security contributions.

## **MOST STATE EMPLOYEES**

**SECTION 25.1E.(a)** Section 29.9 of S.L. 2011-145 reads as rewritten:

### **"MOST STATE EMPLOYEES**

**"SECTION 29.9.(a)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year, the salaries in effect June 30, 2011, of all permanent, full-time State employees whose salaries are set in accordance with the State Personnel Act, shall remain unchanged.

**"SECTION 29.9.(b)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year, the compensation of permanent, full-time State officials and persons in exempt positions shall remain unchanged.

**"SECTION 29.9.(c)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year, the salaries of permanent, part-time State employees shall remain unchanged.

**"SECTION 29.9.(d)** Effective for the ~~2011-2013 fiscal biennium~~2011-2012 fiscal year, the compensation of temporary and permanent hourly State employees shall remain unchanged."

**SECTION 25.1E.(b)** For the 2012-2013 fiscal year, the salaries in effect June 30, 2012, for the following employees shall be increased by one and two-tenths percent (1.2%), effective July 1, 2012:

- (1) Permanent full-time State officials and persons whose salaries are set in accordance with the State Personnel Act.
- (2) Permanent full-time State officials and persons in positions exempt from the State Personnel Act.
- (3) Permanent part-time State employees.

**SECTION 25.1E.(c)** For the 2012-2013 fiscal year, the rate of pay of temporary State employees and permanent hourly State employees may be increased on an equitable basis (i) subject to the availability of funds in the employing State agency, department, or institution and (ii) within regular State Budget Act procedures consistent with this act.

**SECTION 25.1E.(d)** Section 29.10(b) of S.L. 2011-145 reads as rewritten:

**"SECTION 29.10.(b)** For the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the salaries of permanent, full-time employees who work a nine-, ten-, or eleven-month work year schedule shall remain unchanged."

#### **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

**SECTION 25.1F.(a)** The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2012-2013 all funds necessary for the salary increases provided by this act, including funds for the employers' retirement and social security contributions.

**SECTION 25.1F.(b)** Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund. Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

**SECTION 25.1F.(c)** The fiscal year 2012-2013 salary increases provided in this act are to be effective July 1, 2012, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is prior to July 1, 2012.

**SECTION 25.1F.(d)** The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

**SECTION 25.1F.(e)** Payroll for employees on or after July 1, 2012, which represent payment of services provided prior to these increases shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

**SECTION 25.1F.(f)** Except as otherwise provided by this act, for the 2012-2013 fiscal year, permanent full-time State agency employees and State-funded public school employees who work a nine-, 10-, or 11-month work year schedule shall receive the one and two-tenths percent (1.2%) annual increase provided by this act.

#### **SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO AUTOMATIC INCREASES**

**SECTION 25.2.** Section 29.8 of S.L. 2011-145, as amended by Section 59A of S.L. 2011-391, reads as rewritten:

**"SECTION 29.8.(a)** The annual pay of all State employees for the ~~2011-2013 fiscal biennium~~ 2011-2012 fiscal year shall remain unchanged from that authorized on June 30, 2011, or the last date in pay status during the 2010-2011 fiscal year, if earlier, except that an increase may be allowed during the 2011-2012 fiscal year under the following special circumstances:

- (1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.
- (1a) For employees of the North Carolina Community College System, notwithstanding subdivision (1) of this subsection, salaries may be increased if the increase is funded from local funding sources.
- (2) For The University of North Carolina, (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund and (ii) faculty, nonfaculty, and other employee adjustments, including retention adjustments, funded from non-State funding sources.
- (3) For employees of the judicial branch, for local supplementation as authorized by G.S. 7A-300.1.

The cumulative salary adjustment allowed under this subsection for the 2011-2012 fiscal year may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

**"SECTION 29.8.(b)** The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the 2011-2013 fiscal biennium.

**"SECTION 29.8.(c)** The salary increase provisions of G.S. 20-187.3 are suspended for the 2011-2013 fiscal biennium.

**"SECTION 29.8.(d)** Notwithstanding G.S. 53-96.1, ~~and except as provided by subdivision (1) of subsection (a) of this section,~~ employees of the Office of the Commissioner of Banks shall not be awarded compensation increases or bonuses during the 2011-2013 fiscal biennium. Employees of the Office of the Commissioner of Banks shall receive an across-the-board salary increase of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year, as provided in section 25.1E of The Current Operations and Capital Improvements Appropriations Act of 2012.

**"SECTION 29.8.(e)** Employees of the Lottery Commission shall not receive compensation bonuses during the 2011-2013 fiscal biennium. Employees of the Lottery Commission shall receive an across-the-board salary increase of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year, as provided in section 25.1E of The Current Operations and Capital Improvements Appropriations Act of 2012.

