

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2018-5  
SENATE BILL 99**

AN ACT TO MODIFY THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2017  
AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATIONS OF THE STATE.

The General Assembly of North Carolina enacts:

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

**TITLE OF ACT**

**SECTION 1.1.** This act shall be known as the "Current Operations Appropriations Act of 2018."

**INTRODUCTION**

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

**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, 2019, according to the schedule that follows. Amounts set out in parentheses are reductions from General Fund appropriations for the 2018-2019 fiscal year:

|                                          |                     |
|------------------------------------------|---------------------|
| <b>Current Operations – General Fund</b> | <b>FY 2018-2019</b> |
|------------------------------------------|---------------------|

**EDUCATION**

|                                  |               |
|----------------------------------|---------------|
| Community Colleges System Office | \$ 43,724,296 |
| Department of Public Instruction | 59,847,276    |
| Appalachian State University     | 0             |
| East Carolina University         | 0             |
| Academic Affairs                 | (1,100,000)   |
| Health Affairs                   | 0             |
| Elizabeth City State University  | 0             |
| Fayetteville State University    | 0             |



|                                                             |                |
|-------------------------------------------------------------|----------------|
| NC A&T State University                                     | (150,000)      |
| NC Central University                                       | 0              |
| NC State University                                         |                |
| Academic Affairs                                            | 1,866,000      |
| Agricultural Extension                                      | 0              |
| Agricultural Research                                       | 0              |
| UNC-Asheville                                               | 0              |
| UNC-Chapel Hill                                             | 0              |
| Academic Affairs                                            | 6,053,000      |
| Health Affairs                                              | 5,302,500      |
| AHEC                                                        | 4,800,000      |
| UNC-Charlotte                                               | (800,000)      |
| UNC-Greensboro                                              | (225,000)      |
| UNC-Pembroke                                                | 0              |
| UNC-School of the Arts                                      | 0              |
| UNC-Wilmington                                              | 0              |
| Western Carolina University                                 | 0              |
| Winston-Salem State University                              | 0              |
| General Administration                                      | 0              |
| University Institutional Programs                           | 39,065,696     |
| Related Educational Programs                                | 970,000        |
| NC School of Science & Math                                 | 508,836        |
| Aid to Private Institutions                                 | 3,550,002      |
| <br>Total University of North Carolina – Board of Governors | <br>59,841,034 |

## **HEALTH AND HUMAN SERVICES**

|                                                                                      |              |
|--------------------------------------------------------------------------------------|--------------|
| Department of Health and Human Services                                              |              |
| Central Management and Support                                                       | 4,141,207    |
| Division of Aging & Adult Services                                                   | 1,187,143    |
| Division of Services for the Blind/Deaf/Hard of Hearing                              | 81,405       |
| Division of Child Development & Early Education                                      | (49,699,217) |
| Division of Health Service Regulation                                                | 101,501      |
| Division of Medical Assistance                                                       | 729,439      |
| Division of Mental Health, Developmental Disabilities,<br>& Substance Abuse Services | 3,226,446    |
| NC Health Choice                                                                     | 4,424        |
| Division of Health Benefits                                                          | 84,648       |
| Division of Public Health                                                            | 1,715,544    |
| Division of Social Services                                                          | 917,664      |
| Division of Vocational Rehabilitation                                                | 435,203      |
| Total Health and Human Services                                                      | (37,074,593) |

## **AGRICULTURAL, NATURAL, AND ECONOMIC RESOURCES**

|                                                 |             |
|-------------------------------------------------|-------------|
| Department of Agriculture and Consumer Services | 19,712,218  |
| <br>Department of Commerce                      |             |
| Commerce                                        | (6,707,869) |
| Commerce State-Aid                              | 3,535,000   |

|                                                                  |            |
|------------------------------------------------------------------|------------|
| Wildlife Resources Commission                                    | 424,872    |
| Department of Environmental Quality                              | 18,634,776 |
| Department of Labor                                              | 354,450    |
| Department of Natural and Cultural Resources                     | 16,937,232 |
| Department of Natural and Cultural<br>Resources – Roanoke Island | 0          |

## **JUSTICE AND PUBLIC SAFETY**

|                                        |            |
|----------------------------------------|------------|
| Department of Public Safety            | 50,529,172 |
| Judicial Department                    | 12,184,971 |
| Judicial Department – Indigent Defense | 1,213,669  |
| Department of Justice                  | 1,138,904  |

## **GENERAL GOVERNMENT**

|                                                               |           |
|---------------------------------------------------------------|-----------|
| Department of Administration                                  | 2,562,510 |
| Office of Administrative Hearings                             | 107,165   |
| Office of State Auditor                                       | 283,584   |
| Office of State Controller                                    | 342,077   |
| Bipartisan State Board of Elections and Ethics<br>Enforcement | 105,919   |
| General Assembly                                              | 1,335,390 |
| Office of the Governor                                        |           |
| Office of the Governor                                        | 92,105    |
| Office of the Governor – Special Projects                     | 0         |
| Office of State Budget and Management                         |           |
| Office of State Budget and Management                         | 137,501   |
| OSBM – Reserve for Special Appropriations                     | 9,615,307 |
| Housing Finance Agency                                        | 0         |
| Department of Insurance                                       | 932,602   |
| Office of Lieutenant Governor                                 | 17,181    |
| Department of Military and Veterans Affairs                   | 234,473   |

|                                                                   |                   |
|-------------------------------------------------------------------|-------------------|
| Department of Revenue                                             | 1,449,705         |
| Department of Secretary of State                                  | 249,043           |
| Department of State Treasurer                                     |                   |
| State Treasurer                                                   | 25,246            |
| State Treasurer – Retirement for Fire<br>and Rescue Squad Workers | 2,398,780         |
| <b>DEPARTMENT OF INFORMATION TECHNOLOGY</b>                       | <b>10,246,786</b> |

## **RESERVES, ADJUSTMENTS, AND DEBT SERVICE**

|                                                 |              |
|-------------------------------------------------|--------------|
| Public Schools Average Daily Membership Reserve | (48,410,289) |
| NC Promise Tuition Plan                         | (11,000,000) |
| Pending Legislation Reserve                     | (500,000)    |
| Enterprise Resource Planning                    | 27,000,000   |
| Compensation Increase Reserve                   | 15,300,000   |
| Debt Service                                    |              |
| General Debt Service                            | (54,567,293) |
| Federal Reimbursement                           | 0            |

**TOTAL CURRENT OPERATIONS –  
GENERAL FUND** **\$ 202,253,200**

## **GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** The General Fund availability statement set out in Section 2.2(a) of S.L. 2017-57 applies to the 2017-2018 fiscal year only. The General Fund availability used in adjusting the 2018-2019 budget is shown below:

|                                                 |                       |
|-------------------------------------------------|-----------------------|
|                                                 | <b>FY 2018-2019</b>   |
| Unappropriated Balance                          | \$ 499,475,581        |
| Adjustment for S.L. 2017-204                    | (8,500,000)           |
| <b>Revised Unappropriated Balance</b>           | <b>490,975,581</b>    |
| Projected Over Collections FY 2017-18           | 356,700,000           |
| Projected Reversions FY 2017-18                 | 275,000,000           |
| Earmarkings of Year End Fund Balance:           |                       |
| Reserve for Capital Projects                    | (155,201,070)         |
| Repairs and Renovations                         | (64,798,930)          |
| <b>Beginning Unreserved Fund Balance</b>        | <b>902,675,581</b>    |
| <b>Revenues Based on Existing Tax Structure</b> | <b>22,960,100,000</b> |
| <b>Non-tax Revenues</b>                         |                       |
| Investment Income                               | 99,400,000            |
| Judicial Fees                                   | 232,700,000           |
| Disproportionate Share                          | 163,300,000           |

|                                   |                    |
|-----------------------------------|--------------------|
| Insurance                         | 82,700,000         |
| Master Settlement Agreement (MSA) | 139,400,000        |
| Other Non-Tax Revenues            | 193,700,000        |
| <b>Subtotal Non-tax Revenues</b>  | <b>911,200,000</b> |

**Total General Fund Availability** **24,773,975,581**

**Adjustments to Availability: 2018 Session**

Internal Revenue Code Conformity 59,000,000

**Other Adjustments: 2018 Session**

Transfer to Savings Reserve (221,542,959)

Transfer to Medicaid Transformation Reserve (135,000,000)

Transfer from Department of Insurance 932,602

Transfer from Department of the State Treasurer 25,246

**Subtotal Other Adjustments: 2018 Session** **(296,585,111)**

**Revised General Fund Availability** **\$ 24,477,390,470**

Less General Fund Net Appropriations (23,916,034,376)

**Unappropriated Balance Remaining** **\$ 561,356,094**

**SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3(a), the State Controller shall transfer a total of sixty-four million seven hundred ninety-eight thousand nine hundred thirty dollars (\$64,798,930) from the unreserved fund balance to the Repairs and Renovations Reserve on June 30, 2018. Funds transferred under this section to the Repairs and Renovations Reserve are appropriated for the 2018-2019 fiscal year and shall be used in accordance with Section 36.5 of this act.

**SECTION 2.2.(c)** Pursuant to G.S. 143C-4-2, the State Controller shall transfer a total of two hundred twenty-one million five hundred forty-two thousand nine hundred fifty-nine dollars (\$221,542,959) to the Savings Reserve in the 2018-2019 fiscal year. This transfer 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.(d)** Notwithstanding any provision of G.S. 143C-4-2 to the contrary, the State Controller shall transfer the sum of fifty-nine million seven hundred fifty-five thousand two hundred thirty dollars (\$59,755,230) in nonrecurring funds for the 2018-2019 fiscal year from the Savings Reserve to the State Emergency Response/Disaster Relief Reserve in the General Fund.

**SECTION 2.2.(e)** The State Controller shall reserve to the Medicaid Transformation Reserve from funds available in the General Fund the sum of one hundred thirty-five million dollars (\$135,000,000) in nonrecurring funds for the 2018-2019 fiscal year. Funds reserved in the Medicaid Transformation Reserve do not constitute 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.(f)** The State Controller shall transfer the sum of one hundred fifty-five million two hundred one thousand seventy dollars (\$155,201,070) from the unreserved fund balance in the General Fund to the Project Reserve Account, established pursuant to G.S. 143C-8-10, on June 30, 2018.

**SECTION 2.2.(g)** Subsections (b), (f), and (g) of this section become effective June 30, 2018.

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

#### **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal year ending June 30, 2019, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2018-2019 fiscal year.

| <b>Current Operations – Highway Fund</b>  | <b>FY 2018-2019</b>     |
|-------------------------------------------|-------------------------|
| Department of Transportation              |                         |
| Administration                            | \$ 2,000,000            |
| Division of Highways                      |                         |
| Administration                            | 0                       |
| Construction                              | (8,556,922)             |
| Maintenance                               | (25,799,234)            |
| Planning and Research                     | 0                       |
| OSHA Program                              | 0                       |
| State Aid to Municipalities               | 0                       |
| Intermodal Divisions                      |                         |
| Ferry                                     | 0                       |
| Public Transportation                     | (8,556,922)             |
| Aviation                                  | 1,600,000               |
| Rail                                      | (300,000)               |
| Bicycle and Pedestrian                    | 0                       |
| Governor's Highway Safety                 | 0                       |
| Division of Motor Vehicles                | 80,000                  |
| Other State Agencies, Reserves, Transfers | 12,535,390              |
| Capital Improvements                      | 0                       |
| <b>Total Highway Fund Appropriations</b>  | <b>\$ 2,224,500,000</b> |

#### **HIGHWAY FUND AVAILABILITY STATEMENT**

**SECTION 3.2.** Section 3.2 of S.L. 2017-57 is repealed. The Highway Fund availability used in adjusting the 2018-2019 fiscal year budget is shown below:

| <b>Highway Fund Availability Statement</b> | <b>FY 2018-2019</b>     |
|--------------------------------------------|-------------------------|
| Unreserved Fund Balance                    | \$ 0                    |
| Estimated Revenue                          | \$ 2,224,500,000        |
| Adjustment to Revenue Availability:        |                         |
| <b>Total Highway Fund Availability</b>     | <b>\$ 2,224,500,000</b> |

Unappropriated Balance

\$ 0

#### **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

##### **HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal year ending June 30, 2019, according to the following schedule. Amounts set out in parentheses are reductions from Highway Trust Fund Appropriations for the 2018-2019 fiscal year.

| <b>Current Operations – Highway Trust Fund</b>                          | <b>FY 2018-2019</b>     |
|-------------------------------------------------------------------------|-------------------------|
| Program Administration                                                  | \$ 0                    |
| Turnpike Authority                                                      | 0                       |
| Transfer to Highway Fund                                                | 0                       |
| Debt Service                                                            | 0                       |
| Strategic Prioritization Funding Plan for<br>Transportation Investments | (45,324,162)            |
| <b>Total Highway Trust Fund Appropriations</b>                          | <b>\$ 1,540,500,000</b> |

##### **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

**SECTION 4.2.** Section 4.2 of S.L. 2017-57 is repealed. The Highway Trust Fund availability used in adjusting the 2018-2019 fiscal year budget is shown below:

| <b>Highway Trust Fund Availability</b>       | <b>FY 2018-2019</b>     |
|----------------------------------------------|-------------------------|
| Unreserved Fund Balance                      | \$ 0                    |
| Estimated Revenue                            | \$ 1,540,500,000        |
| Adjustment to Revenue Availability:          |                         |
| <b>Total Highway Trust Fund Availability</b> | <b>\$ 1,540,500,000</b> |
| Unappropriated Balance                       | \$ 0                    |

#### **PART V. OTHER APPROPRIATIONS**

##### **APPROPRIATION OF RECEIPTS INCREASED DUE TO SALARY AND BENEFITS INCREASES**

**SECTION 5.1.(a)** Any receipts that are required to be used to pay the legislatively mandated salary increases and employee benefits increases provided in this act are appropriated up to the actual amounts received for the 2018-2019 fiscal year.

**SECTION 5.1.(b)** Receipts collected in a fiscal year in excess of the amounts appropriated by this section shall remain unexpended and unencumbered until appropriated by the General Assembly, 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 in the amounts necessary to implement this subsection.

##### **LOTTERY COMMISSION BENEFIT LIABILITIES**

**SECTION 5.2.** G.S. 18C-164(a) reads as rewritten:

"(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and ~~expenses~~ expenses, excluding balance sheet adjustments or prior-period expense adjustments necessary to implement changes in accounting methods or accounting standards, shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred at least four times a year to the Education Lottery Fund, which shall be created in the State treasury."

**NEEDS-BASED SCHOOL CAPITAL AND LOTTERY CHANGES**

**SECTION 5.3.(a)** Section 5.3 of S.L. 2017-57, as amended by Section 1.1(a) of S.L. 2017-187 and Section 1.1 of S.L. 2017-212, reads as rewritten:

**"SECTION 5.3.(a)** The appropriations made from the Education Lottery Fund for the 2017-2019 fiscal biennium are as follows:

|                                        | <b>FY 2017-2018</b>  | <b>FY 2018-2019</b>                           |
|----------------------------------------|----------------------|-----------------------------------------------|
| Noninstructional Support Personnel     | \$383,888,897        | \$385,914,455                                 |
| Prekindergarten Program                | 78,252,110           | 78,252,110                                    |
| Public School Building Capital Fund    | 100,000,000          | 100,000,000                                   |
| Needs-Based Public School Capital Fund | 30,000,000           | <del>75,000,000</del> 117,320,354             |
| Scholarships for Needy Students        | 30,450,000           | 30,450,000                                    |
| UNC Need-Based Financial Aid           | 10,744,733           | 10,744,733                                    |
| LEA Transportation                     | 43,277,192           | <del>1,386,090</del> 21,386,090               |
| <b>TOTAL APPROPRIATION</b>             | <b>\$676,612,932</b> | <b><del>\$681,747,388</del> \$744,067,742</b> |

...  
**"SECTION 5.3.(d)** It is the intent of the General Assembly to increase the amount of North Carolina Education Lottery net lottery revenue collected that is dedicated to assist local governments in meeting local school capital needs from sixteen and nine-tenths percent (16.9%) of net lottery revenue collected in the 2016-2017 fiscal year to forty percent (40%) of net lottery revenue collected no later than the 2028-2029 fiscal year. To that end, there is created the Needs-Based Public School Capital Fund ~~to be administered by the Superintendent as an interest-bearing, nonreverting special fund in the Department of Public Instruction. The State Treasurer shall be the custodian of the Needs-Based Public School Capital Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.~~ The Needs-Based Public School Capital Fund shall be used to award grants to counties designated as a development tier one area or a development tier two area, as defined by G.S. 143B-437.08, to assist with their critical public school building capital needs. The Superintendent of Public Instruction shall award grants to counties in accordance with the following priorities:

- (1) Counties designated as development tier one areas.
- (2) Counties with greater need and less ability to generate sales tax and property tax revenue.
- (3) Counties with a high debt-to-tax revenue ratio.
- (4) The extent to which a project will address critical deficiencies in adequately serving the current and future student population.

**"SECTION 5.3.(e)** Grant funds awarded under this section shall be subject to a matching requirement from the recipient county as follows:

- (1) For a county designated as a development tier one area, the grant shall not exceed three dollars (\$3.00) in grant funds for every one dollar (\$1.00) provided by the county. Grant funds awarded to a county designated as a



development tier one county area shall not exceed fifteen million dollars (\$15,000,000).

- (2) For a county designated as a development tier two area, the grant shall not exceed one dollar (\$1.00) for every one dollar (\$1.00) in grant funds provided by the county. Grant funds awarded to a county designated as a tier two county area shall not exceed ten million dollars (\$10,000,000).

Grant funds shall be used for the construction of new school buildings only. Grant funds shall not be used for real property acquisition or for operational lease agreements, except that grant funds may be used for projects when a pre-development agreement for an operation lease was entered into on or before June 30, 2017. Notwithstanding subdivision (2) of this subsection, grant funds shall only be awarded to development tier one counties until the 2020-2021 fiscal year. acquisition. Grant funds shall be disbursed in a series of payments based on the progress of the project. To obtain a payment, the grantee shall submit a request for payment along with documentation of the expenditures for which the payment is requested and evidence that the matching requirement contained in subsection (b) of this section has been met. Grant funds shall not be awarded to any county that has received over an aggregate amount exceeding eight million seven hundred fifty thousand dollars (\$8,750,000) in funds from the Public School Building Capital Fund from the 2012-2013 fiscal year to the 2016-2017 fiscal year. No county may receive grant funds under this section more than once every five years. No portion of grant funds may be used to acquire a Leadership in Energy and Environmental Design (LEED) certification.

"SECTION 5.3.(e1) A county receiving grant funds pursuant to this section shall enter into an agreement with the Department of Public Instruction detailing the use of grant funds. The agreement shall contain at least all of the following:

- (1) A requirement that the grantee seek planning assistance and plan review from the School Planning Section of the Department of Public Instruction.
- (2) A progress payment provision governing disbursements to the county for the duration of the school construction project based upon the construction progress and documentation satisfactory to the Department that the matching requirement in subsection (e) of this section has been met.
- (3) A provision requiring periodic reports to the Department of Public Instruction on the use of disbursed grant funds and the progress of the school construction project.
- (4) A requirement that matching funds paid by the county pursuant to this section must be derived from non-State and nonfederal funds.

"SECTION 5.3.(e2) Notwithstanding the new construction requirement in subsection (e) of this section, a county may utilize grant funds for a lease agreement if all of the following criteria are met:

- (1) Ownership of the subject property on which the leased school is constructed shall be retained by the county.
- (2) The lease agreement shall include a repairs and maintenance provision that requires the landlord to bear the entire expense of all repairs, maintenance, alterations, or improvements to the basic structure, fixtures, appurtenances, and grounds of the subject property for the term of the lease.
- (3) The lease agreement shall be for a term of at least 15 years and no more than 25 years.
- (4) In lieu of the progress payment requirement provided in subsection (e) of this section, a county that has entered into a lease agreement shall provide a copy of the lease agreement to the Department and shall be periodically reimbursed upon submission of documentation satisfactory to the Department that the matching requirement of this section has been met.

For the purposes of this section, the term "lease agreement" shall include any ancillary agreements or predevelopment agreements entered into in anticipation of or in accordance with a lease. A lease agreement entered into pursuant to this subsection shall be subject to the requirements of Article 8 of Chapter 159 of the General Statutes. In determining whether the lease agreement is necessary or expedient pursuant to G.S. 159-151(a)(1) and G.S. 159-151(b)(1), the Local Government Commission may consider any other relevant construction and financing methods available to the county."

**SECTION 5.3.(b)** G.S. 18C-164 reads as rewritten:

**"§ 18C-164. Transfer of net revenues.**

...  
(b2) The Office of State Budget and Management shall transfer any net revenues remaining in the Education Lottery Fund after the appropriations made pursuant to subsection (b1) of this section to the Education Lottery Reserve Fund, a special revenue fund, necessary to maintain a minimum balance of twenty-five million dollars (\$25,000,000) in an amount equal to five percent (5%) of net revenue credited to the Education Lottery Fund from the State Lottery Fund during the previous fiscal year.

(b3) Any net revenues remaining after appropriation pursuant to subsection (b1) of this section and transfer pursuant to subsection (b2) of this section are hereby appropriated to the Needs-Based Public School Capital Fund.

(b4) Notwithstanding subsection (b2) of this section, the minimum balance of the Education Lottery Reserve Fund may be less than twenty-five million dollars (\$25,000,000) the amount equal to five percent (5%) of net revenue credited to the Education Lottery Fund from the State Lottery Fund during the previous fiscal year if funds are necessary to meet the amount of net revenues appropriated pursuant to subsection (b1) of this section.

...."

**SECTION 5.3.(c)** G.S. 18C-132 is amended by adding a new subsection to read:

"(m) An eligible person serving on active military duty in any branch of the United States Armed Forces during a war or national emergency declared in accordance with federal law may submit a delayed claim for a lottery prize. The claim shall be submitted to the Commission in writing no later than 540 days after the date the online game prize was announced or the instant game has closed. For the purposes of this subsection, the term "eligible person" means a person who has a valid claim for a prize in a lottery game and meets either of the following criteria:

- (1) While on active military duty in this State, is transferred out of this State as the result of a war or national emergency declared in accordance with federal law before the applicable time period for claiming a lottery prize has elapsed. For the purposes of this subdivision, the term "active military duty" means a person who is covered by the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501, et seq., as amended, or the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301, et seq., as amended.
- (2) While serving in the Armed Forces Reserves in this State, is transferred out of this State as the result of a war or national emergency declared in accordance with federal law before the applicable time period for claiming a lottery prize has elapsed."

**SECTION 5.3.(d)** Net revenues transferred from the State Lottery Fund in excess of the amounts appropriated from the Education Lottery Fund in the 2016-2017 fiscal year shall be considered net revenue credited to the Education Lottery Fund in the 2017-2018 fiscal year.

**SECTION 5.3.(e)** G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17l) The Needs-Based Public School Capital Fund."

**SECTION 5.3.(f)** Subsection (a) of this section applies to lease agreements entered into on or after the effective date of this act.

## CIVIL PENALTY AND FORFEITURE FUND

**SECTION 5.4.** Section 5.4(a) of S.L. 2017-57 reads as rewritten:

"**SECTION 5.4.(a)** Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2019, as follows:

|                                  | <b>FY 2017-2018</b> | <b>FY 2018-2019</b>                     |
|----------------------------------|---------------------|-----------------------------------------|
| School Technology Fund           | \$18,000,000        | <del>\$18,000,000</del> \$0             |
| Drivers Education                | 27,393,768          | 27,393,768                              |
| State Public School Fund         | 134,784,022         | <del>128,341,640</del> 178,341,640      |
| <u>Transportation Adjustment</u> | -                   | 15,000,000                              |
| <b>Total Appropriation</b>       | \$180,177,790       | <del>\$173,735,408</del> \$220,735,408" |

## INDIAN GAMING EDUCATION REVENUE FUND

**SECTION 5.5.** Section 5.5 of S.L. 2017-57 reads as rewritten:

"**SECTION 5.5.** Notwithstanding G.S. 143C-9-7, the sum of six million dollars (\$6,000,000) in ~~each year of the 2017-2019-2017-2018~~ 2017-2018 fiscal biennium year and the sum of nineteen million dollars (\$19,000,000) in the 2018-2019 fiscal year is transferred from the Indian Gaming Education Revenue Fund to the Department of Public Instruction, Textbooks, and Digital Resources Allotment."

## DISASTER RECOVERY – 2018

**SECTION 5.6.(a)** Transfer/Appropriation of Certain Unexpended DRA 2016 Funds.

– Subdivision (12) of Section 4.1 of S.L. 2016-124 is repealed. All unexpended and unencumbered funds allocated to the Department of Commerce by subdivision (12) of Section 4.1 of S.L. 2016-124 are transferred to the State Emergency Response/Disaster Relief Reserve in the General Fund described in Section 2.2 of this act.

**SECTION 5.6.(b)** Appropriations. – The sixty million dollars (\$60,000,000) transferred to the State Emergency Response/Disaster Relief Reserve in the General Fund as required by Section 2.2 of this act and subsection (a) of this section are appropriated as follows:

- (1) Federal match. – Fourteen million five hundred thousand dollars (\$14,500,000) to the State Emergency Response and Disaster Relief Fund to provide State match for federal disaster assistance programs.
- (2) Risk management. – To the following agencies and entities for risk management activities:
  - a. Three million six hundred thousand dollars (\$3,600,000) to the Department of Environmental Quality for continuation of landslide mapping.
  - b. Two hundred fifty thousand dollars (\$250,000) to the Department of Public Safety, Division of Emergency Management to support NC 2-1-1 activities.
  - c. Two million eight hundred thirty-five thousand two hundred twenty-four dollars (\$2,835,224) to the Department of Public Safety, Division of Emergency Management, for acquiring, installing, and monitoring flood warning systems and modeling, mapping, and real-time display of inundation zones and impact assessments for dams.
  - d. Two million three hundred thousand dollars (\$2,300,000) to the Department of Public Safety, Division of Emergency Management for the North Carolina Search and Rescue Program under Article 6 of Chapter 166A of the General Statutes. One hundred thousand dollars

- (\$100,000) shall be used for equipment and training to support search and rescue engineers.
  - e. Seven hundred thousand dollars (\$700,000) to the Department of Agriculture and Consumer Services to purchase Forest Service emergency response equipment.
  - f. One hundred thousand dollars (\$100,000) to the Department of Public Safety, Division of Emergency Management, to be allocated to Stanly County to be used to provide broadband infrastructure for the training facility located at the Stanly County Airport and used by State agencies for emergency preparedness.
- (3) Infrastructure. – Ten million dollars (\$10,000,000) to the Office of State Budget and Management to be transferred to the Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, to provide infrastructure grants to local governments and to 501(c)(3) nonprofit corporations for assistance and relief from Hurricane Matthew, the western wildfires, and Tropical Storms Julia and Hermine. For purposes of this subdivision, infrastructure includes nonresidential buildings that serve the public, water, sewer, sidewalks, storm drainage, and other, similar projects. Funds shall be used for the following:
- a. To repair, replace, secure, or demolish existing infrastructure.
  - b. To repair or replace existing tangible personal property.
  - c. To replace or improve existing infrastructure to support hazard mitigation.
  - d. To construct infrastructure to support (i) hazard mitigation and (ii) the development of new residential structures in areas outside the 100-year floodplain.
- (4) Management and oversight. – Seven hundred thousand dollars (\$700,000) to the Office of State Budget and Management to provide grants-in-aid to the towns of Princeville and Fair Bluff for contractual services related to management and use of disaster recovery funds.
- (5) Housing. – Twenty-five million fourteen thousand seven hundred seventy-six dollars (\$25,014,776) to the Department of Public Safety, Division of Emergency Management, for the following housing-related matters:
- a. To be used for housing elevation, acquisition, and mitigation reconstruction for homes not covered by Hazard Mitigation Grant Program.
  - b. To provide State Acquisition Relocation funds, which enable low- to moderate-income homeowners to purchase homes.
  - c. To provide flood insurance subsidies.

**SECTION 5.6.(c)** Applicability. – Subdivisions (1), (3), (4), and (5) and sub-subdivision c. of subdivision (2) of subsection (b) of this section apply in the North Carolina counties that were any of the following:

- (1) Declared a major disaster by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Matthew, wildfires in the western part of the State, Tropical Storm Julia, or Tropical Storm Hermine.
- (2) Part of the emergency area set forth in any of the following gubernatorial executive orders: Executive Order No. 97 (September 1, 2016), Executive Order No. 103 (September 22, 2016), Executive Order No. 107 (October 3, 2016), Executive Order No. 115 (November 16, 2016), or Executive Order No. 116.

**SECTION 5.6.(d) Implementation.** – The following actions and policy shall be taken to implement subsection (b) of this section:

- (1) The Governor may establish part-time and full-time personnel positions to implement this section. Positions established under this section are time limited and exempt from the State Human Resources Act.
- (2) The Governor shall establish advisory councils to advise relevant State agencies on hurricane relief and recovery efforts and to ensure input from representatives of affected communities and groups.
- (3) If a person's home is relocated or purchased with funds from the Hazard Mitigation Grant Program or the State Acquisition and Relocation Fund, the State Emergency Response and Disaster Relief Fund is subrogated to the person's rights under any insurance coverage for the damage to the home and any monies received from the insurance coverage shall be paid to the State Emergency Response and Disaster Relief Fund. The Division of Emergency Management shall ensure that those potentially affected by this section are notified of, and adhere to, its requirements.
- (4) It is the intent of the General Assembly to continue to review the funds appropriated by Congress and to consider actions needed to address any remaining unmet needs. It is also the intent of the General Assembly to review the adequacy of the measures funded in this section, S.L. 2016-124, and S.L. 2017-119.
- (5) No State funds appropriated in this section may be expended for the construction of any new residence within the 100-year floodplain unless the construction is in an area regulated by a unit of local government pursuant to a floodplain management ordinance and the construction complies with the ordinance. As used in this section, "100-year floodplain" means any area subject to inundation by a 100-year flood, as indicated on the most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency under the National Flood Insurance Program.
- (6) Homeowners in the 100-year floodplain who receive homeowner's housing assistance pursuant to this section shall have in effect federal flood insurance, if available, as a precondition to receipt of State homeowner's housing assistance for losses resulting from future flooding.

**SECTION 5.6.(e) Limitation.** – The Governor may not use the funds described in this section to make budget adjustments under G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c). Nothing in this section shall be construed to prohibit the Governor from exercising the Governor's authority under these statutes with respect to funds other than those described in this section.

The Governor shall also ensure that funds allocated in subdivisions (1), (3), (4), and (5) and sub-subdivision c. of subdivision (2) of subsection (b) of this section are expended in a manner that does not adversely affect any person's or entity's eligibility for federal funds that are made available, or that are anticipated to be made available, as a result of Hurricane Matthew, the western North Carolina wildfires, or Tropical Storms Julia and Hermine. The Governor shall also, to the extent practicable, avoid using State funds to cover costs that will be, or likely will be, covered by federal funds.

**SECTION 5.6.(f) No Reversion of Funds.** – Funds described in subdivisions (1), (3), (4), and (5) and sub-subdivision c. of subdivision (2) of subsection (b) of this section shall remain available to implement the provisions of this section until the General Assembly directs the reversion of any unexpended and unencumbered funds and G.S. 143C-6-23(f1)(1) shall not apply to those funds.

**SECTION 5.6.(g)** Reporting Requirements. – The Office of State Budget and Management shall report to the chairs of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research Division of the General Assembly on the implementation of this section on a monthly basis and shall also provide any additional reports or information requested by the Fiscal Research Division. Each report required by this section shall include information about all funds expended or encumbered pursuant to this section as of the date of the report, regardless of which State agency, federal agency, or non-State entity administers the funds. Non-State entities that administer or receive any funds appropriated in this section shall assist and fully cooperate with the Office of State Budget and Management in meeting the Office's obligations under this section.

**SECTION 5.6.(h)** Expand Uses/Infrastructure Funding/DRA 2016. – Effective December 15, 2016, subdivision (7) of Section 4.1 of S.L. 2016-124 reads as rewritten:

"**SECTION 4.1.** In addition to any other funds appropriated during the 2016-2017 fiscal year, there is appropriated from the Savings Reserve Account to the General Fund the sum of one hundred million nine hundred twenty-eight thousand three hundred seventy dollars (\$100,928,370) in nonrecurring funds for the 2016-2017 fiscal year and there is appropriated from the unappropriated General Fund balance the sum of one hundred million dollars (\$100,000,000) in nonrecurring funds for the 2016-2017 fiscal year. These funds shall be allocated as follows:

- ...
- (7) \$20,000,000 shall be allocated to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, to provide grants to local governments to construct new infrastructure required to support the development of new residential structures in areas outside the 100-year floodplain or ~~repair or replace~~ repair, replace, secure, or demolish existing infrastructure. For purposes of this subdivision, infrastructure includes nonresidential buildings that serve the public, water, sewer, sidewalks, storm drainage, and other, similar projects that provide assistance or relief for Hurricane Matthew."

**SECTION 5.6.(i)** Expand Uses/Infrastructure Funding/DRA 2017. – Effective July 18, 2017, subdivision (2) of Section 1 of S.L. 2017-119 reads as rewritten:

"**SECTION 1.** If Senate Bill 257 of the 2017 Regular Session becomes law, one hundred million dollars (\$100,000,000) reserved as Supplemental Disaster Recovery Funds in that act shall be allocated as follows:

- ...
- (2) Infrastructure. – Thirty million dollars (\$30,000,000) to the Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, to provide grants to local governments and to 501(c)(3) nonprofit corporations for assistance and relief from Hurricane Matthew, the western wildfires, and Tropical Storms Julia and Hermine. For purposes of this subdivision, infrastructure includes nonresidential buildings that serve the public, water, sewer, sidewalks, storm drainage, and other, similar projects. Funds shall be used for the following:
- a. To ~~repair or replace existing infrastructure and tangible personal property~~ repair, replace, secure, or demolish existing infrastructure.
  - a1. To repair or replace existing tangible personal property.
  - b. To replace or improve existing infrastructure to support hazard mitigation.
  - c. To construct infrastructure to support (i) hazard mitigation and (ii) the development of new residential structures in area outside the 100-year floodplain."