~~**"SECTION 29.8.(f)** No employee of any other State agency or constituent institution of The University of North Carolina, excluding employees of the University of North Carolina Health Care System and employees participating in a constituent institution's medical faculty practice plan, shall receive compensation bonuses."~~

## **REPEAL OF PROVISIONS RELATED TO COMPENSATION ADJUSTMENT AND PERFORMANCE PAY RESERVE**

**SECTION 25.2A.** Section 29.20A of S.L. 2011-145 is repealed.

## **MONITOR MOST SALARY INCREASES**

**SECTION 25.2B.** Section 29.19 of S.L. 2011-145 reads as rewritten:

**"SECTION 29.19.(a)** The Office of State Budget and Management and the Office of State Personnel shall monitor jointly ~~the compliance of salary increases awarded by the following units of government with the provisions of Section 29.8 of this act~~ and shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

- (1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type ~~(including~~ (including, but not limited to, promotion, reallocation, career progression, salary adjustment, range revision, equity and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.
- (2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the University as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any other similar actions increasing employee pay.
- (3) ~~A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.~~

**"SECTION 29.19.(b)** The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with this act."

## REPEAL COMPREHENSIVE COMPENSATION SYSTEM

**SECTION 25.2C.(a)** The catch line of G.S. 126-7 reads as rewritten:

"§ 126-7. ~~Compensation of State employees. Annual Compensation Survey.~~"

**SECTION 25.2C.(b)** G.S. 126-7(a), (a2), (b1), (c), and (e) are repealed.

**SECTION 25.2C.(c)** G.S. 126-7(b) reads as rewritten:

"(b) To guide the Governor and the General Assembly in making ~~appropriations to fund the Comprehensive Compensation System,~~ decisions regarding the compensation of State employees, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st of even years."

**SECTION 25.2C.(d)** G.S. 20-187.3(a) reads as rewritten:

"(a) The Secretary of Public Safety shall not make or permit to be made any order, rule, or regulation requiring the issuance of any minimum number of traffic citations, or ticket quotas, by any member or members of the State Highway Patrol. Pay and promotions of members of the Highway Patrol shall be based on their overall job performance and not on the basis of the volume of citations issued or arrests made. ~~The provisions of G.S. 126-7 shall not apply to members of the State Highway Patrol.~~ Members of the Highway Patrol shall, ~~however,~~ shall be subject to salary classes, ranges and longevity pay for service as are applicable to other State employees generally. Beginning July 1, 1985, and annually thereafter, each member of the Highway Patrol shall be granted a salary increase in an amount corresponding to the increments between steps within the salary range established for the class to which the member's position is assigned by the State Personnel Commission, not to exceed the maximum of each applicable salary range."

## COMPREHENSIVE REVIEW FOR REFORM OF PUBLIC EMPLOYEE COMPENSATION PLANS/RECOMMENDATIONS FOR LEGISLATION BY MARCH 1, 2013

**SECTION 25.2D.** Section 29.20 of S.L. 2011-145 reads as rewritten:

"**SECTION 29.20.(a)** It is the intent of the General Assembly to create and implement a modernized, fair, and fully functional performance-based compensation system for employees of State agencies, departments, ~~institutions, and institutions and for employees of The University of North Carolina System, the North Carolina Community College System, and local education agencies.~~ System who are subject to the State Personnel Act. To that end, the Legislative Services Commission, jointly through the Fiscal Research and Program Evaluation Divisions, is directed to commission a review and study of the current compensation plans of State agencies, departments, ~~institutions, and institutions and employees of The University of North Carolina System, the North Carolina Community College System, and local education agencies.~~ System who are subject to the State Personnel Act (government sectors). The Legislative Services Commission may use a Request for Information process or a Request for Proposals process to contract with a qualified consulting firm to perform this review and study. The study, at minimum, shall include all of the following:

- (1) A labor market analysis of pay, fringe benefits, classification, and banding plans of government sector employees to determine whether current employees are compensated appropriately relative to market rates for similar positions as compared to (i) other North Carolina public employees, (ii) similar positions and employees in other states, and (iii) where applicable, employees in private industry.
- (2) An analysis of current performance-based compensation plans in use by the North Carolina Banking ~~Commission, Commission and~~ the University of North Carolina Health Care System, ~~and the performance based compensation system proposed by Charlotte/Mecklenburg County Schools.~~ System. This analysis should include an assessment of the effectiveness of these performance-based plans and should include identification of best practices.
- (3) An evaluation of current longevity pay as applicable to most government sector employees and recommendations as to whether longevity pay should be continued for new hires.