**SECTION 5.6.(j)** Deduction/Adjusted Gross Income. – Effective for taxable years beginning on or after January 1, 2017, G.S. 105-153.5(b) is amended by adding a new subdivision to read:

"(13) The amount paid to the taxpayer during the taxable year from the State Emergency Response and Disaster Relief Reserve Fund for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer."

**SECTION 5.6.(k)** Deduction/State Net Income. – Effective for taxable years beginning on or after January 1, 2017, G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(29) To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the State Emergency Response and Disaster Relief Reserve Fund for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer."

**SECTION 5.6.(l)** Extend Immunity to Professional Land Surveyors. – G.S. 89C-19.1 reads as rewritten:

**"§ 89C-19.1. ~~Engineer~~ Engineer or professional land surveyor who volunteers during an emergency or disaster; qualified immunity.**

(a) A professional engineer licensed professional or any other individual working under the direct supervision of a licensed professional who voluntarily, without compensation, provides structural, electrical, mechanical, or other engineering engineering services or land surveying services at the scene of a declared disaster or emergency, declared under federal law or in accordance with the provisions of Article 1A of Chapter 166A of the General Statutes, at the request of a public official, law enforcement official, public safety official, or building inspection official, acting in an official capacity, shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by the professional engineer's licensed professional's acts or omissions in the performance of the engineering services.

(b) The immunity provided in subsection (a) of this section for professional engineers applies only to an engineering service:

- (1) For any structure, building, piping, or other engineered system, either publicly or privately owned.
- (2) That occurs within 45 days after the declaration of the emergency or disaster, unless the 45-day immunity period is extended by an executive order issued by the Governor under the Governor's emergency executive powers.

(b1) The immunity provided in subsection (a) of this section for professional land surveyors applies only to land surveying services that occur within 45 days after the declaration of the emergency or disaster, unless the 45-day immunity period is extended by an executive order issued by the Governor under the Governor's emergency executive powers.

(c) The immunity provided in subsection (a) of this section does not apply if it is determined that the personal injury, wrongful death, property damage, or other loss was caused by the gross negligence, wanton conduct, or intentional wrongdoing of the ~~professional engineer, licensed professional~~, or arose out of the operation of a motor vehicle.

(d) As used in this section:

- (1) "Building inspection official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which the emergency or disaster is declared.
- (2) "Law enforcement official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which the emergency or disaster is declared.
- (2a) "Licensed professional" means any professional engineer or professional land surveyor.

- (3) "Public official" means any federal, State, or locally elected official with overall executive responsibility in the jurisdiction in which the emergency or disaster is declared.
- (4) "Public safety official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate public safety in the jurisdiction in which the emergency or disaster is declared."

**SECTION 5.6.(m)** Subsection (l) of this section is effective July 1, 2018, and applies to services rendered on or after that date.

**SECTION 5.6.(n)** The Joint Legislative Program Evaluation Oversight Committee shall amend the 2018-2019 Program Evaluation Division (PED) work plan to direct the Division to study implementation of S.L. 2016-124 and S.L. 2017-119 (2016/2017 Disaster Recovery Acts). In particular, the Division shall examine the State's current structure for distributing both State and federal funds, including federal Community Development Block Grant – Disaster Recovery funds, and determine whether modifications to the structure would result in increased time efficiencies in distributing funds to qualified recipients. The Division shall also examine the current reporting requirements in this section and the 2016/2017 Disaster Recovery Acts to determine what modifications would provide the General Assembly with more complete and integrated information regarding the status of disaster recovery. On or before March 15, 2019, PED shall submit a report to the Joint Legislative Program Evaluation Oversight Committee, the chairs of the Senate Appropriations/Base Budget Committee, the chairs of the House of Representatives Committee on Appropriations, and the Fiscal Research Division.

## **PART VI. GENERAL PROVISIONS**

### **ESTABLISHING OR INCREASING FEES**

**SECTION 6.1.(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 6.1.(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.

### **NON-STATE ENTITIES/REPORT AND REVERSION REQUIREMENTS**

**SECTION 6.2.(a)** Definition. – For purposes of this section, the term "non-State entity" is as defined in G.S. 143C-1-1.

**SECTION 6.2.(b)** Reporting Requirement. – Unless required to report on the use of funds under another provision of law, and by no later than June 30, 2019, each non-State entity receiving expansion funds appropriated in this act or S.L. 2017-57 for the 2018-2019 fiscal year shall submit a report to the Office of State Budget and Management and the Fiscal Research Division of the General Assembly that provides all of the following information:

- (1) A description of how the funds are used or are to be used, including outcomes and specific deliverables achieved.
- (2) The amount of State funds received and expended during the 2018-2019 fiscal year.
- (3) The amount of State funds expended for administrative purposes during the 2018-2019 fiscal year, including the amount of State funds expended for salaries and benefits.
- (4) For each employee, the amount of State funds used for the employee's annual salary.



**SECTION 6.2.(c)** Funds Shall Not Revert. – Notwithstanding the date set forth in G.S. 143C-6-23(f1)(1), expansion funds from the net General Fund appropriations or allocations in this act to a non-State entity shall not be subject to the return requirement set forth in G.S. 143C-6-23(f1)(1) until June 30, 2020.

## **BUDGET ACCOUNTABILITY AND TRANSPARENCY REFORM INITIATIVE**

**SECTION 6.3.(a)** Finding and Purpose. – The General Assembly finds that the State budget is its central policy document and primary vehicle for directing the provision of programs and services to the citizens of the State. As such, the State's budget must be clear, transparent, and credible if it is to serve as a basis of accountability to its citizens. Therefore, it is the intent of the General Assembly to provide flexibility and support to the Governor in continuing efforts to effectuate the necessary changes to the structure and presentation of the State budget. The purpose of the Budget Accountability and Transparency Reform Initiative established by this section is to ensure the highest level of transparency for meaningful review of the State budget by all citizens of the State.

**SECTION 6.3.(b)** Base Budget Reform Plan Pilot. – The Office of State Budget and Management and the Department of Public Safety (Department) shall develop jointly and execute a base budget reform plan for the Department that ensures all of the following:

- (1) Strict adherence to Chapter 143C of the General Statutes, the State Budget Act.
- (2) Realignment of the Department's expenditures and revenues in a clear and logical manner.
- (3) Presentation of a comprehensive, accurate, and reliable account of all Department expenditures and revenues.
- (4) An annual base budget document for the Department that:
  - a. Is presented in a format that promotes effective decision making, accountability, and oversight; and
  - b. Provides detailed budget information that can be understood at all levels of State government and by members of the general public.

**SECTION 6.3.(c)** Realignments. – Effective with the development and presentation of the Governor's 2019-2021 recommended biennial base budget, the Office of State Budget and Management may realign the various line items of expenditure and revenue in the Department's budget. The Department, with the approval of the Office of State Budget and Management, shall build its line-item budgets, including elimination of vacant positions to more closely align with actual requirements and anticipated receipts for each of the programs and purposes contained in the Governor's Recommended Base Budget for the Department. The Department must budget receipts based on historical trends. Under no circumstances may the Department move receipts between programs and purposes. The Department's newly aligned line-item budgets shall be submitted to the General Assembly as part of the Governor's Recommended Base Budget for the 2019-2021 fiscal biennium.

**SECTION 6.3.(d)** Authorization to Eliminate Positions. – Notwithstanding any State law, rule, regulation, or directive to the contrary, including any order issued by the Governor or the Governor's designee, vacant positions in the Department may be eliminated for the purpose of realigning the Department's budget only upon the express authorization of the General Assembly in this act or a subsequent enactment.

**SECTION 6.3.(e)** Reporting. – The Office of State Budget and Management shall report its progress in developing the realigned base budget required in subsection (a) of this section to the chairs of the House of Representatives Appropriations Committee, the chairs of the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division of the General Assembly no later than October 1, 2018. The Office of State Budget and Management shall submit the newly realigned base budget to the Fiscal Research Division by January 1, 2019.

## **RESTORE DEBT SERVICE FUNDS FOR WILMINGTON HARBOR**

**SECTION 6.4.(a)** During the 2018-2019 fiscal year, the Office of State Budget and Management (OSBM) shall retire the State's debt owed to the federal government for the Wilmington Harbor project.

**SECTION 6.4.(b)** To comply with the requirement set forth in subsection (a) of this section, OSBM shall (i) use the sum of twenty-two million dollars (\$22,000,000) appropriated in the 2016-2017 fiscal year and currently held in reserve and (ii) restore the sum of sixteen million dollars (\$16,000,000) that reverted to the General Fund on June 30, 2017.

**SECTION 6.4.(c)** No later than 15 days from the date the requirements of subsections (a) and (b) of this section are met, OSBM shall submit a report to the Joint Legislative Commission on Governmental Operations confirming its compliance and detailing the steps taken by OSBM in complying.

## **PART VII. PUBLIC SCHOOLS**

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

**SECTION 7.1.** Section 7.1(a) of S.L. 2017-57 reads as rewritten:

**"SECTION 7.1.(a)** The State Board of Education shall allocate additional funds for children with disabilities on the basis of four thousand one hundred twenty-five dollars and twenty-seven cents (\$4,125.27) per child for ~~fiscal years the 2017-2018 and 2018-2019. Each~~ fiscal year. For the 2017-2018 fiscal year, 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 seventy-five hundredths percent (12.75%) of its 2017-2018 allocated average daily membership in the local school administrative unit.

The State Board of Education shall allocate additional funds for children with disabilities on the basis of four thousand four hundred forty-two dollars and thirty-four cents (\$4,442.34) per child for the 2018-2019 fiscal year. For the 2018-2019 fiscal year, 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 seventy-five hundredths percent (12.75%) of its 2018-2019 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also be adjusted in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities."

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

**SECTION 7.2.** Section 7.2(a) of S.L. 2017-57 reads as rewritten:

**"SECTION 7.2.(a)** The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand three hundred fourteen dollars and fifty-six cents (\$1,314.56) per child for ~~fiscal years the 2017-2018 and 2018-2019. A~~ fiscal year. For the 2017-2018 fiscal year, a local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2017-2018 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit.

The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand three hundred thirty-nine dollars and fourteen cents (\$1,339.14) per child for the 2018-2019 fiscal year. For the 2018-2019 fiscal year, a local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2018-2019 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 be adjusted in accordance with legislative salary increments, retirement rate

adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children."

#### **ADJUST SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

**SECTION 7.3.** Section 7.3(h) of S.L. 2017-57, as amended by Section 2.19 of S.L. 2017-197, reads as rewritten:

**"SECTION 7.3.(h)** Counties Containing a Base of the Armed Forces. – Notwithstanding any other provision of this section, for the ~~2017-2019 fiscal biennium~~, 2017-2018 fiscal year, a county containing a base of the Armed Forces of the United States that has an average daily membership of more than 23,000 students shall receive whichever is the higher amount in ~~each~~ the 2017-2018 fiscal year as follows: either the amount of supplemental funding the county received as a low-wealth county in the 2012-2013 fiscal year or the amount of supplemental funding the county is eligible to receive as a low-wealth county pursuant to the formula for distribution of supplemental funding under the other provisions of this section.

Notwithstanding any other provision of this section, for the 2018-2019 fiscal year, counties containing a base of the Armed Forces of the United States that have an average daily membership of more than 17,000 students shall receive whichever is the higher amount in the 2018-2019 fiscal year as follows: either the amount of supplemental funding the county received as a low-wealth county in the 2012-2013 fiscal year or the amount of supplemental funding the county is eligible to receive as a low-wealth county pursuant to the formula for distribution of supplemental funding under the other provisions of this section."

#### **ADJUST SMALL COUNTY SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

**SECTION 7.4.** Section 7.4 of S.L. 2017-57 reads as rewritten:

**"SECTION 7.4.(a)** Allotment Schedule for the ~~2017-2019~~ 2017-2018 Fiscal Biennium-Year. – Except as otherwise provided in subsection (d) of this section, each eligible county school administrative unit shall receive a dollar allotment according to the following schedule:

| <u>Allotted ADM</u> | <u>Small County Allotment</u> |
|---------------------|-------------------------------|
| 0-600               | \$1,710,000                   |
| 601-1,300           | \$1,820,000                   |
| 1,301-1,700         | \$1,548,700                   |
| 1,701-2,000         | \$1,600,000                   |
| 2,001-2,300         | \$1,560,000                   |
| 2,301-2,600         | \$1,470,000                   |
| 2,601-2,800         | \$1,498,000                   |
| 2,801-3,200         | \$1,548,000                   |

**"SECTION 7.4.(a1)** Allotment Schedule for the 2018-2019 Fiscal Year. – Except as otherwise provided in subsection (d) of this section, each eligible county school administrative unit shall receive a dollar allotment according to the following schedule:

| <u>Allotted ADM</u> | <u>Small County Allotment</u> |
|---------------------|-------------------------------|
| <u>0-600</u>        | <u>\$1,710,000</u>            |
| <u>601-1,300</u>    | <u>\$1,820,000</u>            |
| <u>1,301-1,700</u>  | <u>\$1,548,700</u>            |
| <u>1,701-2,000</u>  | <u>\$1,600,000</u>            |
| <u>2,001-2,300</u>  | <u>\$1,560,000</u>            |
| <u>2,301-2,600</u>  | <u>\$1,470,000</u>            |
| <u>2,601-2,800</u>  | <u>\$1,498,000</u>            |
| <u>2,801-3,300</u>  | <u>\$1,548,000</u>            |

...

**"SECTION 7.4.(c)** Phase-Out Provision for the 2018-2019 Fiscal Year. – If a local school administrative unit becomes ineligible for funding under the schedule in subsection ~~(a)~~(a1) of this section in the 2018-2019 fiscal year, funding for that unit shall be phased out over a five-year period. Funding for such local school administrative units shall be reduced in equal increments in each of the five years after the unit becomes ineligible. Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes ineligible.

Allotments for eligible local school administrative units under this subsection shall not be reduced by more than twenty percent (20%) of the amount received in fiscal year 2017-2018 in any fiscal year. A local school administrative unit shall not become ineligible for funding if either the highest of the first two months total projected average daily membership for the current year or the higher of the first two months total prior year average daily membership would otherwise have made the unit eligible for funds under the schedule in subsection ~~(a)~~(a1) of this section.

...."

## **REVISE DPI BUDGET REDUCTIONS/FUNDS FOR REDUCTION COSTS**

**SECTION 7.5.** Section 7.7 of S.L. 2017-57 reads as rewritten:

**"SECTION 7.7.(a)** Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize the ~~Department, Department, realign fund structures, or both,~~ if necessary, to implement (i) the budget reductions for the 2017-2019 fiscal biennium, (ii) recommendations resulting from the audit required pursuant to Section 7.23L of this act, or (iii) other changes necessary to improve the efficiency of the Department. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department of Public Instruction shall provide (i) a current organization chart and a list of affected funds and (ii) the proposed organization chart and a list of affected funds clearly identifying the changes for the Department in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization, including any movement of positions and funds between fund codes on a recurring basis.

**"SECTION 7.7.(b)** In implementing (i) budget reductions for the 2017-2019 fiscal biennium, (ii) recommendations resulting from the audit required pursuant to Section 7.23L of this act, or (iii) other changes necessary to improve the efficiency of the Department of Public Instruction, the Department of Public Instruction shall make no reduction to funding (i) for the State Public School Fund, including for the following residential schools: Eastern North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor Morehead School, and (ii) for any budget expansion item funded by an appropriation to the Department of Public Instruction by this act for the 2017-2019 fiscal biennium. The Department shall also make no transfers from or reduction to funding or positions for any of the following:

- (1) Communities in Schools of North Carolina, Inc.
- (2) Teach For America, Inc.
- (3) Beginnings for Parents of Children Who are Deaf or Hard of Hearing, Inc.
- (4) The Excellent Public Schools Act, Read to Achieve Program, initially established under Section 7A.1 of S.L. 2012-142.
- (5) The North Carolina School Connectivity Program.
- (6) The North Carolina Center for the Advancement of Teaching.
- (7) The North Carolina Innovative School District.
- (8) Eastern North Carolina STEM.
- (9) Positions appointed by and with a direct report to the State Superintendent of Public Instruction, including those positions described in Section 7.10 of this act.

**"SECTION 7.7.(c)** In addition, when implementing budget reductions for the 2018-2019 fiscal year, the Department of Public Instruction may use up to three million dollars (\$3,000,000)

of funds appropriated to Fund Code 1800 to cover costs, including severance payments and contract renegotiations, associated with the reductions required by this act."

## **ADJUST TRANSFER OF FUNDS FOR BUSINESS SYSTEM MODERNIZATION PLAN**

**SECTION 7.6.** Section 7.16(d) of S.L. 2017-57 reads as rewritten:

"**SECTION 7.16.(d)** Of the funds appropriated to the Department of Public Instruction by this act for the school business system modernization plan for the 2017-2019 fiscal biennium, the Department shall transfer up to three million two hundred fifty thousand dollars (\$3,250,000) for the 2017-2018 fiscal year and up to ~~two hundred fifty thousand dollars (\$250,000)~~ three million dollars (\$3,000,000) for the 2018-2019 fiscal year to GDAC to leverage existing public-private partnerships for the ~~development and deployment~~ development, deployment, and ongoing provision of a data integration service that consolidates data from financial, human resources, licensure, student information, the Education Value-Added Assessment System (EVAAS), and related systems. Implementation shall also include development and deployment of a modern analytical platform and reporting environment. By December 1, ~~2017~~, 1 of each fiscal year, GDAC shall execute any contractual agreements and interagency data sharing agreements necessary to develop the reporting system established by this section."

## **REVISE DIGITAL LEARNING PLAN FUNDS**

**SECTION 7.7.** Section 7.23K(c) of S.L. 2017-57 reads as rewritten:

"**SECTION 7.23K.(c)** Of the six million four hundred twenty thousand dollars (\$6,420,000) in recurring funds appropriated to the Department of Public Instruction for the 2017-2018 fiscal year to accelerate implementation of the State's Digital Learning Plan, as set out in S.L. 2016-94, ~~beginning with~~ for the 2017-2018 fiscal year, the Department shall use up to one million eight hundred thousand dollars (\$1,800,000) to implement the requirements of this section.

Of the four million dollars (\$4,000,000) in recurring funds and the two million four hundred twenty thousand dollars (\$2,420,000) in nonrecurring funds appropriated to the Department of Public Instruction for the 2018-2019 fiscal year to accelerate implementation of the State's Digital Learning Plan, as set out in S.L. 2016-94, beginning with the 2018-2019 fiscal year, the Department shall use up to one million eight hundred thousand dollars (\$1,800,000) each fiscal year to implement the requirements of this section."

## **CTE GRADE EXPANSION PROGRAM FUNDS**

**SECTION 7.8.(a)** Section 7.23F(d) of S.L. 2017-57 reads as rewritten:

"**SECTION 7.23F.(d)** The nonrecurring funds allocated to the Commission under subdivision (2) of subsection (c) of this section shall not revert at the end of ~~each~~ the 2017-2018 fiscal year but shall remain available until expended."

**SECTION 7.8.(b)** The nonrecurring funds appropriated by this act for the 2018-2019 fiscal year to the Department of Public Instruction for the Career and Technical Education Grade Expansion Program established pursuant to Section 7.23F of S.L. 2017-57 shall not revert at the end of the 2018-2019 fiscal year but shall remain available until expended.

**SECTION 7.8.(c)** Subsection (a) of this section becomes effective June 30, 2018.

## **EXTEND ADVANCED TEACHING ROLES PILOT FOR FIVE YEARS**

**SECTION 7.9.** Section 8.7 of S.L. 2016-94 reads as rewritten:

"**SECTION 8.7.(a)** Purpose. – The State Board of Education shall establish ~~a three-year~~ an eight-year pilot program (pilot) to develop advanced teaching roles and organizational models that link teacher performance and professional growth to salary increases in selected local school administrative units for classroom teachers. For the purposes of this section, a classroom teacher is a teacher who works in the classroom providing instruction at least seventy percent (70%) of

the instructional day and who is not instructional support personnel. The purpose of the pilot shall be to do the following:

- (1) Allow highly effective classroom teachers to teach an increased number of students by assuming accountability for additional students, by becoming a lead classroom teacher accountable for the student performance of all of the students taught by teachers on that lead classroom teacher's team, or by leading a larger effort in the school to implement new instructional models to improve school-wide performance.
- (2) Enable local school administrative units to provide salary supplements to classroom teachers in advanced teaching roles. Selection of an advanced teaching role classroom teacher and award of related salary supplements shall be made on the basis of demonstrated effectiveness and additional responsibilities.
- (3) Enable local school administrative units to create innovative compensation models that focus on classroom teacher professional growth and student outcomes.
- (4) Utilize local plans to establish organizational changes related to compensation in order to sustain evidenced-based teaching practices that have the capacity to be replicated throughout the State.

...

**"SECTION 8.7.(d) Pilot Implementation.** – The selected local school administrative units shall implement their approved pilots beginning with the 2017-2018 school year and ending with the ~~2019-2020~~2024-2025 school year. The local board of education for each selected pilot local school administrative unit shall provide any requested information and access to the independent research organization selected by the State Board of Education to evaluate the pilots pursuant to subsection (f) of this section.

...."

#### **EXTEND FINANCE REFORM STUDY COMMITTEE TO 2019**

**SECTION 7.10.** Section 7.23D(f) of S.L. 2017-57 reads as rewritten:

**"SECTION 7.23D.(f)** Meetings of the Task Force shall begin no later than October 1, 2017. The Task Force shall submit a final report on the results of its study and development, including proposed legislation, to the Joint Legislative Education Oversight Committee on or before October 1, ~~2018,2019~~, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, the Joint Legislative Education Oversight Committee, and the Legislative Library. The Task Force shall terminate on October 1, ~~2018,2019~~, or upon the filing of its final report, whichever comes first."

#### **CLARIFY DRIVER EDUCATION PROGRAM FUNDS**

**SECTION 7.11.(a)** G.S. 115C-105.25(b)(11) reads as rewritten:

"(11) No funds shall be transferred into or out of the driver education allotment category."

**SECTION 7.11.(b)** G.S. 115C-215 reads as rewritten:

**"§ 115C-215. Administration of driver education program by the Department of Public Instruction.**

(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a standardized program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State or are receiving instruction through a

home school as provided by Part 3 of Article 39 of Chapter 115C of the General Statutes, and (iv) have not previously enrolled in the program. The driver education program shall be for the purpose of making available public education to all students on driver safety and training. The State Board of Education shall use for this purpose all funds appropriated pursuant to subsection (f) of this section to it for this purpose the Department of Public Instruction and may use all other funds that become available for its use for this purpose.

...

(c1) If a local school administrative unit does not comply with any reporting requirements imposed on the unit for the purposes of implementing the strategic plan established by the State Board of Education pursuant to subsection (c) of this section, the Department of Public Instruction may withhold up to five percent (5%) of the State funds allocated to a local school administrative unit for driver education until the unit reports the information required by the Department.

...

(f) The clear proceeds of the newly established motor vehicle registration late fee charged pursuant to G.S. 20-88.03, as enacted by S.L. 2015-241, shall be used to provide a dedicated source of revenue for the drivers education program administered by the Department of Public Instruction in accordance with this section and shall be appropriated by the General Assembly for this purpose for the 2016-2017 fiscal year and subsequent fiscal years thereafter.

(g) The Department of Public Instruction shall have a full-time director and other professional, administrative, technical, and clerical personnel as may be necessary for the statewide administration of the driver education program. Of the funds appropriated to the Department each fiscal year pursuant to subsection (f) of this section, the Department may use up to two percent (2%) of those funds for the direct costs for the statewide administration of the program, including any necessary positions."

#### **ADD EDGECOMBE COUNTY SCHOOLS/ENC STEM**

**SECTION 7.12.(a)** Section 7.36 of S.L. 2017-57, as enacted by Section 2.7 of S.L. 2017-197, reads as rewritten:

#### **"EASTERN NORTH CAROLINA STEM/HALIFAX COUNTY AND EDGECOMBE COUNTY SCHOOLS**

**"SECTION 7.36.** Notwithstanding any other provision of law, students enrolled in Halifax County Schools and Edgecombe County Schools shall be permitted to participate in the residential science, mathematics, engineering, and technology (STEM) enrichment program for traditionally underserved students supported by the sum of three hundred thousand dollars (\$300,000) in nonrecurring funds appropriated by this act to the Department of Public Instruction for the 2017-2018 fiscal year to be used by the State Board of Education to contract for administration of the program."

**SECTION 7.12.(b)** This section is effective the date this act becomes law.

#### **EXTEND PILOT/VIRTUAL CHARTER SCHOOLS**

**SECTION 7.13.** Section 8.35 of S.L. 2014-100, as amended by Section 8.13 of S.L. 2016-94, reads as rewritten:

**"SECTION 8.35.(a)** Notwithstanding ~~G.S. 115C-238.29D~~ G.S. 115C-218.5 or any other provision of law to the contrary, the State Board of Education shall establish a pilot program to authorize the operation of two virtual charter schools serving students in kindergarten through twelfth grade. The State Board shall establish an application process to allow student enrollment in the selected virtual charter schools beginning with the 2015-2016 school year. A virtual charter school participating in the pilot may serve any grade span of students in kindergarten through twelfth grade. The pilot program shall continue for a period of ~~four~~ eight school years and shall end with the ~~2018-2019~~ 2022-2023 school year.

"**SECTION 8.35.(b)** The virtual charter schools participating in the pilot program authorized by this section shall be subject to the statutes and rules applicable to charter schools pursuant to ~~Part 6A of Article 1614A~~ of Chapter 115C of the General Statutes, except as follows:

...

"**SECTION 8.35.(c)** In addition to the operating requirements applicable to a virtual charter school participating in the pilot program pursuant to ~~Part 6A of Article 1614A~~ of Chapter 115C of the General Statutes, the following requirements shall apply to a participating virtual charter school:

...

"**SECTION 8.35.(d)** Notwithstanding ~~G.S. 115C-238.29B~~ G.S. 115C-218.1 and ~~G.S. 115C-238.29D~~, G.S. 115C-218.5, a participating virtual charter school that is successful in meeting the requirements of this section and the applicable requirements of ~~Part 6A of Article 1614A~~ of Chapter 115C of the General Statutes during the period of the pilot program shall be eligible to be approved by the State Board of Education, at its discretion, without additional application requirements.

"**SECTION 8.35.(e)** The State Board of Education shall provide State funding to a virtual charter school participating in the pilot program as provided in ~~G.S. 115C-238.29H(a)~~ G.S. 115C-218.105(a) and ~~G.S. 115C-238.29H(a1)~~ G.S. 115C-218.105(b). The amount allocated pursuant to ~~G.S. 115C-238.29H(a)(1)~~ G.S. 115C-218.105(a)(1) shall not, however, include the allocation for low-wealth counties supplemental funding and the allocation for small county supplemental funding. Virtual charter schools participating in the pilot program shall also be subject to the requirements in ~~G.S. 115C-238.29H(b)~~ G.S. 115C-218.105(c) through ~~G.S. 115C-238.29H(d)~~ G.S. 115C-218.105(e). The amount of local funds provided to participating schools pursuant to ~~G.S. 115C-238.29H(b)~~ G.S. 115C-218.105(c) shall be the lesser of seven hundred ninety dollars (\$790.00) per pupil or the amount computed in accordance with ~~G.S. 115C-238.29H(b)~~ G.S. 115C-218.105(c).

...

"**SECTION 8.35.(g)** The State Board shall report on the initial implementation of the pilot program to the Joint Legislative Education Oversight Committee by November 15, 2016, and on findings from ~~three~~ (i) five years of operation of the pilot program by November 15, 2018-2020, and (ii) seven years of operation of the pilot program by November 15, 2022. At a minimum, the ~~report~~ reports shall include the following:

- (1) The number of students who have enrolled in courses offered by the schools.
- (2) The number and type of courses offered by the schools.
- (3) The withdrawal rate of students after enrollment.
- (4) Student performance and accountability data.
- (5) Information on the implementation, administration, and funding for the pilot program.
- (6) Recommendations on the modification, continuation, and potential expansion of the program."

## STATE BOARD OF EDUCATION ROLL CALL VOTES

**SECTION 7.14.(a)** G.S. 115C-11(d) reads as rewritten:

"(d) Voting. – No voting by proxy shall be permitted. Except in voting on textbook adoptions, ~~all voting shall be viva voce unless a record vote or secret ballot is demanded by any member,~~ a majority of those present and voting shall be necessary to carry a ~~motion~~ motion and a roll call vote shall be had on each motion. A record of all such votes shall be kept in the minute book."

**SECTION 7.14.(b)** This section is effective the date this act becomes law and applies to votes by the State Board of Education taken at any meeting occurring on or after that date.



## **CERTAIN CIHS OPERATING WITHOUT ADDITIONAL FUNDS**

**SECTION 7.15.** Beginning with the 2018-2019 school year and for subsequent school years thereafter, notwithstanding G.S. 115C-238.51A(c) and G.S. 115C-238.54, the Center for Industry, Technology, and Innovation, the Innovation Early College High School, the Marine Sciences and Technologies Early College High School, the Roanoke Rapids Early College High School, and the Southeast Area Technical High School shall be permitted to operate in accordance with G.S. 115C-238.53 and G.S. 115C-238.54 as cooperative innovative high schools approved under G.S. 115C-238.51A(c) and shall be subject to the evaluation requirements of G.S. 115C-238.55.

## **REGIONAL SCHOOL WITHDRAWAL MORATORIUM**

**SECTION 7.16.(a)** The Joint Legislative Education Oversight Committee shall study the current statutory requirements for the formation, approval, and expansion of regional schools and shall study the issue of whether a withdrawal process for participating units from a regional school should be added to the statutes governing regional schools. The Committee shall make recommendations on any statutory changes no later than January 15, 2019, to the General Assembly.

**SECTION 7.16.(b)** No participating unit in an approved regional school currently operating in the State shall withdraw from the regional school unless the General Assembly, following the review and recommendations of the Joint Legislative Education Oversight Committee, provides a statutory process for such withdrawal. Participating units shall continue to receive allotments for student seats, transfer local funds to the regional school, provide transportation, and comply with all other requirements of Part 10 of Article 16 of Chapter 115C of the General Statutes for participating units.

**SECTION 7.16.(c)** This section is effective when this act becomes law.

## **FUNDS FOR WORKFORCE DEVELOPMENT/HOSPITALITY JOBS**

**SECTION 7.17.(a)** Of the funds appropriated to the Department of Public Instruction for the 2018-2019 fiscal year by this act, the sum of up to two hundred thousand dollars (\$200,000) for the 2018-2019 fiscal year shall be made available to the North Carolina Hospitality Education Foundation (Education Foundation) of the North Carolina Restaurant and Lodging Association to be used to provide nationally certified programs in career and technical education focused on developing critical skills necessary for students to succeed in the hospitality sector. The purpose of the funds shall be to support instructor and student training and student testing to increase the State's skilled workforce in the restaurant and lodging sectors. The Education Foundation shall match State funds made available pursuant to this section on the basis of one dollar (\$1.00) in State funds for every one dollar (\$1.00) in non-State funds.

**SECTION 7.17.(b)** The Education Foundation, in consultation with the Department of Public Instruction, shall submit a report by April 1 of each year in which the Education Foundation spends State funds made available pursuant to this section to the Joint Legislative Education Oversight Committee and the Fiscal Research Division on the activities described by this section and the use of those funds.

## **PERMIT MILITARY CHILDREN TO ENROLL PRIOR TO RESIDENCY IN NORTH CAROLINA**

**SECTION 7.18.(a)** G.S. 115C-218.45 is amended by adding a new subsection to read:

"(d1) A student who is not a domiciliary of the State shall be permitted to register to enroll in a charter school or participate in a lottery for admission to a charter school within the State by

remote means, including electronic means, prior to commencement of the student's residency in the State if all of the following apply:

- (1) A parent or legal guardian is on active military duty and is transferred or pending transfer pursuant to an official military order to a military installation or reservation in the State.
- (2) Upon request by the charter school where the student seeks to register to enroll or participate in a lottery for admission, a parent or legal guardian provides a copy of the official military order transferring to a military installation or reservation located in the State.
- (3) A parent or legal guardian completes and submits the charter school's required enrollment forms and documentation, except that proof of residency and documentation related to disciplinary actions pursuant to subsection (i) of this section shall not be required until the student transfers into the State, at which time they shall be required prior to commencing attendance.

A charter school shall make available to a student who registers to enroll or who participates in a lottery pursuant to this subsection the same opportunities available to a student enrolled or participating in a lottery contemporaneously with domicilia in the State, such as registering for courses and applying for programs that require additional request or application. A student enrolled pursuant to this subsection may not attend the charter school until proof of residency is provided in accordance with the requirements of the charter school. Nothing in this subsection shall be construed to curtail a charter school's authority pursuant to subsection (i) of this section."

**SECTION 7.18.(b)** G.S. 115C-366 is amended by adding a new subsection to read:

"(a9) A student who is not a domiciliary of a local school administrative unit shall be permitted to register to enroll in the public schools of that unit by remote means, including electronic means, prior to commencement of the student's residency in the local school administrative unit if all of the following apply:

- (1) A parent or legal guardian is on active military duty and is transferred or pending transfer pursuant to an official military order to a military installation or reservation in the State.
- (2) Upon request by the local school administrative unit where the student seeks to register to enroll, a parent or legal guardian provides a copy of the official military order transferring to a military installation or reservation located in the State.
- (3) A parent or legal guardian completes and submits the local school administrative unit's required enrollment forms and documentation, except that proof of residency and documentation related to disciplinary actions pursuant to G.S. 115C-366(a4) shall not be required until the student transfers into the local school administrative unit, at which time they shall be required prior to commencing attendance.