- (4) An evaluation of current laws and policies related to "career status" for employees subject to the State Personnel Act and tenure for public school teachers and university professors. For public school teachers, the evaluation of tenure shall include its relationship with student performance, if any. Act. This evaluation should also include recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.
- (5) ~~An evaluation of salary supplements for public school employees paid on account of master's degrees, attainment of other advanced degrees, and national board certification, including the relationship to student performance, if any. This evaluation should also include recommendations as to whether these salary supplements should be continued or modified based upon the effect on student performance, if any, and human resource best practices.~~
- (6) An evaluation of the State Personnel Act, including recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.
- (7) An analysis of the effect of in-State regional variables on employee compensation and recommendations as to how those variables should be addressed in the future.
- (8) Recommendations of how to evaluate and compare the value of employee fringe benefits.
- (9) Recommendations, timetable, and design of a comprehensive performance-based compensation plan across all government sectors for implementation by the General Assembly. Recommendations must include the design of an effective employee performance evaluation system, including the identification of effective employee performance measures and information systems (including estimated costs) to track and monitor employee performance.
- (10) Training recommendations for supervisors and managers regarding employee productivity and performance evaluation.
- (11) Recommendations to assure equity of compensation among public employees across government sectors.
- (12) Feasibility of a consensus forecasting group to make annual recommendations for compensation policy across all government sectors. These recommendations should include how to establish and maintain priorities for General Fund appropriations necessary to fund the performance-based compensation system while remaining affordable for the State and its taxpayers.

**"SECTION 29.20.(b)** In the event that the Legislative Services Commission contracts with a qualified consulting firm to perform the review and study, the consultant shall report its progress to the Fiscal Research and Program Evaluation Divisions every 90 days.

**"SECTION 29.20.(c)** ~~By May 1, 2012, March 1, 2013,~~ the Fiscal Research and Program Evaluation Divisions, or at their direction by the consultant hired to perform the review and study, shall report all findings and any other final results of the study, including recommendations and legislative proposals, to the ~~2012 Regular Session of the 2011~~2013 General Assembly.

**"SECTION 29.20.(d)** All State agencies, departments, ~~institutions and institutions,~~ and The University of North Carolina System, ~~the North Carolina Community College System, and local education agencies~~ System shall provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them to the Fiscal Research and Program Evaluation Divisions and/or the consultant necessary to complete this review and study.

**"SECTION 29.20.(e)** The State Personnel Director, the State Budget Director, the State Controller, and the State Treasurer shall dedicate and identify staff for technical assistance, as needed, to aid in the reviews required by this section."

## EXEMPT POSITIONS

**SECTION 25.2E.(a)** G.S. 126-5(d) reads as rewritten:

- "(d) (1) ~~Exempt Positions in Cabinet Department. – The Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of 1001,000 exempt policymaking positions throughout the following departments:~~
- a. Department of Administration;
  - b. Department of Commerce;
  - e. ~~Division of Adult Correction of the Department of Public Safety;~~
  - d. Department of Public Safety;
  - e. Department of Cultural Resources;
  - f. Department of Health and Human Services;
  - g. Department of Environment and Natural Resources;
  - h. Department of Revenue;
  - i. Department of Transportation; and Transportation.
  - j. ~~Division of Juvenile Justice of the Department of Public Safety.~~
- ~~The Governor may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in each cabinet department listed above in this sub-subdivision, not to exceed 30 positions in each department. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policymaking positions at the Department of Health and Human Services, but at no time shall the total number of exempt policymaking positions exceed 105. The Governor shall notify the General Assembly and the State Personnel Director of the additional positions designated hereunder.~~
- (2) Exempt Positions in Council of State Departments and Offices. – The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. The State Board of Education may designate exempt positions in the Department of Public Instruction. The number of exempt policymaking positions in each department headed by an elected department head listed above in this sub-subdivision shall be limited to 20 exempt policymaking positions or one percent (1%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions shall be limited to 20 positions or one percent (1%) of the total number of full-time positions in the department, whichever is greater.
- (2a) Designation of Additional Positions. – The Governor, elected department head, or State Board of Education may request that additional positions be designated as exempt. The request shall be made by sending a list of exempt positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President of the North Carolina Senate. A copy of the list also shall be sent to the State Personnel Director. The General Assembly may authorize all, or part of, the additional positions to be designated as exempt positions. If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list shall be deemed approved by the General Assembly, and the positions shall be designated as exempt positions. If the General Assembly is not in session when the list is submitted, the 30-day period shall not begin to run until the next date that the General Assembly convenes or reconvenes, other than for a special session called for a specific purpose not involving the approval of the list of additional positions to be designated as exempt positions; the policymaking positions shall not be designated as exempt during the interim.
- (3) Letter. – These positions shall be designated in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate by May 1–July 1 of the year in which the oath of office is administered to each Governor unless the provisions of subsection (d)(4) apply.