A local school administrative unit shall make available to a student who registers to enroll pursuant to this subsection the same opportunities available to a student enrolled contemporaneously with domicilia, such as requesting or applying for school assignment, registering for courses, and applying for any other programs that require additional request or application. A student enrolled pursuant to this subsection may not attend school in the local school administrative unit until proof of residency is provided in accordance with the requirements of the local school administrative unit. Nothing in this subsection shall be construed to curtail a local school administrative unit's authority pursuant to G.S. 115C-366(a5)."

**SECTION 7.18.(c)** G.S. 115C-366.1 reads as rewritten:

**"§ 115C-366.1. Local boards of education; tuition charges.**

- (a) Local boards of education may charge tuition to the following persons:**
  - (1) Persons of school age who are not domiciliaries of the State.**

- (2) Persons of school age who are domiciliaries of the State but who do not reside within the school administrative ~~unit or district unit.~~
- (3) Persons of school age who reside on a military ~~or naval installation or~~ reservation located within the State and who are not domiciliaries of the State. Provided, however, that no person of school age residing on a military ~~or naval installation or~~ reservation located within the State and who attends the public schools within the State may be charged tuition if federal funds designed to compensate for the impact on public schools of military dependent persons of school age are funded by the federal government at not less than fifty percent (50%) of the total per capita cost of education in the State, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school administrative unit.

...."

**SECTION 7.18.(d)** G.S. 115C-407.5 reads as rewritten:

**"§ 115C-407.5. Interstate Compact on Educational Opportunity for Military Children.**

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

...  
ARTICLE VI.  
ELIGIBILITY.

A. Eligibility for enrollment – Children of military families shall be eligible for enrollment in the public schools of North Carolina pursuant to the provisions of G.S. 115C-366, including the provisions of (i) G.S. 115C-366(a3) that provides for ~~admission,~~admission without the payment of ~~tuition,~~tuition of children of military families not domiciled within the ~~local school district,~~administrative unit and (ii) G.S. 115C-366(a9) that provides for remote enrollment registration of children of military families not domiciled within the local school administrative unit, provided that the ~~affidavits provided for in that section and other~~-specified conditions are met.

...."

**SECTION 7.18.(e)** This section becomes effective January 1, 2019, and applies to enrollment applications received on or after that date.

**CHARTER SCHOOL TRANSPORTATION GRANT PILOT PROGRAM REPORT**

**SECTION 7.19.** The Department of Public Instruction shall provide a report by December 1, 2018, to the Fiscal Research Division, the Joint Legislative Transportation Oversight Committee, and the Joint Legislative Education Oversight Committee on the results of the Charter School Transportation Grant Pilot Program (Program) established pursuant to Section 7.35 of S.L. 2017-57 for the 2017-2018 fiscal year. The report shall include (i) the number of charter schools that received grant funds, (ii) the amount of grant funds awarded to those charter schools, (iii) whether implementing the Program led to an increase in charter schools offering lunch, (iv) whether implementing the Program led to an increase in student lunch participation at charter schools offering lunch, (v) whether implementing the Program increased or expanded the offering of student transportation by charter schools, and (vi) the modes of student transportation offered by charter schools that received grant funds.

**MODIFY PROHIBITION ON DPI SERVING AS ISD OPERATOR**

**SECTION 7.20.(a)** G.S. 115C-75.5(3) reads as rewritten:

- "(3) Innovative school operator or IS operator. – An entity selected by the State Board of Education upon the recommendation of the ISD Superintendent to

operate an innovative school. ~~The~~ Except as otherwise provided in this Article, the Department of Public Instruction may not be selected as an IS operator."

**SECTION 7.20.(b)** G.S. 115C-75.9(a) reads as rewritten:

"(a) Direct Management by IS Operator. – An innovative school shall be subject to direct management by an IS operator selected by the State Board of Education, upon the recommendation of the ISD Superintendent, for a five-year contract. In the event that temporary management is necessary due to contract termination, lack of a qualified IS operator under G.S. 115C-75.8(b1), or other unforeseen emergency, the ISD is authorized to act as an IS operator."

**SECTION 7.20.(c)** G.S. 115C-75.8 reads as rewritten:

**"§ 115C-75.8. Selection of IS operators.**

(a) The State Board of Education may select an IS operator for a prospective innovative school by January 15 and shall select an IS operator for a prospective school no later than February 15.

(b) Upon the recommendation of the ISD Superintendent, the State Board of Education shall only select an entity to contract as an IS operator if that entity demonstrates one of the following:

- (1) The entity has a record of results in improving performance of persistently low-performing schools or improving performance of a substantial number of persistently low-performing students within a school or schools operated by the entity in this State or other states.
- (2) The entity has a credible and specific plan for dramatically improving student achievement in a low-performing school and provides evidence that the entity, or a contractual affiliate of such an entity, is either currently operating a school or schools in this State that provide students a sound, basic education or demonstrating consistent and substantial growth toward providing students a sound, basic education in the prior three school years.

(b1) In the event that no entity demonstrates the qualifications required by subsection (b) of this section, the ISD is authorized to act as an IS operator for one academic year and the State Board shall select an entity in accordance with subsection (b) of this section to assume management beginning with the next academic year. If the State Board has not been able to select an entity demonstrating the required qualifications by the third year of management of the school by the ISD, the ISD shall remain the operator of the school until the end of the fifth year and shall develop a transition plan to return the school to the local school administrative unit.

...."

**SECTION 7.20.(d)** G.S. 115C-75.12(a)(5) reads as rewritten:

"(5) Termination of contract on other grounds. – The State Board of Education, upon the recommendation of the ISD Superintendent, may terminate a contract with an IS operator at any time during the contract for financial mismanagement, noncompliance with federal or State laws, failure to comply with the terms of the contract, or evidence of criminal activity. The State Board of Education shall develop a transition plan to return the school to the local school administrative unit. The ISD is authorized to act as a temporary IS operator during the transition period, if necessary."

## **ADD SCHOOL SYSTEMS TO THE TEACHER ASSISTANT TUITION REIMBURSEMENT PROGRAM**

**SECTION 7.21.** Section 8.29 of S.L. 2016-94, as amended by Section 7.20 of S.L. 2017-57 and by Section 6(m) of S.L. 2017-189, reads as rewritten:

**"SECTION 8.29.(a)** Purpose. – The purpose of this section is to establish a pilot program ~~for,~~ to provide tuition assistance awards to part-time or full-time teacher assistants working in

participating local school administrative units, to be administered by certain local boards of education as follows:

- (1) ~~beginning~~ Beginning with the 2016-2017 fiscal year, the local boards of education of the Anson County, Franklin County, Moore County, Richmond County, and Scotland County school administrative ~~units and~~ units.
- (2) ~~beginning~~ Beginning with the 2017-2018 fiscal year, the local boards of education of the Alamance-Burlington Schools, Beaufort County Schools, Bertie County Schools, Duplin County Schools, Edenton-Chowan Schools, Edgecombe County Schools, Guilford County Schools, Halifax County Schools, Nash-Rocky Mount Schools, Northampton County Schools, Randolph County Schools, Tyrrell County Schools, Vance County Schools, and Washington County ~~Schools~~ Schools.
- (3) Beginning with the 2018-2019 fiscal year, the local boards of education of the Alleghany County Schools, Ashe County Schools, Bladen County Schools, Cherokee County Schools, Clay County Schools, Columbus County Schools, Davidson County Schools, Graham County Schools, Greene County Schools, Jackson County Schools, Jones County Schools, Lenoir County Public Schools, Macon County Schools, McDowell County Schools, Mitchell County Schools, Public Schools of Robeson County, Swain County Schools, Yadkin County Schools, and Yancey County Schools.

~~to provide tuition assistance awards to part time or full time teacher assistants working in those local school administrative units to pursue a college degree that will result in teacher licensure.~~

Tuition assistance awards under the program may be provided for part-time or full-time ~~coursework.~~ coursework toward a college degree that will result in teacher licensure. A local board of education may grant a teacher assistant academic leave to pursue coursework that may only be taken during working hours. A teacher assistant receiving an award under the program shall fulfill the student teaching requirements of an educator preparation program by working in the teacher assistant's employing local school administrative unit. A teacher assistant shall continue to receive salary and benefits while student teaching in the local school administrative unit in accordance with G.S. 115C-269.30(c).

**"SECTION 8.29.(b)** Selection of applicants. – Each local board of education participating in the pilot program may select up to five teacher assistants to receive an award of up to four thousand ~~five-six~~ hundred dollars ~~(\$4,500)~~ (\$4,600) per academic year for a period of up to four years to be used towards the cost of tuition and fees for a teacher assistant to attend an educator preparation program at an institution of higher education. Priority for awards shall be given to a teacher assistant who received a tuition assistance award for the previous academic year and who is making satisfactory academic progress towards achieving teacher licensure. The local board of education shall set criteria for the application and selection of teacher assistants to receive tuition assistance awards that includes at least the following:

...

**"SECTION 8.29.(d)** The local boards of education participating in the pilot program for the 2016-2017 fiscal year shall jointly report to the Joint Legislative Education Oversight Committee by September 1, 2017. All of the local boards of education participating in the pilot program shall jointly report to the Joint Legislative Education Oversight Committee ~~by September 1, 2018, and~~ by September 1 of each year thereafter following the first full fiscal year of participation in the pilot program on the results of the pilot program, including at least the following information:

- (1) The number and amount of funds in tuition assistance awards provided to teacher assistants.
- (2) The number of teacher assistant recipients who achieved teacher licensure, including the period of time from the issue of an initial tuition assistance award to the time of achieving licensure.

- (3) The number of recipients who remained employed in the local school administrative unit after achieving teacher licensure."

## **FUNDS FOR CLASSROOM SUPPLIES**

**SECTION 7.22.(a)** Of the funds appropriated in this act to the Department of Public Instruction for the 2018-2019 fiscal year, the sum of two hundred thousand dollars (\$200,000) for the 2018-2019 fiscal year shall be made available as grant-in-aid to the nonprofit organization known as DonorsChoose, Inc., to be used for classroom supplies. The purpose of the funds shall be to enhance educational opportunities by providing the supplies needed to carry out classroom projects planned and requested by educators. Funds shall be available for teachers only at the following schools located in the Charlotte-Mecklenburg school administrative unit: Ardrey Kell High School, Bailey Middle School, Ballantyne Elementary School, Barnette Elementary School, Berryhill School, Berewick Elementary School, Blythe Elementary School, Community House Middle School, Cornelius Elementary School, Davidson Elementary School, Elon Park Elementary School, Francis Bradley Middle School, Grand Oak Elementary School, Hawk Ridge Elementary School, Hopewell High School, Huntersville Elementary School, J. M. Alexander Middle School, J. V. Washam Elementary School, Kennedy Middle School, Lake Wylie Elementary School, Long Creek Elementary School, North Mecklenburg High School, Olympic Community of Schools, Palisades Park Elementary School, Pineville Elementary School, River Gate Elementary School, River Oaks Academy, Southwest Middle School, Steele Creek Elementary School, Torrence Creek Elementary School, Trillium Springs Montessori School, Whitewater Academy, Whitewater Middle School, William Amos Hough High School, and Winget Park Elementary School.

**SECTION 7.22.(b)** DonorsChoose, Inc., in consultation with the Department of Public Instruction, shall submit a report by September 1, 2019, to the Joint Legislative Education Oversight Committee and the Fiscal Research Division on the projects carried out under this section and the use of State funds.

## **EXTEND DEADLINE FOR IMPLEMENTATION OF READ TO ACHIEVE ASSESSMENT INSTRUMENTS**

**SECTION 7.23.** Section 7.27 of S.L. 2017-57, as amended by Section 2.6 of S.L. 2017-197, reads as rewritten:

" ...

**"SECTION 7.27.(b)** ~~By October 1, 2017, the~~ The State Superintendent shall issue a Request for Proposals (RFP) to vendors of diagnostic reading assessment instruments to provide one or more valid, reliable, formative, and diagnostic reading assessment instrument or instruments for use pursuant to G.S. 115C-174.11. At a minimum, the diagnostic reading assessment instrument or instruments provided by the selected vendor shall meet all of the following criteria:

- (1) Yield data that can be used with the Education Value-Added Assessment System (EVAAS).
- (2) Demonstrate close alignment with student performance on State assessments, including all assessments required in kindergarten through third grade by Part 2 of Article 10A of Chapter 115C of the General Statutes.
- (3) Demonstrate high rates of predictability as to student performance on State assessments, including all assessments required in kindergarten through third grade by Part 2 of Article 10A of Chapter 115C of the General Statutes.

**"SECTION 7.27.(c)** The State Superintendent shall form and supervise an Evaluation Panel to review the proposals received pursuant to the RFP issued in accordance with subsection (b) of this section. The Evaluation Panel shall be composed of persons employed within the Department of Public Instruction. ~~By March 1, 2018,~~ December 1, 2018, the Evaluation Panel, with the approval of the State Superintendent, shall select one vendor to provide the assessment

instrument or instruments for the ~~2018-2019~~2019-2020 school year. In determining which vendor to select, the Evaluation Panel shall consider, at a minimum, all of the following factors:

...  
"SECTION 7.27.(d) Subsection (a) of this section applies beginning with the ~~2018-2019~~2019-2020 school year. Subsection (c1) of this section becomes effective June 30, 2017."

## CLARIFY REPORTING REQUIREMENTS FOR READ TO ACHIEVE DATA

SECTION 7.24.(a) G.S. 115C-83.10 reads as rewritten:

### "§ 115C-83.10. 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 an~~ alternative assessment of reading ~~comprehension-comprehension and the~~ name of each alternative assessment used for this purpose with the number of students who passed it.
- (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-83.7(b).
- (5) The number and percentage of first grade students demonstrating and not demonstrating reading comprehension at grade level.
- (6) The number and percentage of second grade students demonstrating and not demonstrating reading comprehension at grade level.
- (7) For each grade level, the number and percentage of students eligible for priority enrollment in reading camp under G.S. 115C-83.11(b) and, for each grade level, the number and percentage of those students who attend reading camp.

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

- (1) ~~a-A~~ a description of all reading interventions provided to students who have been retained under G.S. 115C-83.7(a).
- (2) ~~The local board of education shall also include in the report the~~ The number of first and second grade students attending a reading camp offered by the local board.
- (3) The license area or areas, years of licensed teaching experience, grade level assignment, and any other specific subject-area assignments of each teacher providing instruction at a reading camp.
- (4) The number and percentage of teachers providing instruction at a reading camp who were paid a reading performance bonus during the school year immediately preceding the reading camp and the grade level on which the bonus was based.

(b1) Each local board of education shall report annually in writing to the State Board of Education by November 15 of each year, for the prior school year, (i) the number and percentage of third grade students who did not demonstrate proficiency upon entering reading camp and who became proficient after completing reading camp and (ii) for each grade level, the number and percentage of first and second grade students who demonstrated reading comprehension below

grade level upon entering camp and who demonstrated reading comprehension at or above grade level after completing reading camp.

(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 December 15, 2016, and annually thereafter. The State-level summary shall include, for each local school administrative unit, every component listed in subsections (a), (b), and (b1) of this section.

(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.

(e) Local boards of education shall fully complete all information required by this section in the uniform format provided by the State Board."

**SECTION 7.24.(b)** G.S. 115C-83.6 reads as rewritten:

**"§ 115C-83.6. Facilitating early grade reading proficiency.**

...

(a1) Kindergarten through third grade reading assessments shall yield data that can be used with the Education Value-Added Assessment System (EVAAS) to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(a2) The Department of Public Instruction shall provide for EVAAS analysis all formative and diagnostic assessment data collected pursuant to this section or G.S. 115C-174.11 for kindergarten through third grade.

...."

**SECTION 7.24.(c)** G.S. 115C-218.85(b)(4) reads as rewritten:

"(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~~ an alternative assessment of reading ~~comprehension~~ comprehension and the name of each alternative assessment used for this purpose with the number of students who passed it.
- 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 7.24.(d)** This section applies beginning with the 2018-2019 school year, and shall include the reporting of required data from the 2017-2018 school year.



## **SCHOOLS THAT LEAD PILOT PROGRAM**

**SECTION 7.25.(a)** Program; Purpose. – Of the funds appropriated to the Department of Public Instruction by this act for the Schools That Lead Pilot Program (Program), the Department shall contract with Schools That Lead, Inc., to provide professional development to teachers and principals in up to 60 schools, beginning with the 2018-2019 school year and ending in the 2020-2021 school year. The selected schools shall be charter schools or schools under the authority of a local school administrative unit. Professional development services shall be offered to teachers and principals in grades K-12. The Superintendent of Public Instruction, in consultation with Schools That Lead, Inc., shall determine which schools are eligible to participate in the Program. At a minimum, the Program shall offer services to three cohorts of schools, as follows:

- (1) High schools working to increase on-time graduation.
- (2) Middle schools working to prepare students to succeed in high school by reducing the likelihood of retention in the ninth grade for multiple school years.
- (3) Elementary schools working to reduce the number of students with early warning indicators of course failures, absences, and discipline.

**SECTION 7.25.(b)** Evaluation. – Of the funds appropriated to the Department by this act for the Program, the Department shall use up to one hundred thousand dollars (\$100,000) to contract with an independent research organization to measure the impacts of the Program on student outcomes, including, but not limited to (i) on-time graduation in high school, (ii) ninth grade retention rates, and (iii) course failures, absences, and discipline in elementary school. The independent research organization shall report its interim findings to the Department no later than June 30, starting in 2019, and shall submit a final report no later than June 30, 2022.

**SECTION 7.25.(c)** Report. – The Department of Public Instruction, in consultation with Schools That Lead, Inc., shall submit a report on the impacts of the Program authorized by subsection (a) of this section, including, but not limited to, an accounting of expenditures, school performance data, principal performance data, teacher performance data, and student outcome data, beginning October 1, 2019, and continuing each year thereafter until October 1, 2022, to the Joint Legislative Education Oversight Committee and the Fiscal Research Division. The October 1, 2022, report shall include a summary and copy of the final report provided by the independent research organization pursuant to subsection (b) of this section.

## **STATEWIDE ANONYMOUS SAFETY TIP LINE APPLICATION**

**SECTION 7.26.(a)** G.S. 115C-105.51 reads as rewritten:

**"§ 115C-105.51. Anonymous tip lines and monitoring and response applications.**

(a) ~~Each local school administrative unit is encouraged to~~ The governing body of each public secondary school shall develop and operate an anonymous tip line, in coordination with local law enforcement and social services agencies, to receive anonymous information on internal or external risks to the school population, school buildings, and school-related activities. The Department of Public Instruction, in consultation with the Department of Public Safety, may develop standards and guidelines for the development, operation, and staffing of tip lines. The governing body of each public secondary school may use the anonymous safety tip line application developed pursuant to subsection (b) of this section, or another application that meets standards and guidelines developed by the Department of Public Instruction, to achieve the purposes of this subsection.

(b) The Department of Public Instruction and the Center for Safer Schools, in collaboration with the Department of Public Safety, Division of Emergency Management, shall implement and maintain an anonymous safety tip line application available statewide for purposes of receiving anonymous student information on internal or external risks to the school population, school buildings, and school-related activities. Public secondary schools shall inform

students about the application and provide opportunities for students to learn about its purpose and function. The governing body of each public secondary school shall work with the Department of Public Instruction, Division of School Operations, and the Center for Safer Schools to ensure that employees of the public secondary schools receive adequate training in its operation.

(c) ~~The Department of Public Safety, Division of Emergency Management, and the Center for Safer Schools, in collaboration with the Department of Public Instruction and the North Carolina 911 Board, in collaboration with the Department of Public Instruction, Division of School Operations, and the Center for Safer Schools, shall implement and maintain a statewide panic alarm system for the purposes of launching real-time 911 messaging to public safety answering points of internal and external risks to the school population, school buildings, and school-related activities. The Department of Public Safety, in consultation with the Department of Public Instruction and the North Carolina 911 Board, may develop standards and guidelines for the operations and use of the panic alarm tool.~~

(d) ~~The Department of Public Safety~~ Instruction and the Department of Public Safety shall ensure that the anonymous safety tip line application is integrated with and supports the statewide School Risk and Response Management System (SRRMS) as provided in G.S. 115C-105.49A. Where technically feasible and cost efficient, the Department of Public Instruction and the Department of Public Safety ~~is~~ are encouraged to implement a single solution supporting both the anonymous safety tip line application and panic alarm system.

(e) All data and information acquired and stored by the anonymous safety tip line application are not considered public records as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.

(f) Notwithstanding subsection (e) of this section, the ~~Division~~ Department of Public Instruction, Division of School Operations, may collect the annual aggregate number and type of tips sent to the anonymous tip line. The collection of this aggregate data shall not have any identifying information on the reporter of the tip, including, but not limited to, the school where the incident was reported and the date the tip was reported.

(g) For the purposes of this section, a "public secondary school" is any of the following types of public school serving grades six or higher:

- (1) A school under the control of a local school administrative unit.
- (2) A school under the control of the State Board of Education, including schools operated under Article 7A and Article 9C of this Chapter.
- (3) A school under the control of The University of North Carolina.
- (4) A charter school.
- (5) A regional school."

**SECTION 7.26.(b)** G.S. 115C-12 is amended by adding a new subdivision to read:

"(46) Duty Regarding Anonymous Safety Tip Line Application. – The State Board of Education shall use the anonymous safety tip line application developed pursuant to G.S. 115C-105.51(b) for all public secondary schools serving students in grades six or higher operated under the control of the State Board of Education."

**SECTION 7.26.(c)** G.S. 115C-218.75 is amended by adding a new subsection to read:

"(e1) Anonymous Tip Line. – A charter school shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51."

**SECTION 7.26.(d)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(7e) Anonymous Tip Line. – A regional school shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51."

**SECTION 7.26.(e)** G.S.116-11 is amended by adding a new subdivision to read:

"(12e) The Board of Governors shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51 for all public secondary schools, as defined in that section, operated under the control of the Board of Governors."

**SECTION 7.26.(f)** Of the funds appropriated to the Department of Public Instruction by this act for the 2018-2019 fiscal year, the sum of up to five million dollars (\$5,000,000) in nonrecurring funds shall be used to support the anonymous safety tip line application implemented by the Department of Public Instruction, Division of School Operations, and the Center for Safer Schools pursuant to G.S. 115C-105.51.

**SECTION 7.26.(g)** By July 1, 2019, the Department of Public Instruction shall implement a statewide anonymous safety tip line application available to all schools serving grades six or higher in local school administrative units, charter schools, regional schools, and schools under the control of the State Board of Education or The University of North Carolina, as required under G.S. 115C-105.51.

**SECTION 7.26.(h)** Subsections (a), (b), (c), (d), and (e) of this section become effective July 1, 2019, and apply beginning with the 2019-2020 school year. Except as otherwise provided, this section becomes effective July 1, 2018.

## **SCHOOL SAFETY GRANTS PROGRAM**

**SECTION 7.27.(a)** Definitions. – For purposes of this section, the following definitions shall apply:

- (1) Community partner. – A public or private entity, including, but not limited to, a nonprofit corporation or a local management entity/managed care organization (LME/MCO), that partners with a local school administrative unit to provide services for the unit.
- (2) Public school unit. – A local school administrative unit, regional school, innovative school, laboratory school, or charter school.
- (3) School mental health support personnel. – School nurses, school counselors, school psychologists, and school social workers.

**SECTION 7.27.(b)** Program; Purpose. – The Superintendent of Public Instruction shall establish the School Safety Grants Program (program). The purpose of the program shall be to improve safety in public school units by providing grants for (i) school safety resource officers, (ii) services for students in crisis, (iii) school safety training, (iv) safety equipment in schools, and (v) additional school mental health support personnel.

**SECTION 7.27.(c)** Grant Applications. – A public school unit or community partner, as appropriate, may submit an application to the Superintendent of Public Instruction for a grant pursuant to this section. The application shall include an assessment, to be performed in conjunction with a local law enforcement agency, of the need for improving school safety within the public school unit that would receive the funding or services. The application shall identify current and ongoing needs and estimated costs associated with those needs.

**SECTION 7.27.(d)** Criteria and Guidelines. – By August 1, 2018, the Superintendent of Public Instruction shall develop criteria and guidelines for the administration and use of the grants pursuant to this section, including any documentation required to be submitted by applicants. In assessing grant applications, the Superintendent of Public Instruction shall consider at least all of the following factors:

- (1) The level of resources available to the public school unit that would receive the funding or services.
- (2) Whether the public school unit has received other grants of funding for school safety.
- (3) The overall impact on student safety in the public school unit if the identified needs are funded.

**SECTION 7.27.(e)** Grants for School Resource Officers. – Of the funds appropriated to the Department of Public Instruction by this act for the program in the 2018-2019 fiscal year, the Superintendent of Public Instruction shall use up to twelve million dollars (\$12,000,000) in recurring funds to award grants to public school units for school resource officers in elementary and middle schools. Grants shall be matched on the basis of two dollars (\$2.00) in State funds for every one dollar (\$1.00) in non-State funds.

Public school units may use these funds to employ school resource officers in elementary and middle schools, to train them, or both. Training shall be provided, in partnership with the public school unit, by a community college, a local law enforcement agency, or the North Carolina Justice Academy. Any training shall include instruction on research into the social and cognitive development of elementary school and middle school children.

**SECTION 7.27.(f)** Grants for Students in Crisis. – Of the funds appropriated to the Department of Public Instruction by this act for the program in the 2018-2019 fiscal year, the Superintendent of Public Instruction, in consultation with the Department of Health and Human Services, shall use up to two million dollars (\$2,000,000) in nonrecurring funds to award grants to community partners to provide any of the following crisis services:

- (1) Crisis respite services for parents or guardians of an individual student to prevent more intensive or costly levels of care.
- (2) Training and expanded services for therapeutic foster care families and licensed child placement agencies that provide services to students who (i) need support to manage their health, welfare, and safety and (ii) have any of the following:
  - a. Cognitive or behavioral problems.
  - b. Developmental delays.
  - c. Aggressive behavior.
- (3) Evidence-based therapy services aligned with targeted training for students and their parents or guardians, including any of the following:
  - a. Parent-child interaction therapy.
  - b. Trauma-focused cognitive behavioral therapy.
  - c. Dialectical behavior therapy.
  - d. Child-parent psychotherapy.
- (4) Any other crisis service, including peer-to-peer mentoring, that is likely to increase school safety. Of the funds allocated to the Superintendent for grants pursuant to this section, the Superintendent shall not use more than ten percent (10%) for the services identified in this subdivision.

**SECTION 7.27.(g)** Grants for Training to Increase School Safety. – Of the funds appropriated to the Department of Public Instruction by this act for the program in the 2018-2019 fiscal year, the Superintendent of Public Instruction, in consultation with the Department of Health and Human Services, shall use up to three million dollars (\$3,000,000) in nonrecurring funds to award grants to community partners that will address school safety by providing training to help students develop healthy responses to trauma and stress. The training shall be targeted and evidence-based and shall include any of the following services:

- (1) Counseling on Access to Lethal Means (CALM) training for school mental health support personnel, local first responders, and teachers on the topics of suicide prevention and reducing access by students to lethal means.
- (2) Training for school mental health support personnel on comprehensive and evidence-based clinical treatments for students and their parents or guardians, including any of the following:
  - a. Parent-child interaction therapy.
  - b. Trauma-focused cognitive behavioral therapy.
  - c. Behavioral therapy.

- d. Dialectical behavior therapy.
- e. Child-parent psychotherapy.
- (3) Training for students and school employees on community resilience models to improve understanding and responses to trauma and significant stress.
- (4) Training for school mental health support personnel on Modular Approach to Therapy for Children with Anxiety, Depression, Trauma, or Conduct problems (MATCH-ADTC), including any of the following components:
  - a. Trauma-focused cognitive behavioral therapy.
  - b. Parent and student coping skills.
  - c. Problem solving.
  - d. Safety planning.
- (5) Any other training, including the training on the facilitation of peer-to-peer mentoring, that is likely to increase school safety. Of the funds allocated to the Superintendent for grants pursuant to this section, the Superintendent shall not use more than ten percent (10%) for the services identified in this subdivision.

**SECTION 7.27.(h)** Grants for Safety Equipment. – Of the funds appropriated to the Department of Public Instruction by this act for the program in the 2018-2019 fiscal year, the Superintendent of Public Instruction, in consultation with the Department of Health and Human Services, shall use up to three million dollars (\$3,000,000) in nonrecurring funds to award grants to local school administrative units, regional schools, innovative schools, or laboratory schools for the purchase of safety equipment for government-owned school buildings.

**SECTION 7.27.(i)** Grants for School Mental Health Support Personnel. – Of the funds appropriated to the Department of Public Instruction by this act for the program in the 2018-2019 fiscal year, the Superintendent of Public Instruction shall use up to ten million dollars (\$10,000,000) in nonrecurring funds to award grants to public school units to provide all or a portion of the salary and benefits costs needed to employ additional school mental health support personnel during the 2018-2019 fiscal year. It is the intent of the General Assembly to provide an additional ten million dollars (\$10,000,000) for grants for school mental health support personnel, as defined in this section, in the 2019-2020 fiscal year.

**SECTION 7.27.(j)** Supplement Not Supplant. – Grants provided to public school units pursuant to the program shall be used to supplement and not to supplant State or non-State funds already provided for these services.

**SECTION 7.27.(k)** Administrative Costs. – Of the funds appropriated to the Department of Public Instruction by this act for the program in the 2018-2019 fiscal year, the Superintendent of Public Instruction may retain up to one hundred thousand dollars (\$100,000) for administrative costs associated with the program.

**SECTION 7.27.(l)** Report. – No later than April 1, 2019, the Superintendent of Public Instruction shall report on the program to the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. The report shall include the identity of each entity that received a grant through the program, the amount of funding provided to each entity that received a grant, the use of funds by each entity that received a grant, and recommendations for the implementation of additional effective school safety measures.

**SECTION 7.27.(m)** Section 8.36 of S.L. 2013-360 is repealed.

## **PART VIII. COMPENSATION OF PUBLIC SCHOOL EMPLOYEES**

### **TEACHER SALARY SCHEDULE**

**SECTION 8.1.(a)** The following monthly teacher salary schedule shall apply for the 2018-2019 fiscal year to licensed personnel of the public schools who are classified as teachers. The salary schedule is based on years of teaching experience.

**2018-2019 Teacher Monthly Salary Schedule**

| <b>Years of Experience</b> | <b>"A" Teachers</b> |
|----------------------------|---------------------|
| 0                          | \$3,500             |
| 1                          | \$3,600             |
| 2                          | \$3,700             |
| 3                          | \$3,800             |
| 4                          | \$3,900             |
| 5                          | \$4,000             |
| 6                          | \$4,100             |
| 7                          | \$4,200             |
| 8                          | \$4,300             |
| 9                          | \$4,400             |
| 10                         | \$4,500             |
| 11                         | \$4,600             |
| 12                         | \$4,700             |
| 13                         | \$4,800             |
| 14                         | \$4,900             |
| 15-24                      | \$5,000             |
| 25+                        | \$5,200.            |

**SECTION 8.1.(b)** Salary Supplements for Teachers Paid on This Salary Schedule.

- (1) Licensed teachers who have NBPTS certification shall receive a salary supplement each month of twelve percent (12%) of their monthly salary on the "A" salary schedule.
- (2) Licensed teachers who are classified as "M" teachers shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.
- (3) Licensed teachers with licensure 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 supplement provided to them as "M" teachers.
- (4) Licensed teachers with licensure 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 supplement provided to them as "M" teachers.
- (5) Certified school nurses shall receive a salary supplement each month of ten percent (10%) of their monthly salary on the "A" salary schedule.

**SECTION 8.1.(c)** The first step of the salary schedule for (i) school psychologists, (ii) school speech pathologists who are licensed as speech pathologists at the master's degree level or higher, and (iii) school audiologists who are licensed as audiologists at the master's degree level or higher shall be equivalent to the sixth step of the "A" salary schedule. These employees shall receive a salary supplement each month of ten percent (10%) of their monthly salary and are eligible to receive salary supplements equivalent to those of teachers for academic preparation at the six-year degree level or the doctoral degree level.

**SECTION 8.1.(d)** The twenty-sixth step of the salary schedule for (i) school psychologists, (ii) school speech pathologists who are licensed as speech pathologists at the master's degree level or higher, and (iii) school audiologists who are licensed as audiologists at

the master's degree level or higher shall be seven and one-half percent (7.5%) higher than the salary received by these same employees on the twenty-fifth step of the salary schedule.

**SECTION 8.1.(e)** Beginning with the 2014-2015 fiscal year, in lieu of providing annual longevity payments to teachers paid on the teacher salary schedule, the amounts of those longevity payments are included in the monthly amounts under the teacher salary schedule.

**SECTION 8.1.(f)** A teacher compensated in accordance with this salary schedule for the 2018-2019 school year shall receive an amount equal to the greater of the following:

- (1) The applicable amount on the salary schedule for the applicable school year.
- (2) For teachers who were eligible for longevity for the 2013-2014 school year, the sum of the following:
  - a. The salary the teacher received in the 2013-2014 school year pursuant to Section 35.11 of S.L. 2013-360.
  - b. The longevity that the teacher would have received under the longevity system in effect for the 2013-2014 school year provided in Section 35.11 of S.L. 2013-360 based on the teacher's current years of service.
  - c. The annual bonus provided in Section 9.1(e) of S.L. 2014-100.
- (3) For teachers who were not eligible for longevity for the 2013-2014 school year, the sum of the salary and annual bonus the teacher received in the 2014-2015 school year pursuant to Section 9.1 of S.L. 2014-100.