- (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the office of a member of the Council of State, the person who succeeds to or is appointed or elected to fill the unexpired term shall make such designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within ~~120~~180 days after the oath of office is administered to that person. In the event of a vacancy in the Office of Governor, the State Board of Education shall make these designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within ~~120~~180 days after the oath of office is administered to the Governor.
- (5) Creation, Transfer, or Reorganization. – The Governor, elected department head, or State Board of Education may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after ~~May 1~~July 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within ~~120~~180 days after such position is created, transferred, or in which reorganization has occurred.
- (6) Reversal. – Subsequent to the designation of a position as an exempt position as hereinabove provided, the status of the position may be reversed and made subject to the provisions of this Chapter by the Governor, by an elected department head, or by the State Board of Education in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate.
- (7) Hearing Officers. – Except as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings, take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents shall be designated as exempt. This subdivision shall apply beginning July 1, 1985, and no list submitted after that date shall designate as exempt any employee described in this subdivision."

**SECTION 25.2E.(b)** This section becomes effective January 1, 2013.

### **UNIVERSITY FACULTY RECRUITING AND RETENTION FUND**

**SECTION 25.3.** The Faculty Recruiting and Retention Fund under the Office of the President of The University of North Carolina is reestablished for the 2012-2013 fiscal year. Allocations from the fund shall be made for salary increases at the discretion of the President of The University of North Carolina only for the purpose of recruiting and retaining faculty members as necessary at constituent institutions.

### **TEACHER SALARY SCHEDULES**

**SECTION 25.6.(a)** Section 3(a) of S.L. 2012-13 is repealed.

**SECTION 25.6.(b)** The following monthly salary schedules shall apply for the 2012-2013 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 36 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

#### 2012-2013 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0-2	\$3,080	N/A
3-4	\$3,080	\$3,450
5	\$3,122	\$3,497

6	\$3,167	\$3,547
7	\$3,303	\$3,699
8	\$3,445	\$3,858
9	\$3,580	\$4,010
10	\$3,711	\$4,156
11	\$3,816	\$4,274
12	\$3,865	\$4,329
13	\$3,914	\$4,384
14	\$3,965	\$4,441
15	\$4,015	\$4,497
16	\$4,066	\$4,554
17	\$4,118	\$4,612
18	\$4,171	\$4,672
19	\$4,226	\$4,733
20	\$4,282	\$4,796
21	\$4,337	\$4,857
22	\$4,397	\$4,925
23	\$4,456	\$4,991
24	\$4,515	\$5,057
25	\$4,577	\$5,126
26	\$4,639	\$5,196
27	\$4,706	\$5,271
28	\$4,771	\$5,344
29	\$4,836	\$5,416
30	\$4,903	\$5,491
31	\$4,972	\$5,569
32	\$5,044	\$5,649
33	\$5,116	\$5,730
34	\$5,215	\$5,841
35+	\$5,318	\$5,956

2012-2013 Monthly Salary Schedule

Years of Experience	"M" Teachers	NBPTS Certification
0-2	\$3,388	N/A
3-4	\$3,388	\$3,795
5	\$3,434	\$3,846
6	\$3,484	\$3,902
7	\$3,633	\$4,069
8	\$3,790	\$4,245
9	\$3,938	\$4,411
10	\$4,082	\$4,572
11	\$4,198	\$4,702
12	\$4,252	\$4,762
13	\$4,305	\$4,822
14	\$4,362	\$4,885
15	\$4,417	\$4,947
16	\$4,473	\$5,010
17	\$4,530	\$5,074
18	\$4,588	\$5,139
19	\$4,649	\$5,207
20	\$4,710	\$5,275
21	\$4,771	\$5,344
22	\$4,837	\$5,417
23	\$4,902	\$5,490
24	\$4,967	\$5,563
25	\$5,035	\$5,639
26	\$5,103	\$5,715
27	\$5,177	\$5,798



28	\$5,248	\$5,878
29	\$5,320	\$5,958
30	\$5,393	\$6,040
31	\$5,469	\$6,125
32	\$5,548	\$6,214
33	\$5,628	\$6,303
34	\$5,737	\$6,425
35+	\$5,850	\$6,552

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

**SECTION 25.7.(a)** Section 4(a) of S.L. 2012-13 is repealed.

**SECTION 25.7.(b)** The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2012-2013 fiscal year, commencing July 1, 2012. Provided, however, school-based administrators (i) employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2012-2013 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Principal and Assistant Principal Salary Schedules  
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-8	\$3,828	-	-	-	-
9	\$3,977	-	-	-	-
10	\$4,123	-	-	-	-
11	\$4,240	-	-	-	-
12	\$4,295	\$4,295	-	-	-
13	\$4,348	\$4,348	-	-	-
14	\$4,406	\$4,406	\$4,461	-	-
15	\$4,461	\$4,461	\$4,518	-	-
16	\$4,518	\$4,518	\$4,575	\$4,634	-
17	\$4,575	\$4,575	\$4,634	\$4,695	\$4,757
18	\$4,634	\$4,634	\$4,695	\$4,757	\$4,819
19	\$4,695	\$4,695	\$4,757	\$4,819	\$4,885
20	\$4,757	\$4,757	\$4,819	\$4,885	\$4,951
21	\$4,819	\$4,819	\$4,885	\$4,951	\$5,017
22	\$4,885	\$4,885	\$4,951	\$5,017	\$5,085
23	\$4,951	\$4,951	\$5,017	\$5,085	\$5,154
24	\$5,017	\$5,017	\$5,085	\$5,154	\$5,229
25	\$5,085	\$5,085	\$5,154	\$5,229	\$5,300
26	\$5,154	\$5,154	\$5,229	\$5,300	\$5,373
27	\$5,229	\$5,229	\$5,300	\$5,373	\$5,447
28	\$5,300	\$5,300	\$5,373	\$5,447	\$5,524
29	\$5,373	\$5,373	\$5,447	\$5,524	\$5,603
30	\$5,447	\$5,447	\$5,524	\$5,603	\$5,684
31	\$5,524	\$5,524	\$5,603	\$5,684	\$5,794
32	\$5,603	\$5,603	\$5,684	\$5,794	\$5,909
33	\$5,684	\$5,684	\$5,794	\$5,909	\$6,027
34	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148
35	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271
36	-	\$6,027	\$6,148	\$6,271	\$6,396
37	-	-	\$6,271	\$6,396	\$6,524
38	-	-	\$6,396	\$6,524	\$6,654
39	-	-	-	\$6,654	\$6,787
40	-	-	-	\$6,787	\$6,923
41	-	-	-	-	\$7,061

2012-2013 Principal and Assistant Principal Salary Schedules

Years of Exp	Classification			
	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-18	\$4,885	-	-	-
19	\$4,951	-	-	-
20	\$5,017	\$5,085	-	-
21	\$5,085	\$5,154	\$5,300	-
22	\$5,154	\$5,229	\$5,373	\$5,447
23	\$5,229	\$5,300	\$5,447	\$5,524
24	\$5,300	\$5,373	\$5,524	\$5,603
25	\$5,373	\$5,447	\$5,603	\$5,684
26	\$5,447	\$5,524	\$5,684	\$5,794
27	\$5,524	\$5,603	\$5,794	\$5,909
28	\$5,603	\$5,684	\$5,909	\$6,027
29	\$5,684	\$5,794	\$6,027	\$6,148
30	\$5,794	\$5,909	\$6,148	\$6,271
31	\$5,909	\$6,027	\$6,271	\$6,396
32	\$6,027	\$6,148	\$6,396	\$6,524
33	\$6,148	\$6,271	\$6,524	\$6,654
34	\$6,271	\$6,396	\$6,654	\$6,787
35	\$6,396	\$6,524	\$6,787	\$6,923
36	\$6,524	\$6,654	\$6,923	\$7,061
37	\$6,654	\$6,787	\$7,061	\$7,202
38	\$6,787	\$6,923	\$7,202	\$7,346
39	\$6,923	\$7,061	\$7,346	\$7,493
40	\$7,061	\$7,202	\$7,493	\$7,643
41	\$7,202	\$7,346	\$7,643	\$7,796
42	\$7,346	\$7,493	\$7,796	\$7,952
43	-	\$7,643	\$7,952	\$8,111
44	-	\$7,796	\$8,111	\$8,273
45+	-	-	\$8,273	\$8,438

**CENTRAL OFFICE SALARIES**

**SECTION 25.7C.(a)** Section 29.14 of S.L. 2011-145 is repealed.

**SECTION 25.7C.(b)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2012-2013 fiscal year, beginning July 1, 2012.

School Administrator I	\$3,349	\$6,281
School Administrator II	\$3,550	\$6,662
School Administrator III	\$3,769	\$7,068
School Administrator IV	\$3,920	\$7,349
School Administrator V	\$4,078	\$7,647
School Administrator VI	\$4,326	\$8,109
School Administrator VII	\$4,500	\$8,436

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 25.7C.(c)** The monthly salary ranges that follow apply to public school superintendents for the 2012-2013 fiscal year, beginning July 1, 2012.

Superintendent I	\$4,777	\$8,949
Superintendent II	\$5,071	\$9,490
Superintendent III	\$5,380	\$10,067
Superintendent IV	\$5,710	\$10,679
Superintendent V	\$6,060	\$11,330

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 25.7C.(d)** 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 25.7C.(e)** Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this section.

**SECTION 25.7C.(f)** 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 25.7C.(g)** The salaries of all permanent full-time personnel paid from the Central Office Allotment shall be increased by one and two-tenths percent (1.2%), commencing July 1, 2012. 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**

**SECTION 25.7D.(a)** Section 29.15 of S.L. 2011-145 is repealed.

**SECTION 25.7D.(b)** The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be one and two-tenths percent (1.2%), commencing July 1, 2012.