**SECTION 8.1.(g)** As used in this section, the term "teacher" shall also include instructional support personnel.

**SECTION 8.1.(h)** Section 8.1 of S.L. 2017-57 is repealed.

## **PRINCIPAL SALARY SCHEDULE**

**SECTION 8.2.(a)** The following annual salary schedule for principals shall apply for the 2018-2019 fiscal year, beginning July 1, 2018.

### **2018-2019 Principal Annual Salary Schedule**

| <b>Avg. Daily Membership</b> | <b>Base</b> | <b>Met Growth</b> | <b>Exceeded Growth</b> |
|------------------------------|-------------|-------------------|------------------------|
| 0-400                        | \$66,010    | \$72,611          | \$79,212               |
| 401-700                      | \$69,311    | \$76,242          | \$83,173               |
| 701-1,000                    | \$72,611    | \$79,872          | \$87,133               |
| 1,001-1,300                  | \$75,912    | \$83,503          | \$91,094               |
| 1,301+                       | \$79,212    | \$87,133          | \$95,054.              |

A principal's placement on the salary schedule shall be determined according to the average daily membership of the school supervised by the principal, as described in subsection (b) of this section, and the school growth scores, calculated pursuant to G.S. 115C-83.15(c), for each school the principal supervised in at least two of the prior three school years, as described in subsection (c) of this section, regardless of a break in service, and provided the principal supervised each school as a principal for at least a majority of the school year, as follows:

- (1) A principal shall be paid according to the Exceeded Growth column of the schedule if the school growth scores show the school or schools exceeded expected growth in at least two of the prior three school years.
- (2) A principal shall be paid according to the Met Growth column of the schedule if any of the following apply:
  - a. The school growth scores show the school or schools met expected growth in at least two of the prior three school years.
  - b. The school growth scores show the school or schools met expected growth in at least one of the prior three school years and exceeded expected growth in one of the prior three school years.
  - c. The principal supervised a school in at least two of the prior three school years that was not eligible to receive a school growth score.

- (3) A principal shall be paid according to the Base column if either of the following apply:
  - a. The school growth scores show the school or schools did not meet expected growth in at least two of the prior three years.
  - b. The principal has not supervised any school as a principal for a majority of the school year in at least two of the prior three school years.

**SECTION 8.2.(b)** For purposes of determining the average daily membership of a principal's school, the following amounts shall be used during the following time periods:

- (1) Between July 1, 2018, and December 31, 2018, the average daily membership for the school from the 2017-2018 school year.
- (2) Between January 1, 2019, and June 30, 2019, the average daily membership for the school for the 2018-2019 school year.

**SECTION 8.2.(c)** For purposes of determining the school growth scores for each school the principal supervised in at least two of the prior three school years, the following school growth scores shall be used during the following time periods:

- (1) Between July 1, 2018, and December 31, 2018, the school growth scores from the 2014-2015, 2015-2016, and 2016-2017 school years.
- (2) Between January 1, 2019, and June 30, 2019, the school growth scores from the 2015-2016, 2016-2017, and 2017-2018 school years.

**SECTION 8.2.(d)** Beginning with the 2017-2018 fiscal year, in lieu of providing annual longevity payments to principals paid on the principal salary schedule, the amounts of those longevity payments are included in the annual amounts under the principal salary schedule.

**SECTION 8.2.(e)** A principal compensated in accordance with this section for the 2018-2019 fiscal year shall receive an amount equal to the greater of the following:

- (1) The applicable amount determined pursuant to subsection (a) of this section.
- (2) For principals who were eligible for longevity in the 2016-2017 fiscal year, the sum of the following:
  - a. The salary the principal received in the 2016-2017 fiscal year pursuant to Section 9.1 or Section 9.2 of S.L. 2016-94.
  - b. The longevity that the principal would have received as provided for State employees under the North Carolina Human Resources Act for the 2016-2017 fiscal year based on the principal's current years of service.
- (3) For principals who were not eligible for longevity in the 2016-2017 fiscal year, the salary the principal received in the 2016-2017 fiscal year pursuant to Section 9.1 or Section 9.2 of S.L. 2016-94.

**SECTION 8.2.(f)** G.S. 115C-325.1(2) reads as rewritten:

- "(2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school administrator during the time of the contract. The word "demote" does not include ~~(i) the following:~~
  - ~~a. a~~ A suspension without pay pursuant to ~~G.S. 115C-325.5(a);~~ G.S. 115C-325.5(a).
  - ~~b. the~~ The elimination or reduction of bonus payments, including merit-based supplements or a systemwide modification in the amount of any applicable local ~~supplement;~~ supplement.
  - ~~c. any~~ Any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral ~~director;~~ director.
  - ~~d. any~~ Any reduction of pay as compared to a prior term of contract.



- e. Any reduction in a principal's salary resulting from a reduction in State funds due to (i) school growth scores, as provided in the Principal Salary Schedule, or (ii) a decline in the average daily membership of the principal's school."

**SECTION 8.2.(g)** Section 8.3 of S.L. 2017-57 is repealed.

## **PRINCIPAL BONUSES**

**SECTION 8.3.(a)** The Department of Public Instruction shall administer a bonus in the 2018-2019 fiscal year to any principal who supervised a school as a principal for a majority of the previous school year if that school was in the top fifty percent (50%) of school growth in the State during the previous school year, calculated by the State Board pursuant to G.S. 115C-83.15(c), as follows:

### **2018-2019 Principal Bonus Schedule**

| <b>Statewide Growth Percentage</b> | <b>Bonus</b> |
|------------------------------------|--------------|
| Top 5%                             | \$10,000     |
| Top 10%                            | \$7,500      |
| Top 15%                            | \$5,000      |
| Top 20%                            | \$2,500      |
| Top 50%                            | \$1,000.     |

A principal who qualifies for a bonus pursuant to this subsection and supervised a school with an overall school performance grade, as calculated by the State Board pursuant to G.S. 115C-83.15(d), of D or F for a majority of the 2017-2018 school year shall qualify for a bonus of twice the amount listed in the 2018-2019 Principal Bonus Schedule. A principal shall receive no more than one bonus pursuant to this subsection. The bonus shall be paid at the highest amount for which the principal qualifies.

**SECTION 8.3.(b)** The bonus awarded pursuant to this section shall be in addition to any regular wage or other bonus the principal receives or is scheduled to receive.

**SECTION 8.3.(c)** Notwithstanding G.S. 135-1(7a), the bonus awarded pursuant to this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

**SECTION 8.3.(d)** The bonus awarded pursuant to this section does not apply to principals no longer employed as a principal due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is prior to October 1, 2018.

**SECTION 8.3.(e)** It is the intent of the General Assembly that funds provided to local school administrative units pursuant to this section will supplement principal compensation and not supplant local funds.

**SECTION 8.3.(f)** The bonus provided pursuant to this section shall be paid no later than October 31, 2018, to qualifying principals employed as of October 1, 2018.

**SECTION 8.3.(g)** Section 8.4 of S.L. 2017-57 is repealed.

## **ASSISTANT PRINCIPAL SALARIES**

**SECTION 8.4.(a)** For the 2018-2019 fiscal year, beginning July 1, 2018, assistant principals shall receive a monthly salary based on the salary schedule for teachers who are classified as "A" teachers plus nineteen percent (19%). Years of experience for an assistant principal on the salary schedule shall be measured by the total number of years the assistant principal has spent as a teacher, an assistant principal, or both. For purposes of this section, an administrator with a one-year provisional assistant principal's certificate shall be considered equivalent to an assistant principal.

**SECTION 8.4.(b)** Assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred

twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

**SECTION 8.4.(c)** Participants in an approved full-time master's in-school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in-school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

**SECTION 8.4.(d)** Beginning with the 2017-2018 fiscal year, in lieu of providing annual longevity payments to assistant principals on the assistant principal salary schedule, the amounts of those longevity payments are included in the monthly amounts provided to assistant principals pursuant subsection (a) of this section.

**SECTION 8.4.(e)** An assistant principal compensated in accordance with this section for the 2018-2019 fiscal year shall receive an amount equal to the greater of the following:

- (1) The applicable amount determined pursuant to subsections (a) through (c) of this section.
- (2) For assistant principals who were eligible for longevity in the 2016-2017 fiscal year, the sum of the following:
  - a. The salary the assistant principal received in the 2016-2017 fiscal year pursuant to Section 9.1 or Section 9.2 of S.L. 2016-94.
  - b. The longevity that the assistant principal would have received as provided for State employees under the North Carolina Human Resources Act for the 2016-2017 fiscal year based on the assistant principal's current years of service.
- (3) For assistant principals who were not eligible for longevity in the 2016-2017 fiscal year, the salary the assistant principal received in the 2016-2017 fiscal year pursuant to Section 9.1 or Section 9.2 of S.L. 2016-94.

**SECTION 8.4.(f)** Section 8.5 of S.L. 2017-97 is repealed.

## **CENTRAL OFFICE SALARIES**

**SECTION 8.5.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2018-2019 fiscal year, beginning July 1, 2018:

| <b>2018-2019 Fiscal Year</b> |                |    |                |
|------------------------------|----------------|----|----------------|
|                              | <b>Minimum</b> |    | <b>Maximum</b> |
| School Administrator I       | \$3,596        | to | \$6,631        |
| School Administrator II      | \$3,804        | to | \$7,026        |
| School Administrator III     | \$4,030        | to | \$7,446        |
| School Administrator IV      | \$4,186        | to | \$7,737        |
| School Administrator V       | \$4,351        | to | \$8,045        |
| School Administrator VI      | \$4,608        | to | \$8,523        |
| School Administrator VII     | \$4,787        | to | \$8,862.       |

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 8.5.(b)** The monthly salary ranges that follow apply to public school superintendents for the 2018-2019 fiscal year, beginning July 1, 2018:

|                    | <b>2018-2019 Fiscal Year</b> |    |           |
|--------------------|------------------------------|----|-----------|
|                    | Minimum                      |    | Maximum   |
| Superintendent I   | \$5,074                      | to | \$9,394   |
| Superintendent II  | \$5,379                      | to | \$9,954   |
| Superintendent III | \$5,698                      | to | \$10,551  |
| Superintendent IV  | \$6,040                      | to | \$11,185  |
| Superintendent V   | \$6,403                      | to | \$11,859. |

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 8.5.(c)** Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the North Carolina Human Resources Act.

**SECTION 8.5.(d)** Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this section.

**SECTION 8.5.(e)** The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

**SECTION 8.5.(f)** Section 8.6 of S.L. 2017-57 is repealed.

## **NONCERTIFIED PERSONNEL SALARIES**

**SECTION 8.6.(a)** For the 2018-2019 fiscal year, beginning July 1, 2018, the annual salary for noncertified public school employees whose salaries are supported from State funds shall be increased as follows:

- (1) For permanent, full-time employees on a 12-month contract, by two percent (2%).
- (2) For the following employees, by a prorated and equitable amount based on the amount specified in subdivision (1) of this subsection:
  - a. Permanent, full-time employees on a contract for fewer than 12 months.
  - b. Permanent, part-time employees.
  - c. Temporary and permanent hourly employees.

**SECTION 8.6.(b)** Of the funds appropriated in this act for salary increases for noncertified personnel in the 2018-2019 fiscal year, in lieu of the salary increases provided in subsection (a) of this section, the sum of four million three hundred eighty-seven thousand six hundred fifty dollars (\$4,387,650) shall be allocated to local boards of education to increase the average rates of pay for all school bus drivers in the local school administrative unit on an equitable basis.

**SECTION 8.6.(c)** Section 8.7 of S.L. 2017-57 is repealed.

## **REALIGN DPI BUDGET IN CERTAIN SCHOOL COMPENSATION AREAS**

**SECTION 8.7.** In accordance with the State Budget Act and Chapter 143C of the General Statutes, the Department of Public Instruction, in consultation with the Office of State Budget and Management, shall review and realign the Department's budget as part of the certification of that budget for the 2018-2019 fiscal year, without adjusting its total requirements, based on actual and anticipated expenditures occurring in the 2017-2019 fiscal biennium in the following areas:

- (1) Bonuses provided to teachers and principals.
- (2) Salaries provided to teachers, instructional support personnel, principals, and assistant principals.
- (3) Salary supplements provided to certain highly qualified teaching graduates.
- (4) Annual leave and longevity pay.
- (5) Benefits costs associated with subdivisions (1) through (4) of this subsection.
- (6) Unemployment costs.

#### **CLARIFY APPLICATION OF HIGHLY QUALIFIED GRADUATE SUPPLEMENT**

**SECTION 8.8.** Section 8.2A(b) of S.L. 2017-57, as enacted by Section 2.3(b) of S.L. 2017-212, reads as rewritten:

**"SECTION 8.2A.(b)** This section is effective when it becomes law and applies to teachers ~~entering the profession in the 2017-2018 fiscal year~~ hired on or after that ~~date~~ date and entering the profession in the 2017-2019 fiscal biennium."

#### **BONUSES FOR CERTAIN VETERAN TEACHERS**

**SECTION 8.9.(a)** Effective July 1, 2018, Section 8.8A of S.L. 2017-57, as amended by Section 2.10A of S.L. 2017-197, is repealed.

**SECTION 8.9.(b)** Of the funds appropriated to the Department of Public Instruction by this act for the compensation of teachers in the 2018-2019 fiscal year, the Department shall provide a one-time lump sum bonus by October 31, 2018, in the amount of three hundred eighty-five dollars (\$385.00) to any teacher who meets all of the following requirements:

- (1) Is employed as of October 1, 2018.
- (2) Has at least 25 years of teaching experience.
- (3) Did not receive an increase in State-funded salary pursuant to the 2018-2019 Teacher Monthly Salary Schedule.

**SECTION 8.9.(c)** The bonus awarded pursuant to this section shall be in addition to any regular wage or other bonus the teacher receives or is scheduled to receive.

**SECTION 8.9.(d)** Notwithstanding G.S. 135-1(7a), the bonuses awarded pursuant to this section are not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

#### **REVISE CERTAIN TEACHER BONUS PROGRAMS**

**SECTION 8.10.(a)** Effective for bonuses awarded in January 2020, based on data from the 2018-2019 school year, Section 8.8(a)(1) of S.L. 2016-94, as amended by Section 8.8B(a) of S.L. 2017-57, reads as rewritten:

- "(1) A bonus in the amount of fifty dollars (\$50.00) for each student taught by an advanced course teacher in each advanced course who receives the following score:
  - a. For Advanced Placement courses, a score of three or higher on the College Board Advanced Placement Examination.
  - b. For International Baccalaureate Diploma Programme courses, a score of four or higher on the International Baccalaureate course examination.

- c. For the Cambridge Advanced International Certificate of Education (AICE) program, a score of "~~E~~"C" or higher on the Cambridge AICE program examinations."

**SECTION 8.10.(b)** Section 8.8(a)(3) of S.L. 2016-94, as amended by Section 8.8B(a) of S.L. 2017-57, reads as rewritten

"(3) ~~Bonuses—A bonus~~ awarded pursuant to this subsection ~~are—is~~ payable in January, based on data from the previous school year, to a qualifying teachers teacher who remain—remains employed teaching in the same local school administrative unit or, if the teacher is not employed in a local school administrative unit, remains teaching in the same charter school at least from the school year the data is collected until January 1 of the corresponding school year that the bonus is paid."

**SECTION 8.10.(c)** Section 8.9(a)(4) of S.L. 2016-94, as amended by Section 8.8B(b) of S.L. 2017-57, reads as rewritten:

"(4) ~~Bonuses—A bonus~~ awarded pursuant to this subsection ~~are—is~~ payable in January to a qualifying teachers teacher who remain—remains employed teaching in the same local school administrative unit or, if the teacher is not employed in a local school administrative unit, remains teaching in the same charter school at least from the school year the data is collected until January 1 of the corresponding school year that the bonus is paid."

**SECTION 8.10.(d)** Section 8.8C(a)(1)b. of S.L. 2017-57 reads as rewritten:

"b. Qualifying Teacher. – An eligible teacher who remains teaching in the same local school administrative unit or, if the teacher is not employed in a local school administrative unit, remains teaching in the same school at least from the school year the data for the EVAAS student growth index score for third grade reading is collected until January 1 of the school year a bonus provided under this subsection is paid."

**SECTION 8.10.(e)** Except as otherwise provided, this section applies for bonuses awarded in January 2019 and 2020, based on data from the 2017-2018 and 2018-2019 school years, respectively.

## **REVISE FOURTH AND FIFTH GRADE READING TEACHER BONUS PROGRAM**

**SECTION 8.11.(a)** Section 8.8D of S.L. 2017-57 reads as rewritten:

**"FOURTH AND FIFTH GRADE READING TEACHER BONUS PROGRAM—FOR 2017-2018**

**"SECTION 8.8D.(a)** It is the intent of the State to reward teacher performance and encourage student learning and improvement. To attain this goal, the Department of Public Instruction shall administer the Fourth and Fifth Grade Reading Teacher Bonus Program (program) ~~for the 2017-2018 fiscal year~~ to qualifying teachers who have an Education Value-Added Assessment System (EVAAS) student growth index score for fourth or fifth grade reading from the previous school year, as follows:

- (1) For purposes of this section, the following definitions shall apply:
  - a. Eligible Teacher. – A teacher who meets one or both of the following criteria:
    1. Is in the top twenty-five percent (25%) of teachers in the State according to the EVAAS student growth index score for fourth or fifth grade reading from the previous school year.
    2. Is in the top twenty-five percent (25%) of teachers in the teacher's respective local school administrative unit according to the EVAAS student growth index score for fourth or fifth grade reading from the previous school year.

- b. Qualifying Teacher. – An eligible teacher who remains teaching in the same local school administrative unit or, if the teacher is not employed in a local school administrative unit, remains teaching in the same school at least from the school year the data for the EVAAS student growth index score is collected until January 1 of the school year a bonus provided under this subsection is paid.
- (2) Of the funds appropriated for this program, the Department of Public Instruction shall allocate the sum of ~~four million seven hundred thirty five thousand four hundred sixteen~~ four million two hundred ninety-eight thousand seven hundred thirty-eight dollars ~~(\$4,735,416)~~ (\$4,298,738) to award a bonus in the amount of two thousand ~~one hundred fifty~~ (\$2,150) ~~(\$2,000)~~ to each qualifying teacher who is an eligible teacher under sub-sub-subdivision (1)a.1. of this subsection.
- (3) Of the funds appropriated for this program, the Department of Public Instruction shall allocate the sum of ~~four million seven hundred thirty five thousand four hundred sixteen~~ four million two hundred ninety-eight thousand seven hundred thirty-eight dollars ~~(\$4,735,416)~~ (\$4,298,738) to award a bonus in the amount of two thousand ~~one hundred fifty~~ (\$2,150) ~~(\$2,000)~~ to each qualifying teacher who is an eligible teacher under sub-sub-subdivision (1)a.2. of this subsection, subject to the following conditions:
  - a. Teachers employed in charter schools, regional schools, and University of North Carolina laboratory schools are not eligible to receive a bonus under this subdivision.
  - b. Any qualifying teacher who taught in a local school administrative unit that employed in the previous school year three or fewer total teachers in the qualifying teacher's grade level shall receive a bonus under this subdivision if that teacher has an EVAAS student growth index score for fourth or fifth grade reading from the previous school year of exceeded expected growth.
- (4) Bonuses awarded pursuant to subdivisions (2) and (3) of this subsection are payable in January to qualifying teachers based on EVAAS student growth index score data from the previous school year.
- (5) A qualifying teacher may receive a bonus under both subdivisions (2) and (3) of this subsection.
- (6) The bonus or bonuses awarded to a qualifying teacher pursuant to this section shall be in addition to any regular wage or other bonus the teacher receives or is scheduled to receive.
- (7) No teacher shall receive more than two bonuses pursuant to this section.

**"SECTION 8.8D.(b)** Notwithstanding G.S. 135-1(7a), the bonuses awarded by this section are not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

**"SECTION 8.8D.(c)** The State Board of Education shall study the effect of the bonuses awarded pursuant to this section on teacher performance and retention. The State Board shall report the results of its findings, the distribution of statewide bonuses as among local school administrative units, and the distribution of bonuses within local school administrative units as among individual schools to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by March 15, 2018; 15 of each year bonuses are awarded."

**SECTION 8.11.(b)** This section applies for bonuses awarded in January 2019 and 2020, based on data from the 2017-2018 and 2018-2019 school years, respectively.

## REVISE FOURTH TO EIGHTH GRADE MATH TEACHER BONUS PROGRAM

SECTION 8.12.(a) Section 8.8E of S.L. 2017-57 reads as rewritten:

### "FOURTH TO EIGHTH GRADE MATH TEACHER BONUS PROGRAM—FOR 2017-2018

"SECTION 8.8E.(a) It is the intent of the State to reward teacher performance and encourage student learning and improvement. To attain this goal, the Department of Public Instruction shall administer the Fourth to Eighth Grade Mathematics Teacher Bonus Program (program) ~~for the 2017-2018 fiscal year~~ to qualifying teachers who have an Education Value-Added Assessment System (EVAAS) student growth index score for fourth, fifth, sixth, seventh, or eighth grade mathematics from the previous school year, as follows:

- (1) For purposes of this section, the following definitions shall apply:
  - a. Eligible Teacher. – A teacher who meets one or both of the following criteria:
    1. Is in the top twenty-five percent (25%) of teachers in the State according to the EVAAS student growth index score for fourth, fifth, sixth, seventh, or eighth grade mathematics from the previous school year.
    2. Is in the top twenty-five percent (25%) of teachers in the teacher's respective local school administrative unit according to the EVAAS student growth index score for fourth, fifth, sixth, seventh, or eighth grade mathematics from the previous school year.
  - b. Qualifying Teacher. – An eligible teacher who remains teaching in the same local school administrative unit or, if the teacher is not employed in a local school administrative unit, remains teaching in the same school at least from the school year the data for the EVAAS student growth index score is collected until January 1 of the school year a bonus provided under this subsection is paid.
- (2) Of the funds appropriated for this program, the Department of Public Instruction shall allocate the sum of ~~seven million nine hundred thirty-five thousand one hundred seventy-eight~~seven million one hundred fifty-one thousand two hundred sixty-two dollars ~~(\$7,935,178)~~(\$7,151,262) to award a bonus in the amount of two thousand ~~one hundred fifty~~ dollars ~~(\$2,150)~~(\$2,000) to each qualifying teacher who is an eligible teacher under sub-sub-subdivision (1)a.1. of this subsection.
- (3) Of the funds appropriated for this program, the Department of Public Instruction shall allocate the sum of ~~seven million nine hundred thirty-five thousand one hundred seventy-eight~~seven million one hundred fifty-one thousand two hundred sixty-two dollars ~~(\$7,935,178)~~(\$7,151,262) to award a bonus in the amount of two thousand ~~one hundred fifty~~ dollars ~~(\$2,150)~~(\$2,000) to each qualifying teacher who is an eligible teacher under sub-sub-subdivision (1)a.2. of this subsection, subject to the following conditions:
  - a. Teachers employed in charter schools, regional schools, and University of North Carolina laboratory schools are not eligible to receive a bonus under this subdivision.
  - b. Any qualifying teacher who taught in a local school administrative unit that employed in the previous school year three or fewer total teachers in the qualifying teacher's grade level shall receive a bonus under this subdivision if that teacher has an EVAAS student growth index score

for fourth, fifth, sixth, seventh, or eighth grade mathematics from the previous school year of exceeded expected growth.

- (4) Bonuses awarded pursuant to subdivisions (2) and (3) of this subsection are payable in January to qualifying teachers based on EVAAS student growth index score data from the previous school year.
- (5) A qualifying teacher may receive a bonus under both subdivisions (2) and (3) of this subsection.
- (6) The bonus or bonuses awarded to a qualifying teacher pursuant to this section shall be in addition to any regular wage or other bonus the teacher receives or is scheduled to receive.
- (7) No teacher shall receive more than two bonuses pursuant to this section.

**"SECTION 8.8E.(b)** Notwithstanding G.S. 135-1(7a), the bonuses awarded by this section are not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

**"SECTION 8.8E.(c)** The State Board of Education shall study the effect of the bonuses awarded pursuant to this section on teacher performance and retention. The State Board shall report the results of its findings, the distribution of statewide bonuses as among local school administrative units, and the distribution of bonuses within local school administrative units as among individual schools to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by March 15, 2018. 15 of each year bonuses are awarded."

**SECTION 8.12.(b)** This section applies for bonuses awarded in January 2019 and 2020, based on data from the 2017-2018 and 2018-2019 school years, respectively.

## **PART IX. COMMUNITY COLLEGES**

### **EXTEND REORGANIZATION AUTHORITY**

**SECTION 9.1.** Section 9.1 of S.L. 2017-57 reads as rewritten:

**"SECTION 9.1.(a)** ~~Notwithstanding~~ For the 2017-2019 fiscal biennium, notwithstanding any other provision of law and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

**"SECTION 9.1.(b)** By April 1, 2018, and by April 1, 2019, the President of the North Carolina Community Colleges shall report for each fiscal year of the fiscal biennium any reorganization, including any movement of positions and funds between fund codes on a recurring basis, to the Joint Legislative Education Oversight Committee, the House Appropriations Committee on Education, the Senate Appropriations Committee on Education/Higher Education, and the Fiscal Research Division.

~~**"SECTION 9.1.(c)** Subsection (a) of this section expires June 30, 2018."~~

### **CONTINUE TRANSFER OF WIOA FUNDS FOR APPRENTICESHIPNC**

**SECTION 9.2.** Consistent with the transfer of funds from the North Carolina Department of Commerce to the Community Colleges System Office for the 2018-2019 fiscal year authorized by S.L. 2017-57, of the Workforce and Innovation and Opportunity Act federal funds awarded to the Department in a fiscal year, the sum of three hundred fifty thousand dollars (\$350,000) shall continue to be transferred to the System Office for the administration of the ApprenticeshipNC program in each fiscal year.

### **REMOVE OUTDATED STATUTORY REFERENCE**

**SECTION 9.3.** G.S. 115D-21.5 reads as rewritten:



**"§ 115D-21.5. NC-Works Career Coach Program.**

(a) Purpose. – There is established the NC-Works Career Coach Program to place community college career coaches in high schools to assist students with determining career goals and identifying community college programs that would enable students to achieve these goals.

(b) Memorandum of Understanding. – The board of trustees of a community college and a local board of education of a local school administrative unit within the service area of the community college shall enter into a memorandum of understanding for the placement of career coaches employed by the board of trustees of the community college in schools within the local school administrative unit. At a minimum, the memorandum of understanding shall include the following:

- (1) Requirement that the community college provides the following:
  - a. Hiring, training, and supervision of career coaches. The board of trustees may include a local board of education liaison on the hiring committee to participate in the decision making regarding hiring for the coach positions.
  - b. Salary, benefits, and all other expenses related to the employment of the career coach. The coach will be an employee of the board of trustees and will not be an agent or employee of the local board of education.
  - c. Development of pedagogical materials and technologies needed to enhance the advising process.
  - d. Criminal background checks required by the local school administrative unit for employees working directly with students.
  - e. Agreement that, while on any school campus, the career coach will obey all local board of education rules and will be subject to the authority of the school building administration.
- (2) Requirement that the local school administrative unit provides the following to career coaches:
  - a. Access to student records, as needed to carry out the coach's job responsibilities.
  - b. Office space on site appropriate for student advising.
  - c. Information technology resources, including, but not limited to, Internet access, telephone, and copying.
  - d. Initial school orientation and ongoing integration into the faculty and staff community.
  - e. Promotion of school-wide awareness of coach duties.
  - f. Facilitation of coach's access to individual classes and larger assemblies for the purposes of awareness-building.

(c) Application for NC-Works Career Coach Program Funding. – The board of trustees of a community college and a local board of education of a local school administrative unit within the service area of the community college jointly may apply for available funds for NC-Works Career Coach Program funding from the State Board of Community Colleges. The State Board of Community Colleges shall establish a process for award of funds as follows:

- (1) Advisory committee. – Establishment of an advisory committee, which shall include representatives from the NC Community College System, the Department of Public Instruction, ~~the NC Works initiative located in the~~ Department of Commerce, and at least three representatives of the business community, to review applications and make recommendations for funding awards to the State Board.

- (2) Application submission requirements. – The State Board of Community Colleges shall require at least the following:
  - a. Evidence of a signed memorandum of understanding that meets, at a minimum, the requirements of this section.
  - b. Evidence that the funding request will be matched dollar-for-dollar with local funds. Matching funds may come from public or private sources.
- (3) Awards criteria. – The State Board of Community Colleges shall develop criteria for consideration in determining the award of funds that shall include the following:
  - a. Consideration of the workforce needs of business and industry in the region.
  - b. Targeting of resources to enhance ongoing economic activity within the community college service area and surrounding counties.
  - c. Geographic diversity of awards.
- (d) Annual Report. –
  - (1) The board of trustees of a community college that employs one or more career coaches shall report annually to the State Board of Community Colleges on implementation and outcomes of the program, including the following information:
    - a. Number of career coaches employed.
    - b. Number of local school administrative units served and names of schools in which career coaches are placed.
    - c. Number of students annually counselled by career coaches.
    - d. Impact of career coaches on student choices, as determined by a valid measure selected by the State Board of Community Colleges.
  - (2) The State Board of Community Colleges shall report annually no later than October 1 to the Joint Legislative Education Oversight Committee on the following:
    - a. A compilation of the information reported by the board of trustees of community colleges, as provided in subdivision (1) of this subsection.
    - b. Number and names of partnership applicants for NC-Works Career Coach Program funding.
    - c. Number, names, and amounts of those awarded NC-Works Career Coach Program funding."

## **EXTEND CAREER- AND COLLEGE-READY GRADUATE PROGRAM IMPLEMENTATION DATE**

**SECTION 9.4.** Section 10.13 of S.L. 2015-241, as amended by Section 10.5 of S.L. 2016-94, reads as rewritten:

**"SECTION 10.13.(a)** The State Board of Community Colleges, in consultation with the State Board of Education, shall develop a program for implementation beginning with model programs in the 2016-2017 school year that introduces the college developmental mathematics and developmental reading and English curriculums in the high school senior year and provides opportunities for college remediation for students prior to high school graduation through cooperation with community college partners. Professional development for high school faculty shall begin with the 2018-2019 school year. The program shall be phased in by cohorts developed by the Department of Public Instruction beginning with the 2019-2020 school year. The program shall be fully implemented in all high schools statewide beginning with the 2018-20192020-2021 school year. Students who are enrolled in the Occupational Course of Study to receive their high school diplomas shall not be required to participate in the program or be required to take

mandatory remedial courses as provided for in this section, unless a parent specifically requests through the individualized education program (IEP) process that the student participates. The program shall require the following:

- (1) Establishment by the State Board of Community Colleges of measures for determining student readiness and preparation for college coursework by using ACT scores, student grade point averages, or other measures currently used by the State Board of Community Colleges to determine college readiness for entering students.
- (2) Changes in curriculum, policy, and rules as needed by the State Board of Community Colleges and State Board of Education to make remedial courses mandatory for students who do not meet readiness indicators by their junior year to ensure college readiness prior to high school graduation. These changes shall include the flexibility for students to fulfill senior mathematics and English graduation requirements through enrollment in mandatory remedial courses or to enroll in those courses as electives.
- (3) High schools to use curriculum approved by the State Board of Community Colleges, in consultation with the State Board of Education.
- (4) Determinations by the State Board of Community Colleges on the following:
  - a. Appropriate measures of successful completion of the remedial courses to ensure students are prepared for coursework at a North Carolina community college without need for further remediation in mathematics or reading and English.
  - b. The length of time following high school graduation in which a student who successfully completed high school remedial courses will not be required to enroll in developmental courses at a North Carolina community college.
- (5) Delivery of remedial courses by high school faculty consistent with policies adopted by the State Board of Community Colleges and the State Board of Education. The policies shall include, at a minimum, the following requirements:
  - a. High school faculty teaching the approved remedial courses must successfully complete training requirements as determined by the State Board of Community Colleges, in consultation with the State Board of Education.
  - b. The North Carolina Community College System shall ~~provide oversight of~~ periodically review the remedial courses and professional development requirements to ensure appropriate instructional delivery.

**"SECTION 10.13.(b)** The State Board of Community Colleges and the State Board of Education shall report on progress of implementation of the program statewide, including the requirements in subsection (a) of this section, to the Joint Legislative Education Oversight Committee no later than March 15, 2016. The State Board of Community Colleges and the State Board of Education shall jointly report to the Joint Legislative Education Oversight Committee as follows:

- (1) No later than March 15, 2017, on the outcomes of model programs implemented in the 2016-2017 school year and suggested statutory changes to ensure successful implementation of the program statewide.
- (2) No later than March 15, 2018, on implementation and professional development efforts in the 2017-2018 school year and information on final changes in curriculum, policy, and rules to ensure successful implementation of the program ~~statewide in the 2018-2019 school year~~ statewide.

- (2a) No later than March 15, 2019, on implementation and professional development efforts in the 2018-2019 school year and information on final changes in curriculum, policy, and rules to ensure successful implementation of the program statewide.
- (3) No later than October 15, ~~2019~~,2020, and annually thereafter, on program outcomes, including impact on remediation rates by high school in both mathematics and reading and English for recent high school graduates entering a North Carolina community college or constituent institution of The University of North Carolina."

## **REDUCE FUNDS FOR BOARD OF POSTSECONDARY EDUCATION CREDENTIALS**

**SECTION 9.5.** Section 9.11(c) of S.L. 2017-57 reads as rewritten:

"**SECTION 9.11.(c)** Of the funds appropriated by this act for the 2017-2019 fiscal biennium to the Community Colleges System Office, the sum of three hundred fifty thousand dollars (\$350,000) for the 2017-2018 fiscal year and the sum of ~~three hundred fifty thousand dollars (\$350,000)~~ three hundred fifty thousand dollars (\$280,000) for the 2018-2019 fiscal year shall be allocated to the Board of Postsecondary Education Credentials to be used to cover operating expenses of the Board, including expenses for staff and consultants to assist the Board in carrying out its purpose and duties."