**SECTION 25.7D.(c)** Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2011-2012 and who continue their employment for fiscal year 2012-2013 by providing an annual salary increase for employees of one and two-tenths percent (1.2%).

For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

**SECTION 25.7D.(d)** The State Board of Education may adopt salary ranges for noncertified personnel to support increases of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year.

#### **STATE AGENCY TEACHERS' COMPENSATION**

**SECTION 25.7E.** Funds in the Reserve for Compensation Increases and Personnel Flexibility shall be used to increase annual salaries, by one and two-tenths percent (1.2%), for employees of schools operated by the Department of Public Instruction, the Department of Health and Human Services, and the Department of Public Safety, who are paid on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.

#### **SALARY-RELATED CONTRIBUTIONS**

**SECTION 25.10.** Section 29.22(d) of S.L. 2011-145 reads as rewritten:

**"SECTION 29.22.(d)** Effective July 1, 2012, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2012-2013 fiscal year are: (i) ~~fourteen and thirty one hundredths percent (14.31%)~~ fourteen and twenty-three hundredths percent (14.23%) – Teachers and State Employees; (ii) ~~nineteen and thirty one hundredths percent (19.31%)~~ nineteen and twenty-three hundredths percent (19.23%) – State Law Enforcement Officers; (iii) ~~twelve and sixty six hundredths percent (12.66%)~~ twelve and fifty-eight hundredths percent (12.58%) – University Employees' Optional Retirement System; (iv) ~~twelve and sixty six hundredths percent (12.66%)~~ twelve and fifty-eight hundredths percent (12.58%) – Community College Optional Retirement Program; (v) ~~thirty one and seventy hundredths percent (31.70%)~~ thirty-one and eighty-five hundredths percent (31.85%) – Consolidated Judicial Retirement System; and (vi) five and thirty hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing

contribution rates includes five and thirty hundredths percent (5.30%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes ~~fifty-two hundredths percent (0.52%)~~ forty-four hundredths percent (0.44%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

#### **OPTIONAL RETIREMENT SYSTEM/FORFEITURE FUNDS**

**SECTION 25.11.** G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be ~~forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund.~~ forfeited. Consistent with Section 401(a) of the Internal Revenue Code, no part of the corpus or income of the Optional Retirement Program, or any trust established under that Program, may be (within the taxable year or thereafter) used for purposes other than for the exclusive benefit of participants and their beneficiaries, except that contributions made under a good faith mistake of fact may be returned, consistent with the rules adopted by the University."

#### **EXPAND OPTIONAL RETIREMENT PROGRAM FOR UNIVERSITY OF NORTH CAROLINA SYSTEM**

**SECTION 25.12.** G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

- (1) Administrators and faculty of The University of North Carolina with the rank of instructor or above;
- (2) The President and employees of The University of North Carolina who are appointed by the Board of Governors on recommendation of the President pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by the Board of Trustees of a constituent institution of The University of North Carolina upon the recommendation of the Chancellor pursuant to G.S. 116-40.22(b);
- (3) Nonfaculty instructional and research staff who are exempt from the State Personnel Act, as defined by the provisions of G.S. 126-5(c1)(8), and the faculty of the North Carolina School of Science and Mathematics; and
- (4) Field faculty of the Cooperative Agriculture Extension Service, and tenure track faculty in North Carolina State University agriculture research programs who are exempt from the State Personnel Act and who are eligible for membership in the Teachers' and State Employees' Retirement System pursuant to G.S. 135-3(1), who in any of the cases described in this

subsection (i) had been members of the Optional Retirement Program under the provisions of Chapter 338, Session Laws of 1971, immediately prior to July 1, 1985, or (ii) have sought membership as required in subsection (b), below. Under the Optional Retirement Program, the State and the participant shall contribute, to the extent authorized or required, toward the purchase of such contracts or deposited in such trust on the participant's behalf.

- (5) Employees of The University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document.
- (6) Employees hired on or after January 1, 2013."

**PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

**SECTION 25.13.(a)** G.S. 135-5 is amended by adding a new subsection to read:

"(sss) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2011, and June 30, 2012."

**SECTION 25.13.(b)** G.S. 135-65 is amended by adding a new subsection to read:

"(dd) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2011, and June 30, 2012."

**SECTION 25.13.(c)** G.S. 120-4.22A is amended by adding a new subsection to read:

"(x) In accordance with subsection (a) of this section, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2012, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2012, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2012, and June 30, 2012."