## **ELIMINATE NCCCS INSTRUCTIONAL TRUST FUND**

**SECTION 9.6.(a)** G.S. 115D-42 is repealed.

**SECTION 9.6.(b)** The cash balance remaining in the North Carolina Community Colleges Instructional Trust Fund in Budget Code 66800, Fund Code 6125, shall be transferred to the Board of Governors of The University of North Carolina for the 2018-2019 fiscal year to be allocated to the State Education Assistance Authority to award tuition grants to State residents who are graduates of the North Carolina School of Science and Mathematics pursuant to Section 10A.5 of this act.

## **COMMUNITY COLLEGE RESIDENCY DETERMINATION FORMULA**

**SECTION 9.7.(a)** The State Board of Community Colleges shall develop a funding formula for computing The North Carolina Community College System costs of the residency determination service, administered by the State Education Assistance Authority pursuant to G.S. 116-204, for the purposes of potential inclusion of the formula in future enrollment growth requests. The Community Colleges System Office shall not include the funding formula in an enrollment request to the General Assembly prior to submitting the report required by subsection (b) of this section.

**SECTION 9.7.(b)** By December 1, 2018, the State Board of Community Colleges shall submit a report on the proposed funding formula developed under subsection (a) of this section to the Joint Legislative Education Oversight Committee, the House Appropriations Committee on Education, the Senate Appropriations Committee on Education/Higher Education, the Fiscal Research Division, and the Office of State Budget and Management.

**SECTION 9.7.(c)** If the Community Colleges System Office includes the funding formula when submitting an enrollment request for the 2019-2020 fiscal year or subsequent fiscal years to the General Assembly following the report required under subsection (b) of this section, the System Office shall distinguish in that request the portion of its request resulting from the formula.

## **INCENTIVES FOR INSTITUTIONAL PERFORMANCE ACCOUNTABILITY**

**SECTION 9.8.** G.S. 115D-31.3(g) reads as rewritten:

"(g) Recognition of Successful Institutional Performance. – For the purpose of recognition of successful institutional performance, the State Board of Community Colleges shall evaluate each college on the performance measures set out in subsection (e) of this section. Subject to the availability of funds, the State Board may allocate funds among colleges based on the evaluation of each institution's performance, including at least the following components:

- (1) Program quality evaluated by determining a college's rate of student success on each measure as compared to a systemwide performance baseline and goal.
- (2) Program impact on student outcomes evaluated by the number of students succeeding on each measure.

A college may use funds allocated to it pursuant to this subsection for one-time, performance-based bonuses for faculty and staff. Notwithstanding G.S. 135-1(7a), a bonus awarded with funds pursuant to this subsection is not compensation under Article 1 of Chapter 135 of the General Statutes."

## **MITIGATION OF LOSS OF FEDERAL FUNDS TO ADULT EDUCATION PROVIDERS FOR ONE YEAR**

**SECTION 9.9.(a)** Of the funds appropriated to the Community Colleges System Office by this act for the 2018-2019 fiscal year, the sum of up to two million dollars (\$2,000,000) shall be used for the 2018-2019 fiscal year to allocate funds to adult education providers that received federal grant funds for the 2017-2018 fiscal year that will not receive federal funds for the 2018-2019 fiscal year due to changes in federal law requirements under the Adult Education and Family Literacy Act, Title II of the Workforce Innovation and Opportunity Act. These funds shall be allocated to an adult education provider in an amount not to exceed seventy-five percent (75%) of the total amount of federal grant funds awarded to the provider for the 2017-2018 fiscal year.

**SECTION 9.9.(b)** The funds allocated in accordance with this section shall be used for the 2018-2019 fiscal year by adult education providers to mitigate the impact on students currently enrolled in their programs while adult education providers adjust programs in accordance with their available funds for subsequent fiscal years.

## **COMMUNITY COLLEGE STUDY ON EARNING FTE FOR INSTRUCTION IN LOCAL JAILS**

**SECTION 9.10.(a)** The State Board of Community Colleges shall study the cost of earning regular budget full-time equivalents (FTE) for community college courses offered in local jails, including projections for future fiscal years with potential expansion of correction education programs. The study shall also include the cost of reporting FTE student hours for correction education programs on the basis of student membership hours instead of contact hours for courses offered (i) in State prisons and (ii) in local jails, if the General Assembly were to authorize FTE to be earned for those courses.

**SECTION 9.10.(b)** By December 1, 2018, the State Board of Community Colleges shall report on the study required by subsection (a) of this section to the Joint Legislative Education Oversight Committee, the House Appropriations Committee on Education, the Senate Appropriations Committee on Education/Higher Education, the Fiscal Research Division, and the Office of State Budget and Management.

## **PART X. UNIVERSITIES**

### **UNC LABORATORY SCHOOL CHANGES**

**SECTION 10.1.(a)** G.S. 116-239.8(b)(4) reads as rewritten:

- "(4) Food and transportation services. – The local school administrative unit in which the laboratory school is located shall ~~continue to provide~~ food services

and transportation to students attending the laboratory school. The local school administrative unit in which the laboratory school is located shall administer the National School Lunch Program for the laboratory school in accordance with G.S. 115C-264. The chancellor shall arrange for the provision of these services from the local school administrative unit."

**SECTION 10.1.(b)** G.S. 116-239.9 reads as rewritten:

**"§ 116-239.9. Student admissions and assignment.**

(a) ~~Any~~A child shall be eligible to attend a laboratory school who is residing if the child resides in at the local school administrative unit in which a laboratory school is located and (i) is enrolled in meets at least one of the following criteria:

- (1) Is assigned to a low-performing school, as defined by G.S. 115C-105.37 at the time of the student's application, or application.
- (2) ~~(ii) did~~Did not meet expected growth in the prior school year based on one or more indicators listed in subsection (c1) of this section.
- (3) ~~is eligible to attend the laboratory school.~~Is the sibling of a child who is eligible under subdivision (1) or (2) of this subsection.

(b) No local board of education shall require any student enrolled in the local school administrative unit to attend a laboratory school.

(c) During each period of enrollment, the laboratory school shall enroll an eligible student under subsection (a) of this section who submits a timely application, up to the capacity of a program, class, grade level, or building, in the order in which applications are received. Once enrolled, students are not required to reapply in subsequent enrollment periods. The laboratory school may give enrollment priority to the sibling of an enrolled student who attended the laboratory school in the prior school year.

(c1) For the purposes of this Article, any of the following shall serve as indicators that a student did not meet expected student growth in the prior school year: (i) grades, (ii) observations, (iii) diagnostic and formative assessments, (iv) State assessments, or (v) other factors, including reading on grade level.

(d) Notwithstanding any law to the contrary, a laboratory school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired."

**SECTION 10.1.(c)** G.S. 116-239.12(c) reads as rewritten:

"(c) The chancellor shall require the person to be checked by the Department of Public Safety (i) to be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the chancellor or to the local ~~sheriff~~sheriff, the campus police department of the constituent institution, or the municipal police, whichever is more convenient for the person and (ii) to sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The chancellor shall consider refusal to consent when making employment decisions and decisions with regard to independent contractors. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Safety shall provide to the chancellor the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the chancellor requires a criminal history record check.

The chancellor shall not require school personnel to pay for fingerprints authorized under this section."

**SECTION 10.1.(d)** G.S. 116-239.13(2) reads as rewritten:

- "(2) The public school student admissions process and the number of students enrolled under the ~~category~~following categories at each laboratory school:

- a. ~~(i) students~~ Students who were previously ~~enrolled in~~ assigned to a low-performing school ~~and school.~~
- b. ~~(ii) students~~ Students who did not meet expected student growth in the school year prior to ~~enrollment~~ enrollment.
- c. ~~at each laboratory school.~~ Siblings of an otherwise eligible student."

**SECTION 10.1.(e)** This section applies beginning with the 2018-2019 school year.

#### **FERRYMON/NO OVERHEAD**

**SECTION 10.2.** The University of North Carolina at Chapel Hill shall not charge indirect facilities and administrative costs against the funding provided by this act to the Institute of Marine Sciences at the University of North Carolina at Chapel Hill for the FerryMon ferry-based water quality monitoring program.

#### **MODIFY APPOINTMENT PROCESS FOR BOG COMMITTEE ON FREE EXPRESSION**

**SECTION 10.3.** G.S. 116-301(a) reads as rewritten:

"(a) The chair of the Board of Governors of The University of North Carolina System shall ~~establish~~ designate a standing or special committee of the Board of Governors to act as the Committee on Free Expression and appoint 11 individuals from among its membership to the Committee. The members of the Committee on Free Expression shall elect a chair from the members of the Committee. Each member of the Committee on Free Expression shall serve on the Committee at the pleasure of the Board of Governors. Each member's term shall be equal to the remainder of the member's respective term on the Board of Governors. In the event of a vacancy on the Committee, the Board of Governors shall appoint a replacement from among its membership. Expression."

#### **FOOD PROCESSING INNOVATION CENTER/CARRYFORWARD OF FUNDS**

**SECTION 10.4.(a)** The funds appropriated to the Board of Governors of The University of North Carolina for the 2017-2019 fiscal biennium by S.L. 2017-57 to be allocated to North Carolina State University for the Food Processing Innovation Center (Center) to be housed at the North Carolina Research Campus may be used for equipment, supplies, and other operating expenses related to the Center until renovations of the space are completed and the lease payments begin for the space. In addition to funds authorized to be carried forward under G.S. 116-30.3, North Carolina State University may carry forward any of the funds allocated for the purposes set forth in this subsection that are unexpended each fiscal year until the end of the fiscal year in which renovations of the space to be leased by North Carolina State University are completed by the North Carolina Research Campus and the City of Kannapolis.

**SECTION 10.4.(b)** This section becomes effective June 30, 2018.

#### **NC PROMISE "BUY DOWN"/REPORT**

**SECTION 10.5.** G.S. 116-143.11 reads as rewritten:

**"§ 116-143.11. NC Promise Tuition Plan; State "buy down" of certain financial obligations.**

...

(b) Notwithstanding any other provision of law, the State shall "buy down" the amount of any financial obligation resulting from the established tuition rate that may be incurred by Elizabeth City State University, the University of North Carolina at Pembroke, and Western Carolina University ~~as provided by this subsection. Beginning with the 2018-2019 fiscal year, the Director of the Budget shall determine each fiscal year, based on information provided by the Board of Governors and the Chancellor of each constituent institution, the amount required to offset the forgone tuition receipts at each of the three institutions as a result of the tuition rate established by this section. The Director of the Budget shall authorize an increase in the base~~

~~budget of The University of North Carolina of up to forty million dollars (\$40,000,000) each fiscal year to cover the cost of the "buy down" that fiscal year and shall allocate the appropriate sum to each constituent institution. Any increase in the base budget authorized pursuant to this subsection shall not be included in the calculation of projected enrollment growth under G.S. 116-30.7.~~University.

...

(d) By October 1, 2018, and by October 1 of each year thereafter, the Board of Governors and the chancellors of Elizabeth City State University, the University of North Carolina at Pembroke, and Western Carolina University, respectively, shall submit a report to the Joint Legislative Education Oversight Committee, the House Appropriations Committee on Education, the Senate Appropriations Committee on Education/Higher Education, and the Fiscal Research Division on the amount of any financial obligation resulting from the established tuition rate incurred at each constituent institution and at least the following information for the fiscal year:

- (1) The amount required to offset the forgone tuition receipts at each of the three constituent institutions as a result of the tuition rate established by this section and how those funds were allocated to each constituent institution.
- (2) The number of enrolled resident students at each constituent institution.
- (3) The number of enrolled nonresident students at each constituent institution."

## **SUBPART X-A. UNIVERSITY/STATE EDUCATION ASSISTANCE AUTHORITY**

### **MODIFY AND ALIGN THE K-12 SCHOLARSHIP PROGRAMS**

**SECTION 10A.1.(a)** G.S. 115C-112.5(2)f.1. reads as rewritten:

- "1. Was enrolled in a North Carolina public school or a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina, during the previous semester. The Authority shall not count actual days of attendance to determine whether a child was enrolled in a qualifying school for the previous semester for the purposes of eligibility under this sub-sub-subdivision."

**SECTION 10A.1.(b)** G.S. 115C-112.5(2)f., as amended by subsection (a) of this section, reads as rewritten:

- "f. Meets at least one of the following requirements:

...

7. Is a child in foster care as defined in G.S. 131D-10.2(9).

8. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship application."

**SECTION 10A.1.(c)** G.S. 115C-112.6 reads as rewritten:

#### **"§ 115C-112.6. Scholarships.**

(a) **Scholarship Applications.** – The Authority shall make available no later than May 1 February 1 annually applications to eligible students for the award of scholarships. Information about scholarships and the application process shall be made available on the Authority's Web site.

...

(a2) **Priority of Awards.** – The Authority shall award scholarships according to the following criteria for applications received by June-March 15 each year:

- (1) First priority shall be given to eligible students who received a scholarship during the previous semester.school year.



- (2) After scholarships have been awarded under subdivision (1) of this subsection, scholarships shall be awarded to students who are eligible under G.S. 115C-112.5(2)f.1., 2., 4., ~~and 5-5., 7., and 8.~~
- (3) After scholarships have been awarded under subdivision (2) of this subsection, scholarships shall be awarded to students who are eligible under G.S. 115C-112.5(2)f.6.

~~Scholarships shall be awarded to eligible students in each subdivision of this subsection in the order in which the applications are received.~~

(b) Scholarship Awards. – Scholarships awarded to eligible students shall be for amounts of not more than ~~four-eight~~ thousand dollars ~~(\$4,000)(\$8,000)~~ per ~~semester-year~~ per eligible student. Eligible students awarded scholarships may not be enrolled in a public school to which that student has been assigned as provided in G.S. 115C-366. Scholarships shall be awarded only for tuition and for the reimbursement of special education, related services, and educational technology, as provided in subsection (b1) of this section. The Authority shall notify parents in writing of their eligibility to receive scholarships for costs that will be incurred during the ~~spring semester of the following year by December 1 and for costs incurred during the fall semester of that year~~ school year by July 1.

(b1) Disbursement of Scholarship Funds. – The Authority shall disburse scholarship funds for tuition and for the reimbursement of costs incurred by the parent of an eligible student as follows:

- ...
- (2) Scholarship reimbursements for costs. – Scholarship reimbursement for costs incurred shall be provided as follows:
  - a. Preapproval process. – Prior to the start of each school semester, the parent of an eligible student may submit documentation of the special education, related services, or educational technology the parent anticipates incurring costs on in that semester for preapproval by the Authority.
  - b. Reimbursement submissions. – Following the conclusion of each school semester, the parent of an eligible student shall submit to the Authority any receipts or other documentation approved by the Authority to demonstrate the costs incurred during the semester. In addition, parents shall provide documentation of the following to seek reimbursement:
    1. Special education reimbursement. – Parents may only receive reimbursement for special education if the parent provides documentation that the student received special education for no less than 75 days of the semester for which the parent seeks reimbursement. Special education reimbursement shall not be provided for special education instruction provided to a home schooled student by a member of the household of a home school, as defined in G.S. 115C-563(a).
    2. Related services reimbursement. – Parents may only receive reimbursement for related services if the parent provides documentation that the student also received special education for no less than 75 days of the semester for which the parent seeks reimbursement for the related services. Related services reimbursement shall not be provided for related services provided to a home schooled student by a member of the household of a home school, as defined in G.S. 115C-563(a).

3. Educational technology reimbursement. – Parents may only receive reimbursement for educational technology if the parent provides documentation that the student used the educational technology for no less than 75 days of the semester for which the parent seeks reimbursement.
- c. Scholarship award. – The Authority shall award a scholarship in the amount of costs demonstrated by the parent up to the maximum amount. ~~If the costs incurred by the parent do not meet the maximum amount for the fall semester, the Authority shall use the remainder of those funds for the award of scholarships to eligible students for the following spring semester. The Authority shall award scholarships to the parents of eligible students at least semiannually.~~
- d. Carryforward of funds for reimbursements. – Any unexpended scholarship funds at the end of each fiscal year shall revert to the General Fund, except that the Authority may carry forward for the next fiscal year an amount necessary to ensure that any outstanding, allowable reimbursements can be disbursed in accordance with this section. Any funds carried forward for the purpose of meeting anticipated reimbursement obligations from the prior fiscal year that are not expended shall not be used to award additional scholarships to eligible students but shall revert to the General Fund at the end of that fiscal year.

(b2) Establishment of Initial Eligibility. – An applicant may demonstrate for initial eligibility that the applicant is a child with a disability, as required by G.S. 115C-112.5(2)a., in either of the following ways:

- (1) The child has been assessed by a local education agency and determined to be a child with a disability and that outcome is verified by the local education agency on a form provided to the Authority.
- (2) The child was initially assessed by a local education agency and determined to be a child with a disability and, following receipt of a scholarship awarded pursuant to Article 41 of this Chapter, was determined to have continuing eligibility, as provided in G.S. 115C-593(2), by the assessing psychologist or psychiatrist. Both the initial verification from the local education agency and the continuing verification by the assessing psychologist or psychiatrist shall be provided on a form to the Authority.

(c) Student Continuing Eligibility. – After an eligible student's initial receipt of a scholarship, the Authority shall ensure that the student's continuing eligibility is assessed at least every three years by one of the following:

- (1) The local educational agency. – The local school educational agency shall assess if the child continues to be a child with a disability and verify the outcome on a form to be provided to the Authority.
- (2) A licensed psychologist with a school psychology focus or a psychiatrist. – The psychologist or psychiatrist shall assess, after review of appropriate medical and educational records, if the education and related services received by the student in the nonpublic school setting have improved the child's educational performance and if the student would continue to benefit from placement in the nonpublic school setting. The psychologist or psychiatrist shall verify the outcome of the assessment on a form to be provided to the Authority.

(d) Rule Making. – The Authority shall establish rules and regulations for the administration and awarding of ~~scholarships~~ scholarships and may include in those rules a lottery

process for selection of scholarship recipients within the criteria established by this section. The Authority shall adopt rules providing for pro rata return of funds if a student withdraws prior to the end of the semester from a school to which scholarship funds have been remitted. The Authority shall annually develop a list of educational technology for which scholarships may be used and shall provide scholarship recipients with information about the list.

(e) Public Records Exception. – Scholarship applications and personally identifiable information related to eligible students receiving scholarships shall not be a public record under Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable information means any information directly related to a student or members of a student's household, including the name, birthdate, address, Social Security number, telephone number, e-mail address, financial information, or any other information or identification number that would provide information about a specific student or members of a specific student's household."

**SECTION 10A.1.(d)** G.S. 115C-112.8 reads as rewritten:

**"§ 115C-112.8. Authority reporting requirements.**

(a) The Authority shall report annually, no later than October 4, ~~15~~, to the Joint Legislative Education Oversight Committee on the Special Education Scholarships for Children with Disabilities.

(b) The annual report shall include all of the following ~~information:~~information from the prior school year:

- (1) Total number, age, and grade level of eligible students receiving scholarships.
- (2) Total amount of scholarship funding awarded.
- (3) Nonpublic schools in which scholarship recipients are enrolled and the number of scholarship students at that school.
- (4) The type of special education or related services for which scholarships were awarded.
- (5) Total number of applicants by eligibility type, as listed in G.S. 115C-112.5(2)f., and the total number of scholarships awarded by priority type, as listed in G.S. 115C-112.6(a2)."

**SECTION 10A.1.(e)** G.S. 115C-562.7(b) reads as rewritten:

"(b) The Authority shall report annually, no later than ~~April 1,~~ October 15, to the Joint Legislative Education Oversight Committee on the ~~following:~~following information from the prior school year:

- (1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship grants.
- (2) Total amount of scholarship grant funding awarded.
- (3) Number of students previously enrolled in local school administrative units or charter schools in the prior semester by the previously attended local school administrative unit or charter school.
- (4) Nonpublic schools in which scholarship grant recipients are enrolled, including numbers of scholarship grant students at each nonpublic school.
- (5) Nonpublic schools deemed ineligible to receive scholarships."

**SECTION 10A.1.(f)** G.S. 115C-592 reads as rewritten:

**"§ 115C-592. Award of scholarship funds for a personal education savings account.**

...  
(b) Scholarship Awards. – Scholarships shall be awarded each year for an amount not to exceed nine thousand dollars (\$9,000) per eligible student for the fiscal year in which the application is received. Recipients shall receive scholarship funds deposited in equal amounts to a PESA in each quarter of the fiscal year. The first deposit of funds to a PESA shall be subject to the execution of the parental agreement required by G.S. 115C-595. The parent shall then receive a debit card or an electronic account with the prepaid funds loaded on the card or in the electronic

account at the beginning of the fiscal year. After the initial disbursement of funds, each subsequent, quarterly disbursement of funds shall be subject to the submission by the parent of an expense report. The expense report shall be submitted electronically and shall include documentation that the student received an education, as described in G.S. 115C-595(a)(1), for no less than 35 days of the applicable quarter. The debit card or the electronic account shall be renewed upon the receipt of the parental agreement under G.S. 115C-595 for recipients awarded scholarship funds in subsequent fiscal years. Any funds remaining on the card or in the electronic account at the end of the fiscal year may be carried forward to the next fiscal year if the card or electronic account is renewed. Any funds remaining on the card or in the electronic account if an agreement is not renewed shall be returned to the Authority.

...  
(e) Establishment of Initial Eligibility. – An applicant may demonstrate for initial eligibility that the applicant is a child with a disability, as required by G.S. 115C-591(3)c., in either of the following ways:

- (1) The child has been assessed by a local education agency and determined to be a child with a disability and that outcome is verified by the local education agency on a form provided to the Authority.
- (2) The child was initially assessed by a local education agency and determined to be a child with a disability and, following receipt of a scholarship awarded pursuant to Part 1H of Article 9 of this Chapter, was determined to have continuing eligibility, as provided in G.S. 115C-112.6(c)(2), by the assessing psychologist or psychiatrist. Both the initial verification from the local education agency and the continuing verification by the assessing psychologist or psychiatrist shall be provided on a form to the Authority."

**SECTION 10A.1.(g)** G.S. 115C-598 reads as rewritten:

**"§ 115C-598. Reporting requirements.**

The Authority shall report annually, no later than ~~September 1,~~October 15, to the Joint Legislative Education Oversight Committee on the ~~following~~following information from the prior school year:

- (1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship funds.
- (2) Total amount of scholarship funding awarded.
- (3) Number of students previously enrolled in public schools in the prior semester by the previously attended local education agency.
- (4) Nonpublic schools in which scholarship recipients are enrolled, including numbers of scholarship recipients at each nonpublic school.
- (5) The number of substantiated cases of fraud by recipients and the number of parents or students removed from the program for noncompliance with the provisions of this Article."

**SECTION 10A.1.(h)** Subsection (a) of this section becomes effective the date this act becomes law and applies to any student who was otherwise eligible to receive a scholarship pursuant to Part 1H of Article 9 of Chapter 115C of the General Statutes on or after January 1, 2017, for any scholarship application for the 2018-2019 school year or later. A student who becomes eligible for a scholarship in the 2018-2019 school year solely due to subsection (a) of this section shall receive priority in award of scholarships over all applicants except those previously awarded scholarships. Subsections (b) and (c) of this section apply beginning with scholarship applications for the 2019-2020 school year. Subsection (f) of this section applies beginning with the award of scholarship funds for the 2018-2019 school year.

**CHANGES TO THE NC TEACHING FELLOWS PROGRAM**

**SECTION 10A.2.(a)** G.S. 116-209.62 reads as rewritten:

**"§ 116-209.62. North Carolina Teaching Fellows Program established; administration.**

...  
(b) Trust Fund. – There is established the North Carolina Teaching Fellows Program Trust Fund to be administered by the Authority, in conjunction with the General Administration of The University of North Carolina. All funds (i) appropriated to, or otherwise received by, the Program for forgivable ~~loans, loans and other Program purposes,~~ (ii) received as repayment of forgivable loans, and (iii) earned as interest on these funds shall be placed in the Trust Fund. The purpose of the Trust Fund is to provide financial assistance to qualified students for completion of teacher education and licensure programs to fill STEM or special education licensure areas in the public schools of the State.

(c) Uses of Monies in the Trust Fund. – The monies in the Trust Fund may be used only for (i) forgivable loans granted under the Program, (ii) administrative costs associated with the Program, including recruitment and recovery of funds advanced under the Program, ~~(iii) mentoring and coaching support to forgivable loan recipients, and (iii)(iv) extracurricular enhancement activities of the Program.~~ Program in accordance with the following:

- (1) The Authority ~~may use up to~~ shall transfer the greater of six hundred thousand dollars (\$600,000) or ten percent (10%) of the available funds from the Trust Fund in to the General Administration of The University of North Carolina at the beginning of each fiscal year for its the Program's administrative costs, the salary of the Director of the Program, Program and other Program staff, expenses of the Commission, and to provide the Commission with funds to use for the extracurricular enhancement activities of the Program.
- (2) The Authority may use the greater of two hundred fifty thousand dollars (\$250,000) or four percent (4%) of the funds appropriated to the Trust Fund each fiscal year for administrative costs associated with the Program.
- (3) The Authority shall provide the Commission with up to six hundred thousand dollars (\$600,000) from the Trust Fund in each fiscal year for the Commission to provide mentoring and coaching support to forgivable loan recipients through the North Carolina New Teacher Support Program as follows:
  - a. Up to two thousand dollars (\$2,000) for each Program recipient serving as a teacher in a North Carolina public school identified as low-performing under G.S. 115C-105.37.
  - b. Up to one thousand dollars (\$1,000) for each Program recipient serving as a teacher in a North Carolina public school not identified as low-performing under G.S. 115C-105.37.

...  
(g) Awards of Forgivable Loans. – The Program shall provide forgivable loans to selected students to be used at the five selected institutions for completion of a program leading to initial teacher licensure as follows:

- (1) North Carolina high school seniors. – Forgivable loans of up to ~~eight-four thousand two-one hundred fifty-twenty-five~~ eight-four thousand two-one hundred fifty-twenty-five dollars ~~(\$8,250)(\$4,125)~~ per year semester for up to ~~four years~~ eight semesters.
- (2) Students applying for transfer to a selected educator preparation program at an institution of higher education. – Forgivable loans of up to ~~eight-four thousand two-one hundred fifty-twenty-five~~ eight-four thousand two-one hundred fifty-twenty-five dollars ~~(\$8,250)(\$4,125)~~ per year semester for up to ~~three years~~ six semesters.
- (3) Individuals currently holding a bachelor's degree seeking preparation for teacher licensure. – Forgivable loans of up to ~~eight-four thousand two-one hundred fifty-twenty-five~~ eight-four thousand two-one hundred fifty-twenty-five dollars ~~(\$8,250)(\$4,125)~~ per year semester for up to ~~two years~~ four semesters.

- (4) Students matriculating at institutions of higher education who are changing to enrollment in a selected educator preparation program. – Forgivable loans of up to ~~eight-four thousand two-one hundred fifty-twenty-five~~ dollars (\$8,250)(\$4,125) per ~~year semester~~ for up to two years-four semesters.

Forgivable loans may be used for tuition, fees, ~~and the cost of books, books, and expenses~~ related to obtaining licensure.

...  
(j) Annual Report. – The Commission, in coordination with the Authority, the Department of Public Instruction, and the selected educator education programs participating in the Program shall report no later than January 1, 2019, and annually thereafter, to the Joint Legislative Education Oversight Committee regarding the following:

- ...  
(2a) Mentoring and coaching support through the North Carolina New Teacher Support Program, including the following:  
a. Number of forgivable loan recipients who received mentoring and coaching support when employed at a low-performing school identified under G.S. 115C-105.37.  
b. Number of forgivable loan recipients who received mentoring and coaching support when employed at a school not identified as low-performing under G.S. 115C-105.37.  
(3) Selected school outcomes by program, including the following:  
a. Turnover rate for forgivable loan ~~graduates~~ graduates, including the turnover rate for graduates who also received mentoring and coaching support through the North Carolina New Teacher Support Program.  
b. Aggregate information on student growth and proficiency as provided annually by the State Board of Education to the Commission in courses taught by forgivable loan graduates.  
c. Fulfillment rate of forgivable loan graduates."

**SECTION 10A.2.(b)** G.S. 116-209.63(a) reads as rewritten:

"(a) Notes. – All forgivable loans shall be evidenced by notes made payable to the Authority that bear interest at a rate not to exceed ten percent (10%) per year as set by the Authority and beginning on the first day of September after the completion of the program leading to teacher licensure or 90 days after ~~termination of the forgivable loan, whichever is earlier~~ graduation, whichever is later. If a forgivable loan is terminated, the note shall be made payable to the Authority 90 days after termination of the forgivable loan. The forgivable loan may be terminated upon the recipient's withdrawal from ~~school~~ the Program or by the recipient's failure to meet the standards set by the Commission."

**SECTION 10A.2.(c)** G.S. 115C-472.16(b) reads as rewritten:

"(b) The General Assembly shall only appropriate moneys in the North Carolina Education Endowment Fund for (i) the forgivable loans for the North Carolina Teaching Fellows Program ~~Program~~, (ii) funds to provide mentoring and coaching support to North Carolina Teaching Fellows Program forgivable loan recipients through the North Carolina New Teacher Support Program, and (iii) administration of the North Carolina Teaching Fellows Program under Part 3 of Article 23 of Chapter 116 of the General Statutes."

**SECTION 10A.2.(d)** Section 10A.3(h) of S.L. 2017-57 reads as rewritten:

"**SECTION 10A.3.(h)** For the 2017-2018 fiscal year, the Department of Public Instruction shall transfer the sum of four hundred fifty thousand dollars (\$450,000) in nonrecurring funds from the North Carolina Education Endowment Fund to the Board of Governors of The University of North Carolina to allocate to the Authority to be used to implement the North Carolina Teaching Fellows Program (Program), as established by this section. Beginning with the 2018-2019 fiscal year, the Department of Public Instruction shall transfer the sum of six

million dollars (\$6,000,000) in recurring funds from the North Carolina Education Endowment Fund to the Board of Governors to be allocated to the Authority for the operation of the Program and for the award of forgivable loans to selected recipients ~~beginning with the 2018-2019 academic year~~ recipients. The Authority may use funds appropriated in the 2018-2019 fiscal year for the award of forgivable loans to selected recipients (i) for academic programs during the 2017-2018 fiscal year that began after May 1, 2018, and (ii) for the 2018-2019 academic year."

## **CHANGES TO THE NC PRINCIPAL FELLOWS PROGRAM**

**SECTION 10A.3.(a)** G.S. 116-74.41(a1) is repealed.

**SECTION 10A.3.(b)** G.S. 116-74.42 reads as rewritten:

### **"§ 116-74.42. Principal Fellows Program established; administration.**

(a) Program. – A Principal Fellows Program shall be administered by the North Carolina Principal Fellows Commission in collaboration with the State Education Assistance Authority. The Principal Fellows Program shall provide up to a two-year scholarship loan to selected recipients and shall provide extracurricular enhancement activities for recipients. The North Carolina Principal Fellows Commission shall determine selection criteria, methods of selection, and shall select recipients to receive scholarship loans made under the Principal Fellows Program.

(a1) Trust Fund. – The Principal Fellows Trust Fund (Trust Fund) shall be an institutional trust fund established pursuant to G.S. 116-36.1. All funds appropriated to, or otherwise received by, the Principal Fellows Program for scholarships and other program purposes, all funds received as repayment of scholarship loans, and all interest earned on these funds shall be placed in the Trust Fund.

(a2) Use of Monies in the Trust Fund. – The monies in the Trust Fund may be used only for scholarship loans granted under the Principal Fellows Program, administrative costs, and costs associated with program operations in accordance with this Article. The Authority may use up to eight hundred thousand dollars (\$800,000) from the Trust Fund each fiscal year for (i) its administrative costs, including recovery of funds advanced under the program; (ii) the salary and benefits of the director of the program; (iii) the expenses of the Commission, including applicant recruitment; and (iv) funds provided to the Commission for program monitoring and evaluation and extracurricular enhancement activities for program recipients.

(b) Director. – The Board of Governors of The University of North Carolina shall appoint a director of the Principal Fellows Program. The director shall chair and staff the Principal Fellows Commission, and shall administer the extracurricular enhancement activities of the program. The Board of Governors shall provide office space and clerical support staff for the program.

(c) Eligibility for Scholarship Loans. – The Principal Fellows Program shall provide a two-year scholarship loan in the amount specified in subsection (c1) of this section to persons who may be eligible to be selected as school administrators in the public schools of the State by completing a full-time program in school administration in an approved program. Approved programs are those chosen by the Commission from among school administrator programs within the State. No more than 200 principal fellow scholarship loan awards shall be made in each year. The final number of scholarship loan awards per year shall be made in accordance with the Board of Governors' findings concerning the supply and demand of administrators, the State's need for school administrator candidates and within funds appropriated for the scholarship loans. Effective September 1, 1995, and in accordance with school administrator training programs established by the Board of Governors of The University of North Carolina, recipients shall be required to complete an approved full-time academic program during the first year of the scholarship loan program and a full-time internship during the second year of the program. In order to attract fellows as interns, local school administrative units may use all or part of the funds allotted for an assistant principal salary for each intern accepted by the local school administrative unit; however, interns shall not serve as assistant principals.

(c1) Scholarship Loan Amount. – The scholarship loan shall be thirty thousand dollars (\$30,000) per participant for the first year of participation. For the second year of participation, the amount of the scholarship loan per participant shall be sixty percent (60%) of the beginning salary for an assistant principal plus four thousand one hundred dollars (\$4,100) for tuition, fees, and books. The Commission may adjust the amount of the scholarship loan specified in this subsection to take into account increases in tuition, fees, and the cost of books, increases in the State principal assistant salary schedule, and changes in the stipend paid to participants in the program during the second year internship.

(d) Student Selection Criteria. – The Commission shall adopt stringent standards, which may include standardized test scores, undergraduate performance, job experience and performance, leadership and management abilities, and other standards deemed appropriate by the Commission, to ensure that only the best potential students receive scholarship loans under the Principal Fellows Program. The Commission shall consider the qualifications of all applicants fairly, regardless of gender or race, and shall consider the geographic diversity of the State. Scholarship loans under the Principal Fellows Program shall be awarded only to applicants who meet the standards set by the Commission, are domiciled in North Carolina, and who agree to work as school administrators in a North Carolina public school or at a school operated by the United States government in North Carolina upon completion of the two-year school administrator program supported by the loan.

(e) Program Selection. – The Commission shall develop and administer the Principal Fellows Program in cooperation with school administrator programs at institutions approved by the Commission. The Commission shall develop criteria and a process for the approval of campus program sites. Extracurricular enhancement activities shall be coordinated with each fellow's campus program and shall focus on the leadership development of program fellows.

(f) Review Committees. – The Commission may form regional review committees to assist it in identifying the best applicants for the program. The Commission and the review committees shall make an effort to identify and encourage women and minorities and others who may not otherwise consider a career in school administration to apply for the Principal Fellows Program.

(g) Administration of the Program. – Upon the naming of recipients of the scholarship loans by the Principal Fellows Commission, the Commission shall transfer to the State Education Assistance Authority (SEAA) its decisions. The SEAA shall perform all of the administrative functions necessary to implement this Article, which functions shall include: rule making, dissemination of information, disbursement, receipt, liaison with participating educational institutions, determination of the acceptability of service repayment agreements, and all other functions necessary for the execution, payment, and enforcement of promissory notes required under this Article."

**SECTION 10A.3.(c)** G.S. 116-74.43(c) is repealed.

## **PRINCIPAL PREP PROGRAM CHANGES**

**SECTION 10A.4.(a)** Subsections (a) through (j) of Section 11.9 of S.L. 2015-241, as amended by Section 11A.4 of S.L. 2016-94, Section 4.3 of S.L. 2016-123, and Section 10A.5 of S.L. 2017-57, are repealed.

**SECTION 10A.4.(b)** Article 23 of Chapter 116 of the General Statutes is amended by adding a new Part to read:

"Part 4. Transforming Principal Preparation Grant Program.

### **"§ 116-209.70. Purpose and definitions.**

(a) Purpose. – The purpose of this Part is to establish the Transforming Principal Preparation Grant Program as a competitive grant program for eligible entities to elevate educators in North Carolina public schools by transforming the preparation of principals across the State. The Authority shall administer this Program through a cooperative agreement with a



private, nonprofit corporation to provide funds for the preparation and support of highly effective future school principals in North Carolina.

(b) Definitions. – For the purposes of this Part, the following definitions apply:

- (1) Eligible entity. – A for-profit or nonprofit organization or an institution of higher education that has an evidence-based plan for preparing school leaders who implement school leadership practices linked to increased student achievement.
- (2) High-need local school administrative unit. – A local school administrative unit with the majority of its schools deemed to be high-need schools as defined in subdivision (3) of this subsection.
- (3) High-need school. – A public school, including a charter school, that meets one or more of the following criteria:
  - a. Is a school identified under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended.
  - b. Is a persistently low-achieving school, as identified by the Department of Public Instruction for purposes of federal accountability.
  - c. A middle school containing any of grades five through eight that feeds into a high school with less than a sixty percent (60%) four-year cohort graduation rate.
  - d. A high school with less than a sixty percent (60%) four-year cohort graduation rate.
- (4) Principal. – The highest administrative official in a public school building with primary responsibility for the instructional leadership, talent management, and organizational development of the school.
- (5) Program. – Transforming Principal Preparation Grant Program established pursuant to this Part.
- (6) School leader. – An individual employed in a school leadership role, including principal or assistant principal roles.
- (7) Student achievement. – At the whole school level, after three years of leading a school, consistent and methodologically sound measures of:
  - a. Student academic achievement.
  - b. Aggregated individual student academic growth.
  - c. Additional outcomes, such as high school graduation rates, the percentage of students taking advanced-level coursework, or the percentage of students who obtain a career-related credential through a national business certification exam.

**"§ 116-209.71. Transforming Principal Preparation Grant Program established; administration.**

(a) Program Authorized. – The Authority shall award grants through the Transforming Principal Preparation Grant Program to eligible entities to support programs that develop well-prepared school leaders in accordance with the provisions of this Part. The Authority shall establish any necessary rules to administer the Program.

(b) Contract with a Nonprofit for Administration. – The Authority shall contract with a private, nonprofit corporation for the administration of the Program, including making recommendations to the Authority for the award of grants, as authorized by this Part. The nonprofit corporation contracting with the Authority shall meet at least the following requirements:

- (1) The nonprofit corporation shall be a nonprofit corporation organized pursuant to Chapter 55A of the General Statutes and shall comply at all times with the provisions of section 501(c)(3) of the Internal Revenue Code.

- (2) The nonprofit corporation shall employ sufficient staff who have demonstrated a capacity for the development and implementation of grant selection criteria and a selection process to promote innovative school leader education programs, including:
  - a. Focus on school leader talent.
  - b. Expertise supporting judgments about grant renewal based on achievement of or substantial school leader progress toward measurable results in student achievement.
  - c. Expectation of creating positive experiences working with the educational community in North Carolina to establish the foundation for successfully administering the programs set forth in this section.
- (3) The nonprofit corporation shall comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.
- (4) No State officer or employee may serve on the board of the nonprofit corporation.
- (5) The board of the nonprofit corporation shall meet at least quarterly at the call of its chair.

**"§ 116-209.72. Grant applications; priority.**

(a) Application Requirements. – Subject to the availability of funds for this purpose, the nonprofit corporation entering into a contract with the Authority under G.S. 116-209.71 shall issue a request for proposal with guidelines and criteria for applying for a grant. An eligible entity that seeks a grant under the Program shall submit to the nonprofit corporation an application at such time, in such manner, and accompanied by such information as the nonprofit may require. An applicant shall include at least the following information in its application for consideration by the nonprofit corporation:

- (1) The extent to which the entity has a demonstrated record of preparing school leaders who implement school leadership practices linked to increased student achievement.
- (2) The extent to which the entity has a rigorous school leader preparation program design that includes the following research-based programmatic elements:
  - a. A proactive, aggressive, and intentional recruitment strategy.
  - b. Rigorous selection criteria based on competencies that are predictive of success as a school leader, including, but not limited to, evidence of significant positive effect on student learning growth in the classroom, at the school-level, and the local school administrative unit-level, professional recommendations, evidence of problem solving and critical thinking skills, achievement drive, and leadership of adults.
  - c. Alignment to high-quality national standards for school leadership development.
  - d. Rigorous coursework that effectively links theory with practice through the use of field experiences and problem-based learning.
  - e. Full-time paid clinical practice of at least five months and 750 hours in duration in an authentic setting, including substantial leadership responsibilities where candidates are evaluated on leadership skills and effect on student outcomes as part of program completion.
  - f. Multiple opportunities for school leader candidates to be observed and coached by program faculty and staff.
  - g. Clear expectations for and firm commitment from school leaders who will oversee the clinical practice of candidates.

- h. Evaluation of school leader candidates during and at the end of the clinical practice based on the North Carolina School Executive Evaluation Rubric.
- i. A process for continuous review and program improvement based on feedback from partnering local school administrative units and data from program completers, including student achievement data.
- j. Established relationship and feedback loop with affiliated local school administrative units that is used to inform and improve programmatic elements from year to year based on units' needs.

(b) Application Priority. – The nonprofit corporation shall evaluate the applicants for grants by giving priority to an eligible entity with a record of preparing principals demonstrating the following:

- (1) Improvement in student achievement.
- (2) Placement as school leaders in eligible schools.
- (3) A proposed focus on and, if applicable, a record of serving high-need schools, high-need local school administrative units, or both.
- (4) A detailed plan and commitment to share lessons learned and to improve the capacity of other entities in reaching similar outcomes.
- (5) A service area that is underserved by existing principal preparation programs or demonstrates unmet need despite current available programs.

**"§ 116-209.73. Recipient selection; use of grant funds; duration of grants; reporting requirements.**

(a) Selection. – After evaluation of grant applications pursuant to G.S. 116-209.72, the nonprofit corporation shall recommend to the Authority the recipients of grants under the Program for each fiscal year.

(b) Use of funds. – Each eligible entity that receives grant funds shall use those funds to carry out the following:

- (1) Recruiting and selecting, based on a rigorous evaluation of the competencies of the school leader candidates participating in the program and their potential and desire to become effective school leaders.
- (2) Operating a school leader preparation program that provides the opportunity for all candidates to earn a master's degree, if they do not already have one, and subsequent principal licensure by doing the following:
  - a. Utilizing a research-based content and curriculum, including embedded participant assessments to evaluate candidates before program completion that prepares candidates to do the following:
    - 1. Provide instructional leadership, such as developing teachers' instructional practices and analyzing classroom and school-wide data to support teachers.
    - 2. Manage talent, such as developing a high-performing team.
    - 3. Build a positive school culture, such as building a strong school culture focused on high academic achievement for all students, including gifted and talented students, students with disabilities, and English learners, maintaining active engagement with family and community members, and ensuring student safety.
    - 4. Develop organizational practices, such as aligning staff, budget, and time to the instructional priorities of the school.
  - b. Providing opportunities for sustained and high-quality job-embedded practice in an authentic setting where candidates are responsible for moving the practice and performance of a subset of teachers or for

school-wide performance as principal-in-planning or interim school leaders.

- (3) Collecting data on program implementation and program completer outcomes for continuous program improvement.

(c) Duration of Grants. – The nonprofit corporation shall also recommend to the Authority the duration and renewal of grants to eligible entities according to the following:

- (1) The duration of grants shall be as follows:

- a. Grants shall be no more than five years in duration.
- b. The nonprofit corporation may recommend renewal of a grant based on performance, including allowing the grantee to scale up or replicate the successful program as provided in subdivision (2) of this subsection.
- c. The nonprofit shall develop a process with the Authority for early retrieval of grant funds from grant recipients due to noncompliance with grant terms, including participation in third-party evaluation activities. Grantees shall develop and enforce requirements for program graduates to serve a minimum of four years as school-based administrators in North Carolina. Requirements are subject to the approval of the nonprofit corporation.

- (2) In evaluating performance for purposes of grant renewal and making recommendations to the Authority, the nonprofit corporation shall consider at least the following:

- a. For all grantees, the primary consideration in renewing grants shall be the extent to which program participants improved student achievement in eligible schools.
- b. Other criteria from data received in the annual report in subsection (d) of this section may include the following:
  - 1. The percentage of program completers who are placed as school leaders in this State within three years of receiving a grant.
  - 2. The percentage of program completers who are rated proficient or above on the North Carolina School Executive Evaluation Rubric.

(d) Reporting Requirements for Grant Recipients. – Recipients of grants under the program shall participate in all evaluation activities required by the nonprofit and submit an annual report to the nonprofit corporation contracting with the Authority with any information requested by the nonprofit corporation. The recipients shall comply with additional report requests made by the nonprofit. Whenever practicable and within a reasonable amount of time, grant recipients shall also make all materials developed as part of the program and with grant funds publically available to contribute to the broader sharing of promising practices. Materials shall not include personally identifiable information regarding individuals involved or associated with the program, including, without limitation, applicants, participants, supervisors, evaluators, faculty, and staff, without their prior written consent. The nonprofit corporation shall work with recipients, local school administrative units, and public schools, as needed, to enable the collection, analysis, and evaluation of at least the following relevant data, within necessary privacy constraints:

- (1) Student achievement in eligible schools.
- (2) The percentage of program completers who are placed as school leaders within three years in the State.
- (3) The percentage of program completers rated proficient or above on school leader evaluation and support systems.

- (4) The percentage of program completers that are school leaders who have remained employed in a North Carolina public school for two or more years of initial placement.

**"§ 116-209.74. Reports.**

The nonprofit corporation administering the Program shall provide the State Board of Education, the Authority, and the Joint Legislative Education Oversight Committee with the data collected from grant recipients in accordance with G.S. 116-209.73 on an annual basis."

**SECTION 10A.4.(c)** Section 11.9(l) of S.L. 2015-241, as amended by Section 4.3 of S.L. 2016-123, reads as rewritten:

~~"SECTION 11.9.(l) Evaluation and Revision of Program. – The nonprofit corporation administering the program shall provide the State Board of Education and the Joint Legislative Education Oversight Committee with the data collected in accordance with subsection (j) of this section on an annual basis. By September 15, 2021, the State Board of Education, in coordination with the Board of Governors of The University of North Carolina, shall revise, as necessary, the licensure requirements for school administrators and the standards for approval of school administrator preparation programs after evaluating the data collected in accordance with G.S. 116-209.73 from the grant recipients, including the criteria used in selecting grant recipients and the outcomes of program completers. The State Board of Education shall report to the Joint Legislative Education Oversight Committee by November 15, 2021, on any changes made to the licensure requirements for school administrators and the standards for approval of school administrator preparation programs in accordance with this section."~~

**SECTION 10A.4.(d)** Section 11.9(m) of S.L. 2015-241, as amended by Section 4.3 of S.L. 2016-123 and Section 10A.5 of S.L. 2017-57, reads as rewritten:

**"SECTION 11.9.(m)** Of the funds appropriated by this act for the 2015-2016 fiscal year for this program, the sum of five hundred thousand dollars (\$500,000) shall be allocated to the State Education Assistance Authority to contract with the nonprofit corporation selected pursuant to subsection (e) of this section to establish and administer the program. The State Education Assistance Authority may use up to five percent (5%) of those funds for administrative costs.

~~Beginning with the 2017-2018 fiscal year, of~~ Of the funds appropriated each for the 2017-2018 fiscal year for this program, the sum of three hundred eighty thousand dollars (\$380,000) shall be allocated to the State Education Assistance Authority to contract with the nonprofit corporation selected pursuant to subsection (e) of this section to establish and administer the program. The State Education Assistance Authority may use up to fifteen thousand dollars (\$15,000) of those funds for administrative costs.

Beginning with the 2018-2019 fiscal year, of the funds appropriated each fiscal year for this program, as established under Part 4 of Article 23 of Chapter 116 of the General Statutes, the sum of three hundred eighty thousand dollars (\$380,000) shall be allocated to the State Education Assistance Authority to contract with the nonprofit corporation in accordance with G.S. 116-209.71 to establish and administer the program. The State Education Assistance Authority may use up to five percent (5%) of those funds for administrative costs."

**SECTION 10A.4.(e)** Section 11.9(o) of S.L. 2015-241, as enacted by Section 10A.5 of S.L. 2017-57, reads as rewritten:

**"SECTION 11.9.(o)** Beginning with the 2017-2018 fiscal year, of the funds appropriated for this program, the sum of four million two hundred thousand dollars (\$4,200,000) shall be allocated each fiscal year to the State Education Assistance Authority to award grants to selected recipients. ~~Any unexpended funds appropriated to award grants to selected recipients remaining at the end of each fiscal year shall revert to the General Fund, except that the Authority may carry forward for the next fiscal year an amount necessary to ensure that any outstanding allowable reimbursements can be disbursed in accordance with this section. Any funds carried forward for the purpose of meeting anticipated reimbursement obligations from the prior fiscal year that are~~

~~not expended shall not be used to award additional grants to grant recipients but shall revert to the General Fund at the end of the fiscal year."~~

**SECTION 10A.4.(f)** Subsection (b) of this section applies to the administration of the program and the award of grants on or after July 1, 2018. Subsection (e) of this section becomes effective June 30, 2018.

#### **ONE-YEAR TUITION GRANTS FOR CERTAIN GRADUATES OF THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS FOR THE 2019-2020 ACADEMIC YEAR**

**SECTION 10A.5.(a)** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2018-2019 fiscal year, the sum of one million one thousand eight hundred sixty-nine dollars (\$1,001,869) in nonrecurring funds shall be allocated to the State Education Assistance Authority (Authority) to be held in reserve to provide tuition grants for one academic year to each State resident who graduates from the North Carolina School of Science and Mathematics at the end of the 2018-2019 school year and who enrolls as a full-time student in a constituent institution of The University of North Carolina for the 2019-2020 academic year. Except as otherwise provided in this section, the amount of the grant awarded to each student shall cover the tuition cost at the constituent institution in which the student is enrolled.

**SECTION 10A.5.(b)** The tuition grants provided for in this section shall be administered by the Authority pursuant to rules adopted by the Authority not inconsistent with this section. The Authority shall not approve any grant until it receives proper certification from the appropriate constituent institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the Authority shall remit at the times it prescribes the grant to the constituent institution on behalf, and to the credit, of the student.

**SECTION 10A.5.(c)** No tuition grant awarded to a student under this section shall exceed the cost of attendance at the constituent institution at which the student is enrolled. If a student, who is eligible for a tuition grant under this section, also receives a scholarship or other grant covering the cost of attendance at the constituent institution for which the tuition grant is awarded, then the amount of the tuition grant shall be reduced by an appropriate amount determined by the Authority. The Authority shall reduce the amount of the tuition grant so that the sum of all grants and scholarship aid covering the cost of attendance received by the student, including the tuition grant under this section, shall not exceed the cost of attendance for the constituent institution at which the student is enrolled. The cost of attendance, as used in this subsection, shall be determined by the Authority for each constituent institution.

**SECTION 10A.5.(d)** In the event there are not sufficient funds to provide each eligible student with a full grant as provided by this section, the following applies:

- (1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the tuition grant program.
- (2) Each eligible student shall receive a pro rata share of funds available for the 2019-2020 fiscal year covered by the appropriation for the 2018-2019 fiscal year.

Any remaining funds shall revert to the General Fund.

**SECTION 10A.5.(e)** The funds allocated in accordance with this section for the 2018-2019 fiscal year shall not revert at the end of the 2018-2019 fiscal year but shall remain available until the end of the 2019-2020 fiscal year to implement this section.

#### **ACCESS TO PRIVATE INSTITUTION NEED-BASED SCHOLARSHIPS FOR VETERANS**

**SECTION 10A.6.(a)** G.S. 116-280 is amended by adding a new subdivision to read:

"(8) Veteran. – A veteran as defined in G.S. 116-143.3A who was discharged or released from service under conditions other than dishonorable."

**SECTION 10A.6.(b)** G.S. 116-281 reads as rewritten:

**"§ 116-281. Eligibility requirements for scholarships.**

In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible private postsecondary institution must meet all of the following requirements:

- (1) Only needy North Carolina students are eligible to receive scholarships. For purposes of this subsection, "needy North Carolina students" are those eligible students whose expected family contribution under the federal methodology does not exceed an amount as set annually by the Authority based upon costs of attendance at The University of North Carolina.
- (2) The student must meet all other eligibility requirements for the federal Pell Grant, with the exception of the expected family contribution.
- (3) The student must either (i) qualify as a legal resident of North Carolina and as a resident for tuition purposes under the criteria set forth in G.S. 116-143.1 and in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina.~~Carolina~~ or (ii) be a veteran provided the veteran's abode is in North Carolina and the veteran provides the eligible private postsecondary institution a letter of intent to establish residency in North Carolina.
- (4) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an eligible private postsecondary institution.
- (5) In order to continue to be eligible for a scholarship for the student's second and subsequent academic years, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the eligible private postsecondary institution in which the student is enrolled.
- (6) Repealed by Session Laws 2013-360, s. 11.15(e), effective for the 2014-2015 academic year and each subsequent academic year."

**SECTION 10A.6.(c)** This section applies beginning with the 2018-2019 academic year.

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

### **SUBPART XI-A. CENTRAL MANAGEMENT AND SUPPORT**

#### **HEALTH INFORMATION TECHNOLOGY**

**SECTION 11A.1.** G.S. 143B-139.4D(b), as enacted by Section 11A.1 of S.L. 2017-57, reads as rewritten:

"(b) The Department, in cooperation with the Department of Information Technology, shall establish and direct a health information technology management structure that is efficient and transparent and that is compatible with the Office of the National ~~Health~~-Coordinator for Health Information Technology (National Coordinator) governance mechanism. The health information technology management structure shall be responsible for all of the following:

...."

#### **RESTRICTION ON USE OF SALARY RESERVE BY DIVISION OF CENTRAL MANAGEMENT AND SUPPORT**

**SECTION 11A.2.** The Department of Health and Human Services, Division of Central Management and Support, shall not use salary reserve funds to establish new positions or to adjust the budgeted salary of existing positions within Fund Code 14410 until it hires a Director and all employees necessary to fulfill the duties of the Office of Program Evaluation Reporting and Accountability established under Part 31A of Article 3 of Chapter 143B of the General Statutes. The Department of Health and Human Services shall notify the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division when the Division of Central Management and Support has fulfilled this condition for using salary reserve funds. This section does not affect legislatively mandated salary increases.

#### **REDUCTION OF FUNDS FOR PURCHASED SERVICES**

**SECTION 11A.3.** In addition to the reduction required under Section 11A.10 of S.L. 2017-57, the Department of Health and Human Services, Division of Central Management and Support, shall reduce the amount of purchased services within the Division of Central Management and Support by reducing Fund Code 1120 by the sum of three hundred thousand dollars (\$300,000) in recurring funds for the 2018-2019 fiscal year. In making the reductions required by this section, the Department shall not reduce any funds (i) that impact direct services provided through contracts or (ii) used to support the 2012 settlement agreement entered into between the United States Department of Justice and the State of North Carolina to ensure that the State will willingly meet the requirements of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and the United States Supreme Court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999).

#### **COMPETITIVE GRANT FUNDS/CROSS TRAIL OUTFITTERS**

**SECTION 11A.4.** Section 11A.14 of S.L. 2017-57 reads as rewritten:

**"SECTION 11A.14.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, the sum of ten million six hundred fifty-three thousand nine hundred eleven dollars (\$10,653,911) for each year of the 2017-2019 fiscal biennium, the sum of four million five hundred twenty-four thousand five hundred twenty-five dollars (\$4,524,525) for ~~each year of the 2017-2019 fiscal biennium~~the 2017-2018 fiscal year and the sum of four million seven hundred seventy-four thousand five hundred twenty-five dollars (\$4,774,525) for the 2018-2019 fiscal year appropriated in Section 11L.1 of this act in Social Services Block Grant funds, and the sum of one million six hundred thousand dollars (\$1,600,000) for each year of 2017-2019 fiscal biennium in Section 11L.1 of this act in Substance Abuse Prevention and Treatment Block Grant funds shall be used to allocate funds for nonprofit organizations.

...  
**"SECTION 11A.14.(e1)** For the 2018-2019 fiscal year only, from the funds identified in subsection (a) of this section, the Department shall allocate the sum of two hundred fifty thousand dollars (\$250,000) to Cross Trail Outfitters for purposes of promoting wellness and physical activity for youth seven to 20 years of age. Cross Trail Outfitters shall be required to seek future funding through the competitive grants process in accordance with subsection (b) of this section.

...."

#### **CHILD WELFARE ASSIST PROGRAM**

**SECTION 11A.5.** From funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, the Department shall continue implementing the Child Welfare ASSIST (Accessing and Searching Sensitive Information for Safety through Technology) program established under Section 12C.1(e) of S.L. 2014-100. The Department shall continue utilizing resources and subject matter expertise available through existing public-private partnerships within the Government Data Analytics



Center (GDAC) to develop and implement enhancements to Child Welfare ASSIST. The Department and GDAC shall execute any required interagency agreements by October 1, 2018.

## **SUBPART XI-B. DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION**

### **ADJUSTMENTS TO NC PRE-K FUNDING**

**SECTION 11B.1.(a)** G.S. 143B-168.10B, as enacted by Section 7 of S.L. 2018-2, is repealed.

**SECTION 11B.1.(b)** Part 10B of Article 3 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-168.10C. Adjustments to NC Prekindergarten Program Funds.**

When developing the base budget, as defined by G.S. 143C-1-1, the Director of the Budget shall include increased funding for the NC Prekindergarten (NC Pre-K) program by an additional nine million three hundred fifty thousand dollars (\$9,350,000) for the 2019-2020 fiscal year and by an additional eighteen million seven hundred thousand dollars (\$18,700,000) for the 2020-2021 fiscal year. An appropriation under this section is a statutory appropriation as defined in G.S. 143C-1-1(d)(28)."

### **SEPARATE STAR-RATED LICENSE/BIRTH THROUGH TWO YEARS OF AGE/REPORT**

**SECTION 11B.2.(a)** The Department of Health and Human Services, Division of Child Development and Early Education (Division), shall develop a separate birth through two years of age, star-rated license for child care facilities. In developing the separate, star-rated license, the Division shall, at a minimum, consider the following:

- (1) Staff qualifications.
- (2) Staff turnover rates.
- (3) Educational outcomes.
- (4) Evaluation of certified religious-based child care centers for rate payments and the minimum requirements for certification.

**SECTION 11B.2.(b)** The Division of Child Development and Early Education shall submit a report on its recommendations regarding the separate, star-rated license, as well as any recommendations for revising the current star-rating system, to the Joint Legislative Oversight Committee on Health and Human Services by November 1, 2018.

### **ADDITIONAL CHILD CARE SUBSIDY MARKET RATE INCREASES/CERTAIN AGE GROUPS AND COUNTIES**

**SECTION 11B.3.** Section 11B.4 of S.L. 2017-57 reads as rewritten:

**"SECTION 11B.4.(a)** Beginning October 1, 2017, the Department of Health and Human Services, Division of Child Development and Early Education (Division), shall increase the child care subsidy market rates to the rates recommended by the 2015 Child Care Market Rate Study for school-aged children in three-, four-, and five-star-rated child care centers and homes in tier one and tier two counties.

**"SECTION 11B.4.(b)** Beginning October 1, 2017, the Division shall increase the child care subsidy market rates to the rates recommended by the 2015 Child Care Market Rate Study for children birth through two years of age in three-, four-, and five-star-rated child care centers and homes in tier three counties.

**"SECTION 11B.4.(b1)** Beginning October 1, 2018, the Division shall increase the child care subsidy market rates to the rates recommended by the 2015 Child Care Market Rate Study for children three through five years of age in three-, four-, and five-star-rated child care centers and homes in tier three counties.

"**SECTION 11B.4.(c)** For purposes of subsections (a) through (b1) of this section, tier one, tier two, and tier three counties shall have the same designations as those established by the N.C. Department of Commerce's 2015 County Tier Designations.

"**SECTION 11B.4.(d)** Beginning October 1, 2018, the Division shall increase the child care subsidy market rates to the one hundredth percentile as reported in the 2015 Child Care Market Rate Study for children birth through five years of age in three-, four-, and five-star-rated child care centers and homes in tier one and tier two counties. For purposes of this subsection, tier one and tier two counties shall have the same designations as those established by the N.C. Department of Commerce's 2018 County Tier Designations."

**REVISE SMART START INITIATIVES/REPORT DATE FOR MATCH REQUIREMENTS/ALLOW FUND-RAISING WITH STATE FUNDS**

**SECTION 11B.4.** Section 11B.8 of S.L. 2017-57 reads as rewritten:

" ...

"**SECTION 11B.8.(d)** Match Requirements. – 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 2017-2019 biennium. Of the funds the North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall be equal to at least thirteen percent (13%) and in-kind donated resources shall be equal to no more than six percent (6%) for a total match requirement of nineteen percent (19%) for each year of the 2017-2019 fiscal biennium. 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 Division of Employment Security of the Department of Commerce 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 nineteen-percent (19%) match by June 30 of each year of the 2017-2019 fiscal biennium 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 by October 1 of each year to the Joint Legislative Oversight Committee on Health and Human Services 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 11B.8.(h)** Expenditure Restrictions. – ~~The~~ Except as provided in subsection (i) of this section, the Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for the 2017-2019 fiscal biennium shall be administered and distributed in the following manner:

- (1) Capital expenditures are prohibited for the 2017-2019 fiscal biennium. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
- (2) Expenditures of State funds for advertising and promotional activities are prohibited for the 2017-2019 fiscal biennium.

For the 2017-2019 fiscal biennium, local partnerships shall not spend any State funds on marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

"**SECTION 11B.8.(i)** Notwithstanding subsection (h) of this section, the North Carolina Partnership for Children, Inc., and local partnerships may use up to one percent (1%) of State funds for fund-raising activities. Beginning October 1, 2019, the North Carolina Partnership for Children, Inc., shall submit a report, in conjunction with the report required under subsection (d) of this section, to the Joint Legislative Oversight Committee on Health and Human Services on the use of State funds for fund-raising. The report shall include the following:

- (1) The amount of funds expended on fund-raising.
- (2) Any return on fund-raising investments.
- (3) Any other information deemed relevant."

## **CLARIFY LANGUAGE/DOLLY PARTON'S IMAGINATION LIBRARY EARLY LITERACY INITIATIVE**

**SECTION 11B.5.** Section 11B.9(b) of S.L. 2017-57 reads as rewritten:

"**SECTION 11B.9.(b)** The North Carolina Partnership for Children, Inc., may use up to ~~two percent (2%)~~ one percent (1%) of the funds for statewide program management and up to one percent (1%) of the funds for program evaluation. Funds appropriated under this section shall not be subject to administrative costs requirements under Section 11B.8(b) of this act, nor shall these funds be subject to the child care services funding requirements under G.S. 143B-168.15(b), child care subsidy expansion requirements under G.S. 143B-168.15(g), or the match requirements under Section 11B.8(d) of this act."

## **SUBPART XI-C. DIVISION OF SOCIAL SERVICES**

### **FINAL REPORT/CHILD WELFARE SYSTEM CHANGES**

**SECTION 11C.1.** Section 11C.7 of S.L. 2017-57 reads as rewritten:

"**SECTION 11C.7.(a)** Federal Improvement Plan Implementation. – The Department of Health and Human Services, Division of Social Services, shall continue implementing the requirements of the federal Program Improvement Plan to bring our State into compliance with national standards for child welfare policy and practices. The Division shall collaborate with county departments of social services to develop a model of oversight that supports program outcomes and a county's ability to meet performance standards as outlined in the Program

Improvement Plan. Oversight may include support for continuous quality improvement, staff training, and data analysis.

Of the funds appropriated to the Division in each year of the 2017-2019 fiscal biennium for the child welfare program improvement plan, the sum of sixty thousand dollars (\$60,000) recurring in each year of the 2017-2019 fiscal biennium shall be used by the Division, in collaboration with the North Carolina State Commission on Indian Affairs within the Department of Administration, for North Carolina State-recognized tribes to assist in (i) recruiting foster parents, (ii) increasing the number of foster homes for children who are members of a North Carolina State-recognized tribe, and (iii) providing training for staff of county departments of social services to ensure culturally appropriate services for children who are members of a North Carolina State-recognized tribe.

The Division shall notify the Joint Legislative Oversight Committee on Health and Human Services (Committee) and the Fiscal Research Division within 30 days of complete implementation of the Program Improvement Plan. The Division shall submit a final report to the Committee on the implementation and outcomes of the Program Improvement Plan to the Joint Legislative Oversight Committee on Health and Human Services. The report shall be submitted semiannually on February 1 and August 1 of each year, with a final report on February 1, 2019, no later than 90 days after implementation is complete.

**"SECTION 11C.7.(b)** Child Welfare/NC FAST. – The Department of Health and Human Services, Division of Social Services, shall continue toward completion of the child welfare component of the North Carolina Families Accessing Services Through Technology (NC FAST) system to (i) bring the State into compliance with the Statewide Information System systematic factor of the Child and Family Services Review (CFSR) and (ii) ensure that data quality meets federal standards and adequate information is collected and available to counties to assist in tracking children and outcomes across counties.

It is the intent of the General Assembly that the child welfare component of the NC FAST system be operational by December 31, 2017. To that end, the Department of Health and Human Services, Division of Social Services, shall notify the Joint Legislative Oversight Committee on Health and Human Services (Committee) and the Fiscal Research Division within 30 days of complete implementation of the child welfare component of NC FAST. The Division of Social Services shall then submit a final report to the Committee on the development, implementation, implementation and outcomes of the child welfare component of the NC FAST system to the Joint Legislative Oversight Committee on Health and Human Services quarterly through April 1, 2019. The report shall include, at a minimum, each of the following: no later than 90 days after implementation is complete.

- ~~(1) The current time line for development and implementation of the child welfare component to NC FAST.~~
- ~~(2) Any adjustments and justifications for adjustments to the time line.~~
- ~~(3) Progress on the development and implementation of the system.~~
- ~~(4) Address any identified issues in developing or implementing the child welfare component to NC FAST and solutions to address those issues.~~
- ~~(5) The level of county participation and involvement in each phase of the project.~~
- ~~(6) Any budget and expenditure reports, including overall project budget and expenditures, and current fiscal year budget and expenditures."~~

#### **EXPAND ECKERD KIDS AND CARING FOR CHILDREN'S ANGEL WATCH PROGRAM TO INCLUDE SIBLINGS UNDER 18 YEARS OF AGE**

**SECTION 11C.2.** Section 11C.14(a) of S.L. 2017-57 reads as rewritten:

**"SECTION 11C.14.(a)** The Department of Health and Human Services, Division of Social Services, shall report on the use of additional funds provided in this act for each year of the 2017-2019 fiscal biennium to provide continued support of the Eckerd Kids and Caring for

Children's Angel Watch program, a foster care program for children who are ages zero to ~~10~~10 years, as well as the siblings of those children who are under 18 years of age, who are not in the custody of a county department of social services and whose families are temporarily unable to care for them due to a crisis. The report shall, at a minimum, include each of the following:

- (1) The number of families and children served by the program, including the counties in which services are provided.
- (2) The number of children who enter foster care within six months after their family participates in the program.
- (3) A comparison of children with similar needs that do not participate in the program and the number of those children who enter into foster care.
- (4) Any other matters the Division deems relevant."