**PART XXVI. CAPITAL APPROPRIATIONS**

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 26.1.** There is appropriated from the General Fund for the 2012-2013 fiscal year the following amounts for capital improvements:

<b>Capital Improvements – General Fund</b>	<b>2012-2013</b>
Department of Environment and Natural Resources Water Resources Development Projects	\$ 5,000,000
<b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$ 5,000,000</b>

**WATER RESOURCES DEVELOPMENT PROJECTS**

**SECTION 26.2.(a)** The Department of Environment and Natural Resources shall allocate funds for water resources projects in accordance with the schedule that follows. The

amounts set forth in the schedule include funds appropriated in this act for water resources projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated eighty-six million three hundred ninety thousand dollars (\$86,390,000) in federal funds.

<b>Name of Project</b>	<b>2012-2013</b>
(1) B. Everett Jordan Lake Water Supply Storage	\$200,000
(2) Wilmington Harbor Maintenance	1,200,000
(3) Morehead City Harbor Maintenance	—
(4) Wilmington Harbor Deepening	6,000,000
(5) 2012 Corps Long Term MOA for Dredging	3,350,000
(6) Carolina Beach Renourishment Project	1,184,000
(7) Wilmington Harbor Improvements Feasibility	500,000
(8) John H. Kerr Dam and Reservoir Sec. 216	200,000
(9) Aquatic Plant Control, Statewide and Lake Gaston	200,000
(10) State-Local Projects	593,000
(11) Catawba Water Management Group Study	100,000
<b>TOTALS</b>	<b>\$ 13,527,000</b>

**SECTION 26.2.(b)** It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the five million dollars (\$5,000,000) appropriated for water resources development projects in Section 26.1 of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

<b>Name of Project</b>	<b>Amount Carried Forward</b>
(1) B. Everett Jordan Lake Water Supply Storage	\$ 200,000
(2) Wilmington Harbor Maintenance	1,200,000
(3) 2012 Corps MOA for Shallow Draft Inlet Dredging	3,350,000
(4) Wilmington Harbor Deepening	3,000,000
(5) Wilmington Harbor Improvements Feasibility	250,000
(6) State-Local Projects	527,000
<b>TOTALS</b>	<b>\$ 8,527,000</b>

**SECTION 26.2.(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 2012-2013 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 the 2012-2013 fiscal year.
- (3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2013-2014 fiscal year.

**SECTION 26.2.(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 of the General Assembly, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.

- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**SECTION 26.2.(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 applies to funds appropriated in this act and to funds appropriated prior to the 2011-2013 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

**SECTION 26.2.(f)** The 2012 Long Term Dredging Memorandum of Agreement with the U.S. Army Corps of Engineers authorized by this section shall provide for all of the following:

- (1) Prioritization of projects through joint consultation with the State, applicable units of local government, and the U.S. Army Corps of Engineers.
- (2) Adherence to the requirements of subsection (e) of this section.
- (3) Annual reporting by the Department on the use of funds provided to the U.S. Army Corps of Engineers under the 2012 Long Term Dredging Memorandum of Agreement. These reports shall be made to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Office of State Budget and Management and shall include all of the following:
  - a. A list of all projects commenced.
  - b. The estimated cost of each project.
  - c. The date that work on each project commenced or is expected to commence.
  - d. The date that work on each project was completed or is expected to be completed.
  - e. The actual cost of each project.

## **PROHIBIT EXPENDITURES OF STATE FUNDS FOR THE NORTH CAROLINA INTERNATIONAL TERMINAL**

**SECTION 26.3.(a)** Notwithstanding G.S. 136-253 and any other provision of law, State funds, as that term is defined in G.S. 143C-1-1, shall not be used to fund the North Carolina International Terminal of the North Carolina State Ports Authority.

**SECTION 26.3.(b)** This section shall expire on June 30, 2013.

## **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

**SECTION 26.4.(a)** Of the funds in the Reserve for Repairs and Renovations for the 2012-2013 fiscal year, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- (1) Fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina.
- (2) Fifty percent (50%) shall be allocated to the Office of State Budget and Management.

The Office of State Budget and Management shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

**SECTION 26.4.(b)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent

institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

**SECTION 26.4.(c)** Notwithstanding G.S. 143C-4-3(d), of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

## **REPORTING ON CAPITAL PROJECTS**

**SECTION 26.5.(a)** Definitions. – The following definitions apply in this section:

- (1) Capital project. – Any capital improvement, as that term is defined in G.S. 143C-1-1, that is not complete by the effective date of this section and that is funded in whole or in part with either State funds or statutorily or constitutionally authorized indebtedness of any kind. This term includes only projects with a total cost of one hundred thousand dollars (\$100,000) or more.
- (2) Construction phase. – The status of a particular capital project as described using the terms customarily employed in the design and construction industries.
- (3) New capital project. – A capital project that is authorized in this act or subsequent to the effective date of this act.

**SECTION 26.5.(b)** Reporting. – The following reports are required:

- (1) By October 1, 2012, and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Oversight Committee on Capital Improvements.
- (2) By October 1, 2012, and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division of the General Assembly and to the Office of State Budget and Management.