#### **CHILD SUPPORT FEE CHANGE AS REQUIRED UNDER FEDERAL LAW**

##### **SECTION 11C.3.** G.S. 110-130.1(a) reads as rewritten:

"(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of twenty-five dollars (\$25.00). The fee shall be reduced to ten dollars (\$10.00) if the individual applying for the services is indigent. An indigent individual is an individual whose gross income does not exceed one hundred percent (100%) of the federal poverty guidelines issued each year in the Federal Register by the U.S. Department of Health and Human Services. For the purposes of this subsection, the term "gross income" has the same meaning as defined in G.S. 105-134.1.

In the case of an individual who has never received assistance under a State program funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family in a federal fiscal year at least five hundred ~~fifty~~ dollars ~~(\$500.00)~~(\$550.00) of support, the State shall impose an annual fee of ~~twenty-five~~thirty-five dollars ~~(\$25.00)~~(\$35.00) for each case in which services are furnished. The child support agency shall retain the fee from support collected on behalf of the individual. However, the child support agency shall not retain the fee from the first five hundred ~~fifty~~ dollars ~~(\$500.00)~~(\$550.00) collected. The child support agency shall use the fee to support the ongoing operation of the program."

#### **CRIMINAL RECORD CHECKS OF APPLICANTS AND CURRENT EMPLOYEES WHO ACCESS FEDERAL TAX INFORMATION UNDER FEDERAL LAW**

**SECTION 11C.4.** Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-935.1. Criminal record checks of applicants and current employees who access federal tax information.**

(a) The Department of Public Safety may, upon request, provide to the Division of Social Services or Division of Medical Assistance within the Department of Health and Human Services or a county agency the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual is permitted, or will be permitted, to access federal tax information:

- (1) An applicant for employment.
- (2) A current employee.
- (3) A contractual employee or applicant.
- (4) An employee of a contractor.

(b) Along with the request, the requesting agency shall provide the following to the Department of Public Safety:

- (1) The fingerprints of the person who is the subject of the record check.

- (2) A form signed by the person who is the subject of the record check consenting to:
- a. The criminal record check.
  - b. The use of fingerprints.
  - c. Any other identifying information required by the State and National Repositories.
  - d. Any additional information required by the Department of Public Safety.

(c) The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) The requesting agency shall keep all information obtained pursuant to this section confidential.

(e) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

## **SUBPART XI-D. DIVISION OF AGING AND ADULT SERVICES**

### **PLAN FOR ALLOWING THE EASTERN BAND OF CHEROKEE INDIANS TO ASSUME RESPONSIBILITY FOR ADMINISTERING THE HOME AND COMMUNITY CARE BLOCK GRANT**

**SECTION 11D.1.** By February 1, 2019, the Department of Health and Human Services, Division of Aging and Adult Services, in consultation with the Eastern Band of Cherokee Indians (EBCI), shall develop and submit to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division a plan to enable the EBCI to assume responsibility for administering the Home and Community Care Block Grant (HCCBG) on behalf of the Tribe. The plan must include at least all of the following information:

- (1) The amount of funding received by the EBCI from the Older Americans Act and the source and amount of any other funding available to the EBCI to pay for services provided under the HCCBG.
- (2) The number of individuals who would be eligible to receive HCCBG services from the EBCI upon assumption by the EBCI of this responsibility.
- (3) An explanation of how the Department will avoid double counting individuals eligible for HCCBG services administered by the EBCI and by another county within the area agency on aging.
- (4) Whether eligibility for services would be determined by Tribal enrollment, geographic location, or some other method and an explanation of the method for determining eligibility for services.
- (5) Any federal laws, rules, or other guidance that should be taken into consideration in order to allow the EBCI to assume this responsibility.
- (6) Any State laws, rules, or other guidance that should be taken into consideration or amended in order to allow the EBCI to assume this responsibility.
- (7) Any federal waiver application or State Plan amendment the Department would be required to file in order to allow the EBCI to assume this responsibility.
- (8) An explanation of any information technology issues that should be addressed and any recommendations for how to address them.
- (9) Identification of all recurring and nonrecurring implementation costs.

- (10) A proposed time line for the EBCI to assume this responsibility.
- (11) Any other information the Secretary of Health and Human Services deems relevant to the EBCI successfully assuming this responsibility.

## **SUBPART XI-E. DIVISION OF PUBLIC HEALTH**

### **FEE INCREASE TO OFFSET COST OF NEWBORN SCREENING PROGRAM**

**SECTION 11E.1.(a)** G.S. 130A-125 reads as rewritten:

**"§ 130A-125. Screening of newborns for metabolic and other hereditary and congenital disorders.**

(a) The Department shall establish and administer a Newborn Screening Program. The program shall include, but shall not be limited to:

- (1) Development and distribution of educational materials regarding the availability and benefits of newborn screening.
- (2) Provision of laboratory testing.
- (3) Development of follow-up protocols to assure early treatment for identified children, and the provision of genetic counseling and support services for the families of identified children.
- (4) Provision of necessary dietary treatment products or medications for identified children as medically indicated and when not otherwise available.
- (5) For each newborn, provision of physiological screening in each ear for the presence of permanent hearing loss.
- (6) For each newborn, provision of pulse oximetry screening to detect congenital heart defects.

(b) The Commission shall adopt rules necessary to implement the Newborn Screening Program. The rules shall include, but shall not be limited to, the conditions for which screening ~~shall be required, provided that screening shall not be is required.~~ The Commission shall amend the rules as necessary to ensure that each condition listed on the Recommended Uniform Screening Panel developed by the Secretary of the United States Department of Health and Human Services and the Advisory Committee on Heritable Disorders of Newborns and Children (the RUSP) is included in the Newborn Screening Program, except that the Commission is exempt from rule making with respect to adding screening tests for Pompe disease, Mucopolysaccharidosis Type I (MPS I), and X-Linked Adrenoleukodystrophy (X-ALD). Screening is not required when the parents or the guardian of the infant object to such screening. If the parents or guardian object to the screening, the objection shall be presented in writing to the physician or other person responsible for administering the test, who shall place the written objection in the infant's medical record.

(b1) The Commission shall adopt temporary and permanent rules to include newborn hearing screening and pulse oximetry screening in the Newborn Screening Program established under this section.

(b2) The Commission's rules for pulse oximetry screening shall address at least all of the following:

- (1) Follow-up protocols to ensure early treatment for newborn infants diagnosed with a congenital heart defect, including by means of telemedicine. As used in this subsection, "telemedicine" is the use of audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations.
- (2) A system for tracking both the process and outcomes of newborn screening utilizing pulse oximetry, with linkage to the Birth Defects Monitoring Program established pursuant to G.S. 130A-131.16.

(c) A fee of ~~forty-four dollars (\$44.00)~~ one hundred twenty-eight dollars (\$128.00) applies to a laboratory test performed by the State Laboratory of Public Health pursuant to this section. The fee for a laboratory test is a departmental receipt of the Department and shall be used to offset the cost of the Newborn Screening Program. The Commission may by rule, and in consultation with the Secretary, increase this fee by no more than the amount necessary to offset the cost of incorporating a condition listed on the RUSP into the Newborn Screening Program. The Commission shall by rule decrease this fee when it determines, in consultation with the Secretary, that current and anticipated fee receipts will exceed current and anticipated recurring operating costs of the Newborn Screening Program by more than ten percent (10%).

(d) The Newborn Screening Equipment Replacement and Acquisition Fund (Fund) is established as a nonreverting fund within the Department. Thirty-one dollars (\$31.00) of each fee collected pursuant to subsection (c) of this section shall be credited to this Fund and applied to the Newborn Screening Program to be used as directed in this subsection. The Department shall not use monies in this Fund for any purpose other than to purchase or replace laboratory instruments, equipment, and information technology systems used in the Newborn Screening Program. The Department shall notify and consult with the Joint Legislative Commission on Governmental Operations whenever the balance in the Fund exceeds the following threshold: the sum of (i) the actual cost of new equipment necessary to incorporate conditions listed on the RUSP into the Newborn Screening Program and (ii) one hundred percent (100%) of the replacement value of existing equipment used in the Newborn Screening Program. Any monies in the Fund in excess of this threshold shall be available for expenditure only upon an act of appropriation by the General Assembly.

(e) Annually on March 1, the Department shall report to the House Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the Newborn Screening Program. The report shall include all of the following information for the preceding fiscal year:

- (1) A description of the services funded by the Newborn Screening Program, including a description of the Department's activities with respect to each of the services listed in subsection (a) of this section.
- (2) A detailed budget and list of expenditures for the Newborn Screening Program, including all positions funded.
- (3) Fees and other receipts collected for the Newborn Screening Program.
- (4) Projected fees and other receipts for the Newborn Screening Program for the current and upcoming fiscal year.
- (5) Any condition the Department anticipates will be listed on the RUSP within the current or upcoming fiscal year and a description of the following:
  - a. Any laboratory instruments or equipment the Department will need to purchase in order to perform screening for that condition.
  - b. Any additional positions the Department will need to establish in order to perform screening for that condition.
- (6) The balance in the Newborn Screening Equipment Replacement and Acquisition Fund as of the preceding June 30.
- (7) Amounts credited to the Fund.
- (8) Amounts expended from the Fund and the purposes of the expenditures.
- (9) Proposed expenditures of the monies in the Fund for the current and upcoming fiscal year.
- (10) Any other information the Department deems relevant to maintaining the Newborn Screening Program as a fee-supported program."

**SECTION 11E.1.(b)** G.S. 150B-1(d) is amended by adding a new subdivision to

read:



"(29) The Commission for Public Health with respect to adding to the Newborn Screening Program established under G.S. 130A-125 screening tests for Pompe disease, Mucopolysaccharidosis Type I (MPS I), and X-Linked Adrenoleukodystrophy (X-ALD)."

**SECTION 11E.1.(c)** The Department shall submit the first report due under G.S. 130A-125(e) by March 1, 2019. The first report shall include a progress report on the implementation of G.S. 130A-125, as amended by this section, including any regulatory or operational challenges to full implementation and any recommended legislative changes.

**SECTION 11E.1.(d)** This section becomes effective July 1, 2018, and the fee authorized by G.S. 130A-125(c) applies to laboratory tests performed by the North Carolina State Laboratory of Public Health as part of the Newborn Screening Program on or after that date.

## **STUDY CONCERNING VITAL RECORDS FEES**

**SECTION 11E.2.** By December 1, 2018, the Department of Health and Human Services, Division of Public Health, shall examine and report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on whether the revenue generated from the fees charged for vital records is sufficient to cover the operational costs of the vital records system, including costs for equipment and information technology systems.

## **FUNDS FOR PREGNANCY CARE INITIATIVES**

**SECTION 11E.3.** Section 11E.13 of S.L. 2017-57 reads as rewritten:

**"SECTION 11E.13.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of one million three hundred thousand dollars (\$1,300,000) in nonrecurring funds for the 2017-2018 fiscal year and the sum of ~~one million three hundred thousand dollars (\$1,300,000)~~ one million dollars (\$1,000,000) in nonrecurring funds for the 2018-2019 fiscal year shall be allocated to the Carolina Pregnancy Care Fellowship, a nonprofit organization, to be used as follows:

- (1) \$800,000 in nonrecurring funds for each fiscal year of the 2017-2019 fiscal biennium shall be used to provide grants to purchase durable medical equipment for clinics that apply to the Carolina Pregnancy Care Fellowship for such equipment.
- (2) \$170,000 in nonrecurring funds for each fiscal year of the 2017-2019 fiscal biennium may be used to provide grants for training on the use of durable medical equipment to clinics that apply to the Carolina Pregnancy Care Fellowship for such training.
- (3) \$30,000 in nonrecurring funds for each fiscal year of the 2017-2019 fiscal biennium may be used by Carolina Pregnancy Care Fellowship for administrative purposes related to the grants authorized by subdivisions (1) and (2) of this subsection.
- (4) \$300,000 in nonrecurring funds for ~~each fiscal year of the 2017-2019 fiscal biennium~~ the 2017-2018 fiscal year shall be transferred to the Human Coalition, a nonprofit organization, to develop and implement a two-year continuum of care pilot program as provided in subsection (b) of this section.

**"SECTION 11E.13.(b)** Funds allocated to the Human Coalition shall be used to develop and implement a two-year pilot program at its Raleigh clinic to provide a continuum of care and support to assist women experiencing crisis pregnancies to continue their pregnancies to full term. These funds shall be used for nonsectarian purposes only.

**"SECTION 11E.13.(c)** The pilot program authorized by subsection (b) of this section shall consist of at least all of the following components:

- (1) The use of care coordinators to perform the following functions:

- a. Assess the immediate challenges causing a program participant to seek abortion and eliminate these challenges by assisting the program participant in connecting to appropriate resources. The care coordinator shall personally assist a program participant in connecting to appropriate resources, when appropriate.
  - b. Introduce each program participant to a trained mentor who will continue to guide the program participant toward positive lifestyle changes.
- (2) The use of licensed nursing staff in the Human Coalition's Raleigh clinic to provide medical support to program participants.
  - (3) Close collaboration between care coordinators and licensed nursing staff during initial counseling sessions in order to accomplish the following:
    - a. Appropriately introduce continuum of care services available through the pilot program.
    - b. Create individual care plans for program participants and their families to help build a stable family life for the duration of the pregnancy. Care plans should identify and address any further challenges identified by care coordinators with encouragement and additional resources.

**"SECTION 11E.13.(d)** By November 1, 2017, and periodically thereafter, the Human Coalition shall report to the Department on the start-up and operations of the pilot program authorized by subsection (b) of this section. By April 1, 2018, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Resources and the Fiscal Research Division on the status of the pilot program.

**"SECTION 11E.13.(e)** By April 1, 2019, the Department shall submit a final report on the pilot program authorized by subsection (b) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. At a minimum, the Department's final report shall include all of the following:

- (1) An estimate of the cost to expand the program incrementally and statewide.
- (2) An estimate of any potential savings of State funds associated with expansion of the program.
- (3) If expansion of the program is recommended, a time line for expanding the program.

**"SECTION 11E.13.(f)** Unless otherwise extended by law, the pilot program authorized by subsection (b) of this section expires June 30, 2019."

## **HUMAN COALITION PILOT PROGRAM**

**SECTION 11E.4.** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of three hundred thousand dollars (\$300,000) in nonrecurring funds for the 2018-2019 fiscal year shall be allocated to the Human Coalition, a nonprofit organization, to continue the two-year pilot program authorized by Section 11E.13(b) of S.L. 2017-57.

## **EVERY WEEK COUNTS DEMONSTRATION PROJECT**

**SECTION 11E.5.** Section 11E.12 of S.L. 2017-57 reads as rewritten:

**"SECTION 11E.12.(a)** The General Assembly finds that preterm birth is the major driver of infant mortality in the United States and the leading cause of long-term neurological disabilities in children. It further finds that the counties in North Carolina with the highest infant mortality rates are multiply burdened by high rates of preterm birth and high rates of poverty and also tend to be counties that are also disproportionately composed of racial minorities. It is the intent of the General Assembly to reduce the incidence of preterm birth and infant mortality by funding and supporting for a period of at least three years a demonstration project in two counties

of Perinatal Care Region V of North Carolina to study (i) the extent to which a home-based prenatal care model can reduce the rate of preterm birth among multiparous women and (ii) whether multiparous women without a prior preterm birth, but with multiple risk factors for preterm birth in the current pregnancy, may benefit from 17 Alpha-Hydroxyprogesterone Caproate (17P) therapy.

**"SECTION 11E.12.(b)** To that end, funds in the amount of ~~two million two hundred thousand dollars (\$2,200,000)~~ three million dollars (\$3,000,000) in nonrecurring funds from the federal Maternal and Child Health Block Grant funds referenced in Section 11L.1 of this act shall be allocated to the Department of Health and Human Services, Division of Public Health, for the ~~2017-2018 fiscal year and for the 2018-2019 fiscal year~~. The Department of Health and Human Services, Division of Public Health, shall allocate these funds to the University of North Carolina at Pembroke to initiate the three-year demonstration project authorized by this section. Upon initiation of the pilot program, the University of North Carolina at Pembroke shall secure an additional sum of three million dollars (\$3,000,000) from the University of North Carolina at Chapel Hill to continue this demonstration project through the third year. Up to two million dollars (\$2,000,000) of the three million dollars (\$3,000,000) to be secured by the University of North Carolina at Pembroke may be raised by the University of North Carolina School of Medicine from non-State, private sources. The University of North Carolina at Pembroke shall use all of these funds to ~~conduct~~ conduct, in collaboration with the University of North Carolina School of Medicine, a three-year demonstration project in Robeson and Columbus counties to do the following:

- (1) Investigate the effectiveness of in-home prenatal care for the prevention of preterm birth among multiparous women of low income.
- (2) Conduct a nested randomized controlled trial of 17P for preterm birth prevention among women without a prior preterm birth, but with a significant constellation of risk factors that increases their likelihood of having a preterm birth in the current pregnancy.

Multiparous women at or below one hundred eighty-five percent (185%) of the federal poverty level and primiparous women at or below two hundred percent (200%) of the federal poverty level, who are in the early stages of pregnancy, ideally prior to 17 weeks gestation, are eligible to participate in the demonstration project regardless of age or medical history. Faculty at the University of North Carolina at ~~Chapel Hill~~ Pembroke and the University of North Carolina School of Medicine shall supervise the demonstration project.

**"SECTION 11E.12.(c)** The demonstration project shall consist of at least all of the following components:

- (1) An Every Week Counts enrollment visit that includes an early ultrasound assessment and a complete medical examination to ascertain baseline health characteristics, presence of reproductive tract infections, and other risk factors for preterm birth including reproductive history and other relevant factors. The enrollment visit shall also include a detailed interview to ascertain the social and psychological state of the program participant.
- (2) Women enrolled in Every Week Counts shall receive home visits during pregnancy that combine a home-based prenatal care model with social interventions focused on addressing barriers to completing educational goals, obtaining employment, identifying reliable and high-quality child care, and addressing the health and safety needs of the growing family.
- (3) Women enrolled in Every Week Counts shall receive home visits during the first two years of their child's life. Program participants and their infants will be followed until the child's second birthday. In these monthly visits, the child's health, growth, and development will be tracked; the mother will be provided with information on nutritional, health, and developmental needs;

and children in need of Early Intervention Services will be identified to ensure school readiness. Primary health care in addition to targeted education in early childhood development and health needs will be provided to participants in a home setting. In order to track the development of these children, standardized tests will be administered periodically to assess cognitive, psychomotor, and behavioral development.

- (4) There shall be a randomized clinical trial of 17P within Every Week Counts in a population of women enriched for preterm birth susceptibility. Eligible women that choose to enroll in this intervention trial will be randomized to a weekly 17P injection after 16-20 weeks' gestation or a sham injection. Women who choose to participate in the 17P intervention trial will be co-enrolled in Every Week Counts and will receive all the same home-based prenatal care and child development services, but will receive weekly visits from the Nurse Practitioner after 16-20 weeks' gestation in order to deliver the 17P intramuscular injection.

**"SECTION 11E.12.(d)** Not later than six months after the conclusion of the demonstration project, the University of North Carolina at Chapel Hill shall submit a final report on the demonstration project to the Department that addresses at least all of the following:

- (1) For the Every Week Counts part of the demonstration project:
  - a. Percent preterm and low birth weight relative to overall county statistics in current and prior years using vital statistics data, within categories of race/ethnicity and parity.
  - b. Percent initiating breastfeeding at delivery and the average duration of breastfeeding.
  - c. Percent reporting active smoking at the time of delivery.
  - d. Uptake of contraception postpartum.
  - e. Average length of interpregnancy interval.
  - f. Percent of children meeting developmental milestones in the first year.
  - g. Number of emergency room visits related to child health in the first two years.
- (2) For the 17P Intervention Trial, relative risk of preterm birth in treated versus untreated program participants.

**"SECTION 11E.12.(e)** Not later than three months after the Department receives the report due under subsection (d) of this section, the Department shall submit a final report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division evaluating the demonstration project. At a minimum, the report shall include all of the following:

- (1) An estimate of the cost to expand the program incrementally and statewide.
- (2) An estimate of any potential savings of State funds associated with expansion of the program.
- (3) If expansion of the program is recommended, a time line for expanding the program.

**"SECTION 11E.12.(f)** The demonstration project authorized under this section shall terminate upon the submission of the report due under subsection (d) of this section by the University of North Carolina at Chapel Hill."

## **SUBPART XI-F. DIVISION OF MH/DD/SAS AND STATE OPERATED HEALTHCARE FACILITIES**

### **SINGLE-STREAM FUNDING FOR MH/DD/SAS COMMUNITY SERVICES**

**SECTION 11F.1.** Section 11F.2(b) of S.L. 2017-57, as amended by Section 4 of S.L. 2017-206, reads as rewritten:

**"SECTION 11F.2.(b)** The DMH/DD/SAS is directed to reduce its allocation for single-stream funding by thirty-one million four hundred eighty-seven thousand three hundred sixty-six dollars (\$31,487,366) in recurring funds and by fifty-five million four hundred fifty-four thousand nine hundred twenty-three dollars (\$55,454,923) in nonrecurring funds for the 2017-2018 fiscal year; and by ~~thirty-six million two thousand eight hundred fifty-four~~ thirty-six million four hundred forty thousand eight hundred ninety-five dollars ~~(\$36,002,854)~~ (\$36,440,895) in recurring funds and by ~~fifty-four million six hundred five thousand eight hundred twenty-three~~ seventy-one million one hundred eighty-nine thousand four hundred fifty-eight dollars ~~(\$54,605,823)~~ (\$71,189,458) in nonrecurring funds for the 2018-2019 fiscal year.

The DMH/DD/SAS shall allocate these recurring and nonrecurring reductions for single-stream funding among the LME/MCOs as follows:

|                                       | <b>FY 2017-2018</b> | <b>FY 2018-2019</b>                      |
|---------------------------------------|---------------------|------------------------------------------|
| Alliance Behavioral Healthcare        |                     |                                          |
| Recurring                             | (\$7,468,941)       | <del>(\$10,226,331)</del> (\$7,342,029)  |
| Nonrecurring                          | (\$8,478,129)       | <del>(\$9,357,813)</del> (\$17,799,167)  |
| Cardinal Innovations Healthcare       |                     |                                          |
| Recurring                             | (\$7,413,799)       | <del>(\$10,120,076)</del> (\$16,590,617) |
| Nonrecurring                          | (\$14,500,322)      | <del>(\$16,075,545)</del> (\$27,428,788) |
| Eastpointe                            |                     |                                          |
| Recurring                             | (\$1,372,311)       | <del>(\$2,116,105)</del> (\$2,495,640)   |
| Nonrecurring                          | (\$5,626,836)       | <del>(\$5,721,407)</del> (\$3,502,405)   |
| Partners Behavioral Health Management |                     |                                          |
| Recurring                             | (\$2,739,719)       | <del>(\$2,912,599)</del> (\$3,417,666)   |
| Nonrecurring                          | (\$6,686,675)       | <del>(\$6,356,282)</del> (\$6,646,271)   |
| Sandhills Center                      |                     |                                          |
| Recurring                             | (\$7,424,094)       | <del>(\$8,607,466)</del> (\$5,992,312)   |
| Nonrecurring                          | (\$8,790,246)       | <del>(\$8,431,511)</del> (\$12,012,827)  |
| Trillium Health Resources             |                     |                                          |
| Recurring                             | (\$3,338,878)       | <del>(\$33,869)</del> (\$0)              |
| Nonrecurring                          | (\$5,652,353)       | <del>(\$3,126,486)</del> (\$0)           |
| Vaya Health                           |                     |                                          |
| Recurring                             | (\$1,729,624)       | <del>(\$1,986,408)</del> (\$602,631)     |
| Nonrecurring                          | (\$5,720,363)       | <del>(\$5,536,779)</del> (\$3,800,000)   |
| <b>TOTALS</b>                         |                     |                                          |
| <b>Recurring</b>                      | (\$31,487,366)      | <del>(\$36,002,854)</del> (\$36,440,895) |
| <b>Nonrecurring</b>                   | (\$55,454,923)      | <del>(\$54,605,823)</del> (\$71,189,458) |

~~By March 1, 2018, the Secretary of Health and Human Services shall submit to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division a proposal for any adjustments to the specified recurring reductions among the~~

LME/MCOs for future fiscal years. The proposal must include a detailed explanation supporting any proposed changes. Upon completing a comparison of the cash balance and solvency range of each LME/MCO on December 1, 2018, as required by G.S. 122C-125.2(b), the Secretary of Health and Human Services may adjust the specified recurring and nonrecurring reductions among the LME/MCOs; provided, however, that the Secretary shall submit a detailed explanation for any such adjustment along with supporting documentation to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division within 10 business days after making the adjustment.

During each year of the 2017-2019 fiscal biennium, each LME/MCO shall offer at least the same level of single-stream service utilization as during the 2014-2015 fiscal year across the LME/MCO's catchment area. This requirement shall not be construed to require LME/MCOs to authorize or maintain the same level of services for any specific individual whose services were paid for with single-stream funding. Further, this requirement shall not be construed to create a private right of action for any person or entity against the State of North Carolina or the Department of Health and Human Services or any of its divisions, agents, or contractors and shall not be used as authority in any contested case brought pursuant to Chapter 108C or 108D of the General Statutes."

#### **USE OF DOROTHEA DIX HOSPITAL PROPERTY FUNDS TO PURCHASE ADDITIONAL BEHAVIORAL HEALTH BEDS**

**SECTION 11F.2.** Section 11F.5 of S.L. 2017-57 reads as rewritten:

" ...

**"SECTION 11F.5.(e)** Report on Use of Funds to Purchase Additional Beds. – Beginning November 1, 2018, the Department of Health and Human Services shall annually report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the number and location of additional licensed inpatient behavioral health beds brought into operation with funds allocated under subsection (a) of this ~~section~~section and, of this number, and pursuant to subsection (d) of this section, the number of beds or bed days reserved for and purchased by (i) the Department under the State-administered, three-way contract and (ii) the LME/MCOs for individuals who are indigent or Medicaid recipients. By December 1, 2020, the Department shall submit a report that includes a proposal for funding the recurring operating costs of these additional beds from a source or sources other than the Dorothea Dix Hospital Property Funds, including the identification of potential new funding sources.

...

**"SECTION 11F.5.(g)** Unspent Funds for 2016-2017 Fiscal Year. – Any funds allocated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, from the Dorothea Dix Hospital Property Fund established under G.S. 143C-9-2(b1) pursuant to Section 12F.4 of S.L. 2016-94 for the 2016-2017 fiscal year that are not expended or encumbered as of ~~June 30, 2017,~~June 30, 2019 shall remain in the Dorothea Dix Hospital Property Fund.

...."

#### **USE OF DOROTHEA DIX HOSPITAL PROPERTY FUNDS TO IMPROVE SCHOOL SAFETY**

**SECTION 11F.3.** It is the intent of the General Assembly to improve mental health services to make public schools safer. To that end and notwithstanding any provision of law to the contrary, of the funds appropriated from the Dorothea Dix Hospital Property Fund established under G.S. 143C-9-2(b1) to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2018-2019 fiscal year, the sum of ten million dollars (\$10,000,000) in nonrecurring funds shall be transferred to

the Department of Public Instruction to implement the mental health-related school safety initiative described in Section 7.27(i) of this act.

#### **FUNDS FOR TROSA TO EXPAND SUBSTANCE USE DISORDER TREATMENT & RECOVERY SERVICES**

**SECTION 11F.4.(a)** Of the funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2018-2019 fiscal year, the Department shall allocate six million dollars (\$6,000,000) in nonrecurring funds as a grant-in-aid to Triangle Residential Options for Substance Abusers (TROSA), Inc., a nonprofit organization, for the construction of a new satellite TROSA facility in the Triad area of the State for the provision of comprehensive, long-term residential substance use disorder recovery services. TROSA shall not use these funds for any purpose other than the purpose stated in this subsection.

**SECTION 11F.4.(b)** By April 1, 2019, TROSA shall submit a report on the status of the construction project described in subsection (a) of this section. The report must include a breakdown of all expenditures from the funds allocated pursuant to subsection (a) of this section and a projected completion date for the construction project. By May 1, 2019, the Department shall submit this information in a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

#### **FUNDS FOR VAYA HEALTH TO EXPAND FACILITY-BASED CRISIS SERVICES**

**SECTION 11F.5.(a)** Of the funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2018-2019 fiscal year, the Department shall allocate one million four hundred thousand dollars (\$1,400,000) in nonrecurring funds to Vaya Health (Vaya) as a grant-in-aid for the construction of a facility-based crisis center in Wilkes County. Vaya shall not use these funds for any purpose other than the purpose stated in this subsection.

**SECTION 11F.5.(b)** By April 1, 2019, Vaya shall submit a report on the status of the construction project described in subsection (a) of this section. The report must include a breakdown of all expenditures from the funds allocated pursuant to subsection (a) of this section and a projected completion date for the project. By May 1, 2019, the Department shall submit this information in a report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

#### **COST ANALYSIS FOR EXPANSION OF THE WRIGHT SCHOOL**

**SECTION 11F.6.** By December 1, 2018, the Department of Health and Human Services shall develop and submit to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division a detailed cost analysis for expanding the Wright School to two additional locations within the State to (i) provide statewide access to best practice, cost-effective, residential mental health treatment to children, ages six to 13, with serious emotional and behavioral disorders and (ii) support their families and communities in building the capacity to meet their children's special needs at home, at school, and within their local communities. The cost analysis must include, at a minimum, all of the following:

- (1) A detailed cost estimate for planning, site development, and construction of one new State-operated facility located west of Interstate 77 and one new State-operated facility located east of Interstate 95.
- (2) Projected operating costs for each of the new facilities referenced in subdivision (1) of this section over a three-year period. The projection for each facility must include estimated occupancy, estimated revenues by payer source, and detailed estimated operating expenses.

- (3) A projected analysis of how expansion of the Wright School to the new facilities referenced in subdivision (1) of this section will impact spending by the Medicaid program over a three-year period, including expenditures for emergency department utilization and inpatient hospitalizations to address behavioral health crises among the children to be served by these facilities and any associated cost savings to the State over the three-year period.

## **FUNDS FOR EVIDENCE-BASED SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, INTELLECTUAL DISABILITIES, OR DEVELOPMENTAL DISABILITIES**

**SECTION 11F.7.** 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 one hundred twenty-five thousand dollars (\$125,000) in recurring funds for the 2018-2019 fiscal year shall be allocated as a grant to the North Carolina Association of People Supporting Employment First (NC APSE) to develop and implement training programs for the Department, including online training modules, on the provision of evidence-based supported employment services for individuals in targeted populations, in order to assist these individuals with preparation for, identification of, and maintenance of integrated, paid, competitive employment. The Department shall make these training programs available throughout the State to (i) employers that have hired or are willing to hire individuals in targeted populations, (ii) service providers of local management entities/managed care organizations, and (iii) any other entity the Department determines will benefit from receiving this training in order to achieve improved employment outcomes for individuals in targeted populations. As used in this section, "individuals in targeted populations" means individuals with serious mental illness who are in or at risk of entry to an adult care home and individuals with intellectual disabilities, developmental disabilities, or both.

## **YOUTH TOBACCO ENFORCEMENT FUNDING**

**SECTION 11F.8.** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2018-2019 fiscal year, the sum of three hundred thousand dollars (\$300,000) in recurring funds shall be transferred to the Alcohol Law Enforcement Branch. The Alcohol Law Enforcement Branch shall allocate these funds for the performance of statewide compliance checks to enforce the State's youth tobacco access law (G.S. 14-313).

## **FUNDS FOR NEW BROUGHTON HOSPITAL**

**SECTION 11F.9.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the new Broughton Hospital for the 2018-2019 fiscal year, the sum of up to five million dollars (\$5,000,000) in recurring funds shall not be used for any other purposes except the following:

- (1) The creation of no more than 169 full-time equivalent positions assigned to the new Broughton Hospital.
- (2) Costs directly related to planning for and transitioning patients from the old Broughton Hospital to the new Broughton Hospital.
- (3) Operational costs for new beds at the new Broughton Hospital.

**SECTION 11F.9.(b)** The total annualized cost of subdivisions (1) through (3) of subsection (a) of this section shall not exceed fifteen million one hundred thousand dollars (\$15,100,000) in recurring funds.

## **ESTABLISH RANGES FOR LME/MCO SOLVENCY**



**SECTION 11F.10.(a)** The General Assembly finds that a viable State-funded behavioral health system is critical to accomplishing the State's goals for behavioral health, meeting the needs of the covered populations, and achieving the desired outcomes detailed in the Department of Health and Human Services' Strategic Plan for Improvement of Behavioral Health Services. Integral to assessing the State's behavioral health system is the development of a method to determine the viability of local management entities/managed care organizations (LME/MCOs) and the establishment of short-term and intermediate term solvency standards that provide a uniform analysis of each LME/MCO's financial position, provide a mechanism for ongoing assessment of each LME/MCO's viability, inform the State's funding decisions, and enhance short-term and intermediate term planning by the LME/MCOs.