**SECTION 26.5.(c)** The reports required by this section shall include at least the following information about every agency capital project:

- (1) The current construction phase of the project.
- (2) The anticipated timeline from the current construction phase to project completion.
- (3) Information about expenditures that have been made in connection with the project, regardless of source of the funds expended.
- (4) Information about the adequacy of funding to complete the project, including estimates of how final expenditures will relate to initial estimates



- of expenditures, and whether or not scope reductions will be necessary in order to complete the project within its budget.
- (5) For new capital projects only, an estimate of the operating costs for the project for the first five fiscal years of its operation.

#### **UNCW SOCIAL AND BEHAVIORAL SCIENCES BUILDING**

**SECTION 26.6.** Section 29.13(a) of S.L. 2007-323, as amended by Section 27.8(d) of S.L. 2008-107 and Section 2(b) of S.L. 2009-209, reads as rewritten:

**"SECTION 29.13.(a)** The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

- ...
- (9) In the maximum aggregate principal amount of thirty-two million eight hundred ninety-nine thousand six hundred ninety-nine dollars (\$32,899,699) to finance the capital facility costs of completing a new teaching laboratory at the University of North Carolina at Wilmington and of renovating the Social and Behavioral Science Building at the University of North Carolina at Wilmington. No more than a maximum aggregate amount of two million five hundred thousand dollars (\$2,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of eight million six hundred thirty-one thousand two hundred fifty dollars (\$8,631,250) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

...."

#### **TRANSFER FOR PLANT CONSERVATION PROGRAM**

**SECTION 26.9.** From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2012-2013 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

#### **AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR CAPITAL PROJECTS**

**SECTION 26.10.** Notwithstanding any other provision of law, for purposes of G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3. This section shall expire on June 30, 2013.

#### **OSBM ALLOCATION OF REPAIRS AND RENOVATIONS FUNDS**

**SECTION 26.11.** G.S. 143C-4-3 is amended by adding a new subsection to read:

**"(e) Office of State Budget and Management May Allocate Funds to Particular Projects.** – Any funds in the Reserve for Repairs and Renovations that are allocated to the Office of State Budget and Management may be allocated or reallocated by the State Budget Office for repairs and renovations projects so long as any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds. The State Budget Office shall report to the Joint Legislative Commission on Governmental Operations on the reallocation of funds pursuant to this section within 60 days of any reallocation under this subsection."

#### **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.

#### **COMMITTEE REPORT**

**SECTION 27.2.(a)** The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for House Bill 950, dated June 20, 2012, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall, therefore, be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and, as such, shall be printed as a part of the Session Laws.

**SECTION 27.2.(b)** The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2012-2013 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in May 2012 in the document "Investing in Our Future/Recommended Adjustments 2012-2013 North Carolina State Budget" for the 2012-2013 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

**SECTION 27.2.(c)** The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

#### **REPORT BY FISCAL RESEARCH DIVISION ON CHANGES TO 2012-2013 BUDGET/PUBLICATION**

**SECTION 27.3.(a)** The Fiscal Research Division of the Legislative Services Commission shall issue a report on budget actions taken by the 2011 Regular Session of the General Assembly in 2012. The report shall be in the form of a revision of the Committee Report adopted for House Bill 950 pursuant to G.S. 143C-5-5, and shall include all modifications made to the 2012-2013 budget prior to sine die adjournment of the 2011 Regular Session.

**SECTION 27.3.(b)** The report issued pursuant to this section, and the Committee Report issued pursuant to G.S. 143C-5-5, shall be construed together with this act in determining the intent of the General Assembly.

**SECTION 27.3.(c)** The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of the report issued pursuant to this section to the Director of the Budget. The report shall be published on the General Assembly's Internet Web site for public access.

#### **MOST TEXT APPLIES ONLY TO THE 2012-2013 FISCAL YEAR**

**SECTION 27.4.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2012-2013 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2012-2013 fiscal year.

#### **EFFECT OF HEADINGS**

**SECTION 27.5.** 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.

#### **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

**SECTION 27.6.(a)** Except where expressly repealed or amended by this act, the provisions of S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, S.L. 2012-2, and S.L. 2012-13 remain in effect.

**SECTION 27.6.(b)** Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2012-2013 fiscal year in S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, S.L. 2012-2, and S.L. 2012-13 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

**SEVERABILITY**

**SECTION 27.7.** 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 27.8.** Except as otherwise provided, this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of June, 2012.

s/ Richard Y. Stevens  
Presiding Officer of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

VETO Beverly E. Perdue  
Governor

Became law notwithstanding the objections of the Governor at 10:41 p.m. this 2nd day of July, 2012.

s/ Sarah Clapp  
Senate Principal Clerk