**SECTION 11F.10.(b)** Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding a new section to read:

**"§ 122C-125.2. LME/MCO solvency ranges; formula; corrective action plan.**

(a) Beginning on September 1, 2018, the Department shall calculate on a quarterly basis a solvency range for each LME/MCO as a sum of the following figures to produce upper and lower range values:

- (1) Incurred but not reported claims figure. – The incurred but not reported claims figure shall be calculated by multiplying an LME/MCO's service spending for the preceding 12 months by six and eight-tenths percent (6.8%). If an LME/MCO experiences extenuating circumstances supported by actuarial documentation, then the Department may utilize a percentage other than six and eight-tenths (6.8%) for that LME/MCO.
- (2) Net operating liabilities figure. – The net operating liabilities figure shall be calculated by subtracting noncash current accounts receivable from the nonclaims current liabilities, as reported on the LME/MCO's most recent balance sheet. If the noncash accounts receivable are greater than the nonclaim liabilities, then the value for the net operating liabilities figure is zero.
- (3) Catastrophic or extraordinary events range. – The catastrophic or extraordinary events range shall be calculated as the range between a lower figure and an upper figure. The lower figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by four and fifteen-hundredths percent (4.15%). The upper figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by eight and three-tenths percent (8.3%).
- (4) Required intergovernmental transfers figure. – The required intergovernmental transfers figure is the amount of funds needed by an LME/MCO to make any intergovernmental transfers required by law over the subsequent 24 months.
- (5) Projected operating loss figure. – The projected operating loss figure is the projected net loss for an LME/MCO over the subsequent 24 months. In projecting the net loss for an LME/MCO, the Department shall use the net loss of the LME/MCO in the preceding 12 months adjusted for any changes in single-stream funding, intergovernmental transfers, or other factors known to the Department that will impact the LME/MCO's net loss over the subsequent 24 months. If a net profit is projected for an LME/MCO, then this figure is zero.
- (6) Reinvestment plan figure. – The reinvestment plan figure is the amount required for all qualifying expenditures contained in an LME/MCO's reinvestment plans over the subsequent 36 months. To qualify as an expenditure under this subdivision, the expenditure must be related to one of the following:

- a. An initiative that supports specific goals or health status outcomes of the State in relation to the State's behavioral health needs.
- b. An initiative that meets a State behavioral health need, as defined in law or by the Department.
- c. Funding for infrastructure that supports the effective and efficient operation of the LME/MCO.
- d. Funding for a facility within the LME/MCO catchment area that is necessary to meet to the needs of the population served by the LME/MCO.
- e. New or expanded initiatives and programmatic improvements to the State behavioral health system.
- f. Working capital to be utilized to fund changes in rates, operations, or programs.

(b) Upon calculation of the solvency range for each LME/MCO required by subsection (a) of this section, the Department shall compare the cash balance of each LME/MCO to its solvency range. For purposes of this subsection, the cash balance shall consist of the total of the LME/MCO's cash and investment balances, including its Medicaid Risk Reserve, as reported on the LME/MCO's most recent balance sheet.

Upon comparison of an LME/MCO's cash balance to its solvency range, the Department shall take one of the following actions:

- (1) If an LME/MCO's cash balance is five percent (5%) or more below the lower solvency range figure or five percent (5%) or more above the upper solvency range figure, then the Department shall notify the LME/MCO and the Fiscal Research Division of the General Assembly of the comparison results. Within 30 days from providing notice to the LME/MCO, the Department shall develop, in collaboration with the LME/MCO, a corrective action plan for the LME/MCO. The corrective action plan must include specific actions, which may include changes to the LME/MCO's reinvestment plan, utilization management, and capitation or provider rates, to bring the LME/MCO's cash balance within the solvency range, as well as a time line for implementation of these actions.
- (2) If an LME/MCO's cash balance is neither five percent (5%) or more below the lower solvency range figure nor five percent (5%) or more above the upper solvency range figure, then the Department shall notify the LME/MCO and the Fiscal Research Division of the General Assembly of the LME/MCO's solvency range for the quarter and the Department's comparison of the LME/MCO's cash balance to this solvency range. No further action shall be required.

(c) Beginning on October 15, 2018, the Department shall submit a quarterly report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division detailing the solvency ranges and comparisons required under subsection (b) of this section for each LME/MCO. The Department shall include in its report a copy of any new corrective action plans developed as a result of those comparisons, as well as any status updates on previously reported corrective action plans.

(d) For any calculation required by this section that is based upon the preceding 12 months, the Department is authorized to make adjustments to that calculation that take into account any changes in an LME/MCO's catchment area that occurred during that 12-month period."

**SECTION 11F.10.(c)** At the next renewal or amendment of a contract with a local management entity/managed care organization (LME/MCO), the Department of Health and

Human Services shall explicitly require, as part of that contract, the LME/MCO to comply with G.S. 122C-125.2, as enacted by subsection (b) of this section.

**SECTION 11F.10.(d)** G.S. 122C-124.2 reads as rewritten:

**"§ 122C-124.2. Actions by the Secretary to ensure effective management of behavioral health services under the 1915(b)/(c) Medicaid Waiver.**

(a) For all local management entity/managed care organizations, the Secretary shall certify whether the LME/MCO is in compliance or is not in compliance with all requirements of subdivisions (1) through (3) of subsection (b) of this section. The Secretary's certification shall be made every six months beginning August 1, 2013. In order to ensure accurate evaluation of administrative, operational, actuarial and financial components, and overall performance of the LME/MCO, the Secretary's certification shall be based upon an internal and external assessment made by an independent external review agency in accordance with applicable federal and State laws and regulations. Beginning on February 1, 2014, and for all subsequent assessments for certification, the independent review will be made by an External Quality Review Organization approved by the Centers for Medicare and Medicaid Services and in accordance with applicable federal and State laws and regulations.

(b) The Secretary's certification under subsection (a) of this section shall be in writing and signed by the Secretary and shall contain a clear and unequivocal statement that the Secretary has determined the local management entity/managed care organization to be in compliance with all of the following requirements:

- (1) The LME/MCO has made adequate provision against the risk of insolvency ~~with respect to capitation payments for Medicaid enrollees. "Adequate provision" includes all of the following:~~
  - a. ~~The LME/MCO has submitted to the Department all the financial records and reports required to be submitted to the Department under the Contract, including monthly balance sheets.~~
  - b. ~~There are no consecutive three-month periods during which the LME/MCO's ratio of current assets to current liabilities is less than 1.0, based on a monthly review of the LME/MCO's balance sheets for each month of the three-month period, as determined by the Secretary.~~
  - c. ~~An intradepartmental monitoring team, as designated by the Secretary and consisting of the Secretary or a designee, representatives of the Division of Medical Assistance, and representatives of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, utilizing the monitoring team's solvency measures, determines that the LME/MCO has made adequate provisions against the risk of insolvency based on a quarterly review of the financial reports submitted to the Department by the LME/MCO and either (i) is not required to be under a corrective action plan in accordance with G.S. 122C-125.2 or (ii) is in compliance with a corrective action plan required under G.S. 122C-125.2.~~
- (2) The LME/MCO is making timely provider payments. The Secretary shall certify that an LME/MCO is making timely provider payments if there are no consecutive three-month periods during which the LME/MCO paid less than ninety percent (90%) of clean claims for covered services within the 30-day period following the LME/MCO's receipt of these claims during that three-month period. As used in this subdivision, a "clean claim" is a claim that can be processed without obtaining additional information from the provider of the service or from a third party. The term includes a claim with errors originating in the LME/MCO's claims system. The term does not include a

claim from a provider who is under investigation by a governmental agency for fraud or abuse or a claim under review for medical necessity.

- (3) The LME/MCO is exchanging billing, payment, and transaction information with the Department and providers in a manner that complies with all applicable federal standards, including all of the following:
- a. Standards for information transactions and data elements specified in 42 U.S.C. § 1302d-2 of the Healthcare Insurance Portability and Accountability Act (HIPAA), as from time to time amended.
  - b. Standards for health care claims or equivalent encounter information transactions specified in HIPAA regulations in 45 C.F.R. § 162.1102, as from time to time amended.
  - c. Implementation specifications for Electronic Data Interchange standards published and maintained by the Accredited Standards Committee (ASC X12) and referenced in HIPAA regulations in 45 C.F.R. § 162.920, as from time to time amended.

(c) If the Secretary does not provide a local management entity/managed care organization with the certification of compliance required by this section based upon the LME/MCO's failure to comply with any of the requirements specified in subdivisions (1) through (3) of subsection (b) of this section, the Secretary shall do the following:

- (1) Prepare a written notice informing the LME/MCO of the provisions of subdivision (1), (2), or (3) of subsection ~~(e)~~(b) of this section with which the LME/MCO is deemed not to be in compliance and the reasons for the determination of noncompliance.
- (2) Cause the notice of the noncompliance to be delivered to the LME/MCO.
- (3) Not later than 10 days after the Secretary's notice of noncompliance is provided to the LME/MCO, assign the Contract of the noncompliant LME/MCO to a compliant LME/MCO.
- (4) Oversee the transfer of the operations and contracts from the noncompliant LME/MCO to the compliant LME/MCO in accordance with the provisions in subsection (e) of this section.

...."

**SECTION 11F.10.(e)** Section 11F.2(f) of S.L. 2017-57 reads as rewritten:

**"SECTION 11F.2.(f)** Beginning July 1, 2017, and quarterly ~~thereafter~~thereafter until August 31, 2018, the Secretary of Health and Human Services shall evaluate the financial position of each LME/MCO relative to the solvency standards to be developed by the Department and included in the statewide Strategic Plan for Behavioral Health Services pursuant to Section 12F.10(b)(4) of S.L. 2016-94 (approved solvency standards).

If, at any time, the Secretary determines an LME/MCO is at risk of failing financially in the ensuing two-year period, based on the approved solvency standards, the Secretary shall immediately meet with that LME/MCO for the purpose of evaluating the reasons for the LME/MCO's vulnerable financial position, including reasons attributable to trends in performance management and utilization of services. Within 30 days after meeting with an LME/MCO pursuant to this section, the Secretary shall submit a written report of its evaluation to the LME/MCO. By October 1, 2017, the Secretary shall submit an initial report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on each LME/MCO determined to be at risk of failing financially, identifying the reasons for each LME/MCO's vulnerable financial position.

Within 45 days after receiving the Secretary's report, the LME/MCO shall develop and submit to the Secretary, in writing, a proposed plan of corrective action with specific initiatives and actions to be implemented by the LME/MCO in order to bring its financial position into compliance with the approved solvency standards, along with a projected time line for

completing each identified initiative or action and a deadline for achieving full compliance with the approved solvency standards. At a minimum, the proposed plan of corrective action shall address (i) rates paid to the LME/MCO and its providers for services, contracts, and administrative costs; (ii) utilization of services; (iii) management of the operations of the LME/MCO; and (iv) financial risk to the State.

Within 14 days after receiving the LME/MCO's proposed plan of corrective action, the Secretary shall make any changes to the proposed plan of corrective action it deems necessary for the LME/MCO to bring its financial position into compliance with the approved solvency standards and submit a final, Secretary-approved plan of corrective action to the LME/MCO, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division.

The LME/MCO shall submit monthly reports to the Secretary on its progress under the final, Secretary-approved plan of corrective action. The Secretary shall submit monthly reports to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division evaluating the LME/MCO's progress under the final, Secretary-approved plan of corrective action, identifying any variance from the corrective plan of action that could be an obstacle to the LME/MCO achieving full compliance with the approved solvency standards by the deadline included in the final, Secretary-approved corrective plan of action."

**SECTION 11F.10.(f)** Subsection (d) of this section becomes effective September 1, 2018. The remainder of this section is effective when it becomes law.

## **SUBPART XI-G. DIVISION OF HEALTH SERVICE REGULATION**

### **APPROVAL FOR NURSING HOME ADMINISTRATORS TO SERVE AS ADULT CARE HOME ADMINISTRATORS**

**SECTION 11G.1.(a)** G.S. 131D-2.1(2) reads as rewritten:

"(2) Administrator. – A person approved by the Department of Health and Human Services as an assisted living administrator under G.S. 90-288.14 or as an adult care home administrator under G.S. 90-288.14A, who has the responsibility for the total operation of a licensed adult care home."

**SECTION 11G.1.(b)** Article 20A of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-288.14A. Approval for nursing home administrators to serve as adult care home administrators.**

The Department shall approve as an adult care home administrator any individual licensed as a nursing home administrator under Article 20 of this Chapter who, within 90 calendar days after commencing employment as a nursing home administrator, successfully completes the written examination administered by the Department for assisted living administrator certification. An individual approved as an adult care home administrator pursuant to this section is deemed to meet the requirements of G.S. 90-288.14 and may renew his or her assisted living administrator certification pursuant to G.S. 90-288.15."

## **SUBPART XI-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)**

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

**SECTION 11H.1.** Section 11H.5(b) of S.L. 2017-57 reads as rewritten:

**"SECTION 11H.5.(b)** For the 2017-2018 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred sixty-four million seven hundred thousand dollars (\$164,700,000) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2018-2019 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred ~~forty-nine~~sixty-three million ~~six~~three hundred thousand

dollars (~~(\$149,600,000)~~(\$163,300,000)) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations, nonfederal revenue, fund balances, or other resources from State-owned and State-operated hospitals that are used to provide indigent and nonindigent care services. The return from State-owned and State-operated hospitals to DHHS will be made from nonfederal resources in an amount equal to the amount of the payments from the Division of Medical Assistance for uncompensated care. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Title 2, Part 225."

## **LME/MCO INTERGOVERNMENTAL TRANSFERS**

**SECTION 11H.2.** Section 11H.10 of S.L. 2017-57 reads as rewritten:

"**SECTION 11H.10.** The local management entities/managed care organizations (LME/MCOs) shall make intergovernmental transfers to the Department of Health and Human Services, Division of Medical Assistance (DMA), in an aggregate amount of seventeen million seven hundred thirty-six thousand nine hundred eighty-five dollars (\$17,736,985) in the 2017-2018 fiscal year and in an aggregate amount of eighteen million twenty-eight thousand two hundred seventeen dollars (\$18,028,217) for the 2018-2019 fiscal year. The due date and frequency of the intergovernmental transfer required by this section shall be determined by DMA. The amount of the intergovernmental transfer that each individual LME/MCO is required to make in each fiscal year shall be as follows:

|                                       | <b>2017-2018</b> | <b>2018-2019</b>                          |
|---------------------------------------|------------------|-------------------------------------------|
| Alliance Behavioral Healthcare        | \$2,994,703      | <del>\$3,043,874</del> <u>\$3,007,817</u> |
| Cardinal Innovations Healthcare       | \$4,118,912      | <del>\$4,186,543</del> <u>\$4,144,723</u> |
| Eastpointe                            | \$2,011,858      | <del>\$2,044,892</del> <u>\$1,731,831</u> |
| Partners Behavioral Health Management | \$1,913,793      | <del>\$1,945,216</del> <u>\$1,960,283</u> |
| Sandhills Center                      | \$1,924,822      | <del>\$1,956,427</del> <u>\$1,918,643</u> |
| Trillium Health Resources             | \$2,457,426      | <del>\$2,497,775</del> <u>\$2,931,104</u> |
| Vaya Health                           | \$2,315,471      | <del>\$2,353,490</del> <u>\$2,333,816</u> |

In the event that any county disengages from an LME/MCO and realigns with another LME/MCO during the ~~2017-2019 fiscal biennium~~, 2018-2019 fiscal year, DMA shall have the authority to reallocate the amount of the intergovernmental transfer that each affected LME/MCO is required to make, taking into consideration the change in catchment area and covered population, provided that the aggregate amount of the transfers received from all LME/MCOs in each year of the fiscal biennium are achieved."

## **MEDICAID COVERAGE FOR NURSE FAMILY PARTNERSHIP MODEL PILOT**

**SECTION 11H.3.(a)** No later than August 1, 2018, the Department of Health and Human Services (DHHS) shall submit to the Centers for Medicare and Medicaid Services any State Plan amendments or waivers necessary to draw down a Medicaid federal match for coverage of the services provided under the County Pilot A design contained in the DHHS report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice dated January 24, 2018, entitled "Plan to Implement Coverage for Home Visits for Pregnant Women and Families with Young Children." Coverage of the services provided under the County Pilot A design shall be expanded statewide upon the conclusion of the pilot. The State Plan amendment or waivers submitted under this section shall provide for the Medicaid federal match effective July 1, 2018, as well as for the future statewide implementation.

**SECTION 11H.3.(b)** No later than November 1, 2018, the Department of Health and Human Services (DHHS) shall report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice on the expected savings associated with the County Pilot A design contained in the DHHS report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice dated January 24, 2018, entitled "Plan to Implement Coverage for Home

Visits for Pregnant Women and Families with Young Children." The report shall also include an expected time line for statewide implementation and expected outcomes and savings associated with the statewide expansion.

No later than six months after the conclusion of the County Pilot A program, DHHS shall report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division on the actual outcomes and savings achieved through the County Pilot A program.

For the purposes of this subsection, the term "savings" shall include, but is not limited to, savings based on outcomes related to the health status of pregnant women and babies, the utilization of services based on cost, savings generated due to a decline in hospitalizations, and savings associated with future health care costs of the mother and child.

## **ESTABLISH MEDICAID COVERAGE FOR AMBULANCE TRANSPORTS TO ALTERNATIVE APPROPRIATE CARE LOCATIONS**

**SECTION 11H.4.(a)** No later than November 1, 2018, the Department of Health and Human Services shall submit to the Centers for Medicare and Medicaid Services (CMS) any State Plan amendments or any waivers necessary to establish Medicaid reimbursement for ambulance transports of Medicaid recipients in behavioral health crisis to behavioral health clinics or other alternative appropriate care locations. Coverage under this section shall begin July 1, 2019, or upon CMS approval of any submitted State Plan amendments or waiver, whichever date is later.

Coverage under this section shall meet the following requirements:

- (1) Medicaid reimbursement is contingent upon an Emergency Medical Services (EMS) System's ability to demonstrate its EMS providers have received appropriate education in caring for individuals in behavioral health crisis and that the EMS System has at least one partnership with a receiving facility that is able to provide care appropriate for those individuals.
- (2) An EMS System shall be required to include in its EMS System Plan a report on patient experiences and outcomes in accordance with rules adopted by the Department of Health and Human Services, Division of Health Regulation, Office of Emergency Medical Services.

Medicaid reimbursement for ambulance transports of Medicaid recipients in behavioral health crisis to behavioral health clinics or other alternative appropriate care locations shall not be implemented until CMS approval of any submitted State Plan amendments or waivers has been received.

**SECTION 11H.4.(b)** No later than December 1, 2018, the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division on the following:

- (1) As required by subsection (a) of this section, a copy of the State Plan amendment or waiver to establish Medicaid reimbursement for ambulance transports of Medicaid recipients in behavioral health crisis to behavioral health clinics or other alternative appropriate care locations to begin July 1, 2019, including the proposed reimbursement methodology to be utilized.
- (2) Expected costs to the State associated with the establishment of Medicaid reimbursement for ambulance transports of Medicaid recipients in behavioral health crisis to behavioral health clinics or other alternative appropriate care locations.
- (3) Expected outcomes and savings associated with the establishment of Medicaid reimbursement for ambulance transports of Medicaid recipients in behavioral health crisis to behavioral health clinics or other alternative appropriate care locations. Expected outcomes shall include an analysis of a

reduction of transfers from hospital settings, an improvement in referral to and coordination of follow-up care, and general health status outcomes that result when a recipient is transported to an alternative appropriate care setting. Expected savings shall include an analysis of the cost difference of treatment in the alternative appropriate care location instead of a hospital emergency room setting.

- (4) Whether this coverage shall be included in the capitated Prepaid Health Plan contracts required by S.L. 2015-245, the capitated contracts with LME/MCOs, as defined in G.S. 122C-3, or both.

## **AMEND AUDIT FREQUENCY/COUNTY ACCURACY OF MEDICAID ELIGIBILITY DETERMINATIONS**

**SECTION 11H.5.(a)** G.S. 108A-70.46 reads as rewritten:

### **"§ 108A-70.46. Audit of county Medicaid determinations.**

Beginning January 1, 2019, the Department of Health and Human Services, Division of Central Management and Support, ~~shall, on an annual basis, audit all~~ shall audit county departments of social services for compliance with the accuracy standards adopted under G.S. 108A-70.47 for Medicaid eligibility determinations made within a 12-month period. This ~~annual~~-audit shall also include an evaluation of compliance with the quality assurance standards under G.S. 108A-70.48 by the county department of social services. Audits shall be conducted for initial Medicaid eligibility determination applications as well as Medicaid reenrollment determinations. The Department shall ensure that every county is audited no less than once every three years."

**SECTION 11H.5.(b)** G.S. 108A-70.49 reads as rewritten:

### **"§ 108A-70.49. Corrective action.**

(a) If the Department's ~~annual~~-audit under G.S. 108A-70.46 results in a determination that a county department of social services fails to meet any of the standards adopted under G.S. 108A-70.47 or G.S. 108A-70.48, the Department and the county department of social services shall enter into a joint corrective action plan to improve the accurate processing of applications.

(b) A joint corrective action plan entered into pursuant to this section shall specifically identify the following components:

- (1) The duration of the joint corrective action plan, not to exceed 24 months. If a county department of social services shows measurable progress in meeting the performance requirements in the joint corrective action plan, then the duration of the joint corrective action plan may be extended by six months, but in no case shall a joint corrective action plan exceed 36 months.
- (2) A plan for improving the accurate processing of applications that specifically describes the actions to be taken by the county department of social services and the Department.
- (3) The performance requirements for the county department of social services that constitute successful completion of the joint corrective action plan.
- (4) Acknowledgment that failure to successfully complete the joint corrective action plan will result in temporary assumption of Medicaid eligibility administration by the Department, in accordance with G.S. 108A-70.50.

(c) Any county department of social services under a joint corrective action plan shall be audited under G.S. 108A-70.46 on an annual basis until the joint corrective action plan is successfully completed or until the failure to successfully complete the joint corrective action plan results in the temporary assumption of Medicaid eligibility administration by the Department, in accordance with G.S. 108A-70.50."

**SECTION 11H.5.(c)** G.S. 108A-70.51 reads as rewritten:



**"§ 108A-70.51. Reporting.**

Beginning with the calendar year 2020, no later than March 1 of each year, the Department shall submit a report to the Joint Legislative Committee on Medicaid and NC Health Choice, the Fiscal Research Division, and the State Auditor that contains the following information about the prior calendar year:

- (1) The ~~annual statewide~~ percentage of audited county departments of social services that met the accuracy standards adopted under G.S. 108A-70.47 in the prior fiscal year.
- (2) The ~~annual statewide~~ percentage of audited county departments of social services that met the quality assurance standards adopted under G.S. 108A-70.48 in the prior fiscal year.
- (3) The ~~annual~~ audit result for each standard adopted under G.S. 108A-70.47 for each county of department ~~services~~ services in the prior fiscal year.
- (4) The number of years in the preceding ~~five-year~~ 10-year period that ~~each any~~ county department of social services failed to meet the standards in G.S. 108A-70.47 or G.S. 108A-70.48.
- (5) A description of all corrective action activities conducted by the Department and county departments of social services in accordance with G.S. 108A-70.49.
- (6) For every county in which the performance metrics for processing Medicaid applications in an accurate manner do not show significant improvement compared to the previous ~~fiscal year~~, audit of that county, a description of how the Department plans to assist county departments of social services in accuracy and quality assurance standards for Medicaid applications."

**SECTION 11H.5.(d)** Section 11H.22(h) of S.L. 2017-57 reads as rewritten:

**"SECTION 11H.22.(h)** ~~No later than Beginning~~ 18 months after the Department has implemented the training and certification program under subsection (g) of this section, the Department shall include in its audits required under G.S. 108A-70.46 a verification that all county departments of social services are in compliance with the certification program requirements for individuals involved in the Medicaid eligibility determination process."

**CONFORM TO FEDERAL REPEAL OF MEDICAID SUBROGATION PROVISIONS**

**SECTION 11H.6.(a)** Section 11H.23 of S.L. 2017-57 is repealed.

**SECTION 11H.6.(b)** For Medicaid claims for which a settlement agreement was executed or a judgment was entered between the dates of October 1, 2017, and the date this section becomes law, the medical assistance beneficiary shall have 30 days from the date this section becomes law within which to dispute the presumption established under G.S. 108A-57(a1), as amended by subsection (a) of this section, by applying to the court pursuant to G.S. 108A-57(a2), as amended by subsection (a) of this section, for a determination of the portion of the beneficiary's gross recovery that represented compensation for the Medicaid claim and, in cases where a distribution to the Department of Health and Human Services has been made, a determination of any erroneous distribution to the Department.

**SECTION 11H.6.(c)** If any medical assistance beneficiary or any attorney retained by a medical assistance beneficiary has reason to believe that a Medicaid claim for which a distribution was made to the Department of Health and Human Services between the dates of October 1, 2017, and the date this section becomes law resulted in a distribution that is in excess of what is required under G.S. 108A-57, as amended by subsection (a) of this section, but does not dispute the presumption established under G.S. 108A-57(a1), as amended by subsection (a) of this section, then the beneficiary shall have 30 days from the date this section becomes law within which to apply to a court of competent jurisdiction for a determination of any erroneous distribution to the Department.

**SECTION 11H.6.(d)** Subsection (a) of this section is effective retroactively to July 1, 2017. The remainder of this section is effective when it becomes law.

#### **STUDY EXPANSION OF PACE PROGRAM**

**SECTION 11H.7.** No later than December 1, 2018, the Department of Health and Human Services shall submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice a follow-up report regarding Item 1 of the Next Steps: *Consider Expansion of PACE* contained in its March 14, 2018, report entitled "Study of the Program of All-Inclusive Care for the Elderly." The follow-up report studying the expansion of Program of All-Inclusive Care for the Elderly (PACE) shall include the following:

- (1) No less than three options for expansion, including alternatives that involve statewide expansion and expansion by zip code specific service areas.
- (2) The fiscal impact to the State of each expansion option presented.
- (3) The impact to unserved and underserved counties based upon each expansion option presented.
- (4) An analysis of potential options for delivery of care, including strategies to adapt the PACE model of care to serve populations that are currently ineligible, diagnostic criteria other than a need for skilled nursing level care, and options to allow individuals in assisted living to participate in the PACE program.
- (5) An analysis of the cost to the State as well as any anticipated savings associated with each potential option for delivery of care.
- (6) Any specific recommendations regarding options for expansion provided under subdivision (1) of this section and options for delivery of care provided under subdivision (4) of this section. Recommendations shall include any legislation required to implement the recommendations.

#### **EVALUATION OF ADMINISTRATIVE AND POLICY STAFFING NEEDS IN A MANAGED CARE SERVICE DELIVERY ENVIRONMENT**

**SECTION 11H.8.(a)** The Department of Health and Human Services (DHHS) shall conduct an evaluation of its current administrative and policy staffing within the Division of Medical Assistance (DMA) and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), as well as its future administrative staffing requirements for the Division of Health Benefits (DHB) in light of a managed care service delivery environment. In conducting this evaluation, DHHS shall do all of the following:

- (1) Consider the changing functional needs and required staff experience and competencies within DHHS based upon the introduction of capitated contracts with local management entities/managed care organizations (LME/MCOs).
- (2) Determine whether any administrative or policy functions are duplicative between DMA and DMH/DD/SAS. This determination should take into account any functions carried out through vendor contracts.
- (3) Determine whether any administrative or policy functions performed by staff within DMA or DMH/DD/SAS are duplicative of functions either contractually required to be performed by LME/MCOs or through vendor contracts.
- (4) Evaluate whether the administrative and policy staffing needs of DMA and DMH/DD/SAS correspond to similar administrative and policy staffing needs for DHB as Medicaid moves to an expanded managed care delivery system. This evaluation shall include how the administrative and policy staffing needs of DHB will be structured to align more appropriately with a managed care

environment. This evaluation should take into account any functions that will be carried out through vendor contracts.

- (5) Assess whether the current positions within DMA, DMH/DD/SAS, and DHB ensure effective monitoring of, oversight of, and analysis of relevant data to assess the success of the Medicaid and State-funded behavioral health system.
- (6) Recommend divisional staffing changes and changes to contractual agreements to align more appropriately with a managed care delivery environment for the Medicaid and State-funded behavioral health system. The recommendations should include a transition plan with a detailed time line for making these changes.

**SECTION 11H.8.(b)** No later than October 1, 2019, the Department of Health and Human Service (DHHS) shall report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division on the evaluation required by subsection (a) of this section, including changes to positions within DHHS made as a result of the evaluation and legislation required to implement recommendations made as a result of the evaluation.

### **MEDICAID TRANSFORMATION SEVEN-YEAR FORECAST**

**SECTION 11H.9.** By November 1, 2018, the Department of Health and Human Services shall submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division a detailed seven-year forecast for Medicaid Transformation, as required by S.L. 2015-245, as amended. The seven-year period for this forecast should include an annual budget detailing anticipated requirements, receipts, and appropriations for each fiscal year beginning with fiscal year 2018-2019 and ending with fiscal year 2024-2025. At a minimum, the following information for each fiscal year shall be addressed in the detailed seven-year forecast:

- (1) Forecasted enrollment by program aid category and the assumptions used in each forecast.
- (2) Forecasted claims run-out, and associated costs, for populations transitioning from a fee-for-service system to a managed care system and the assumptions used in developing this forecast.
- (3) Assumed capitation rates and fee-for-service per member per month costs, including at least all of the following components of those assumed rates and costs:
  - a. Changes in utilization by service type for each program aid category compared to fiscal year 2017-2018, including what assumptions were used to forecast those changes.
  - b. New programs or changes to existing programs.
  - c. Any new reimbursement rates or methodologies proposed as part of Medicaid Transformation.
- (4) The assumed Federal Medical Assistance Program (FMAP) percentage.
- (5) Additions, changes, consolidations, and eliminations of administrative staff, Department functions, or contracts that occur as a result of Medicaid Transformation.
- (6) All anticipated infrastructure funding needed, including IT funding, and the FMAP assumptions and time line for receipt of funds from an enhanced FMAP rate associated with those needs.
- (7) A forecast of expenditures and receipts from cost settlements, program integrity, rebates, supplemental payments, Disproportionate Share Hospital (DSH) payments, intergovernmental transfers, assessments, and fees.

- (8) By line item or category, any recurring or nonrecurring Medicaid Transformation transition cost that is not otherwise addressed under this section, including costs associated with the elimination of the Division of Medical Assistance.
- (9) Any savings anticipated as a result of the transition from a fee-for-service system to a managed care system and the source or reason for the identified savings.

## **CLARIFY SCOPE OF AUTHORITY TO DEFINE MEDICAID PROGRAM ELIGIBILITY**

**SECTION 11H.10.(a)** G.S. 108A-54(e) reads as rewritten:

"(e) The Department of Health and Human Services shall continue to administer and operate the Medicaid and NC Health Choice programs through the Division of Medical Assistance until the Division of Medical Assistance is eliminated at which time all functions, powers, duties, obligations, and services vested in the Division of Medical Assistance are vested in the Division of Health Benefits. Prior to and following the exchange of powers and duties from the Division of Medical Assistance to the Division of Health Benefits, and in addition to the powers and duties already vested in the Secretary of the Department of Health and Human Services, the Secretary of the Department of Health and Human Services shall have the following powers and duties:

- ...
- (4) Establish and adjust all program components, except for eligibility ~~categories and categories,~~ resource limits, and income thresholds, of the Medicaid and NC Health Choice programs within the appropriated and allocated budget.
- ...."

**SECTION 11H.10.(b)** G.S. 108A-54(f) reads as rewritten:

"(f) The General Assembly shall determine the eligibility ~~categories and categories,~~ resource limits, and income thresholds for the Medicaid and NC Health Choice programs. The Department of Health and Human Services is expressly authorized to adopt temporary and permanent rules regarding eligibility requirements and determinations, to the extent that they do not conflict with the parameters set by the General Assembly."

**SECTION 11H.10.(c)** Section 2 of S.L. 2015-245 reads as rewritten:

"**SECTION 2.** Role of the General Assembly. – The General Assembly shall have the following roles and responsibilities in Medicaid and NC Health Choice transformation and governance:

- (1) Define the overall goals of transformation and the structure of the delivery system for the programs.
- (2) Monitor the development of transformation plans and implementation through the Joint Legislative Oversight Committee on Medicaid and NC Health Choice.
- (3) Define and approve ~~eligibility and income standards~~ eligibility categories, resource limits, and income thresholds for the programs, including which populations will be covered by Prepaid Health Plans (PHPs).
- (4) Appropriate the annual budget for the Medicaid and NC Health Choice programs.
- (5) Confirm the Director of the Division of Health Benefits, as required by G.S. 143B-216.85, enacted by Section 12 of this act."

**SECTION 11H.10.(d)** Section 4 of S.L. 2015-245, as amended by Section 2(b) of S.L. 2016-121, Section 11H.17.(a) of S.L. 2017-57, and Section 4 of S.L. 2017-186, reads as rewritten:

**"SECTION 4. Structure of Delivery System.** – The transformed Medicaid and NC Health Choice programs described in Section 1 of this act shall be organized according to the following principles and parameters:

- (1) DHHS authority. – The Department of Health and Human Services (DHHS) shall have full authority to manage the State's Medicaid and NC Health Choice programs provided that the total expenditures, net of agency receipts, do not exceed the authorized budget for each program, except the General Assembly shall determine eligibility ~~categories~~categories, resource limits, and income thresholds. DHHS shall be responsible for planning and implementing the Medicaid transformation required by this act.

...."

#### **INCREASE NUMBER OF MEDICAL PROFESSIONAL PROVIDERS ELIGIBLE FOR SUPPLEMENTAL PAYMENTS**

**SECTION 11H.11.(a)** Effective July 1, 2018, supplemental payments that increase reimbursement to the average commercial rate for certain eligible medical providers described in the Medicaid State Plan, Attachment 4.19-B, Section 5, Pages 2 and 3, shall be modified to increase the number of eligible medical professional providers listed in subdivision (1) of Section 12H.13(a) of S.L. 2014-100 by 60. The allocation of the increase among the listed entities shall be determined by the Department of Health and Human Services.

**SECTION 11H.11.(b)** No later than October 1, 2018, the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice regarding the allocation of the 60 additional medical professional providers eligible for supplemental payments, as required by subsection (a) of this section. This report shall also include a detailed analysis of how the increase in eligible medical professional providers will increase access to health care in rural areas of the State.

#### **MEDICAID AND HEALTH CHOICE PROVIDER SCREENING CHANGES**

**SECTION 11H.12.(a)** G.S. 108C-3 reads as rewritten:

##### **"§ 108C-3. Medicaid and Health Choice provider screening.**

(a) Provider Screening. – The Department shall conduct provider screening of Medicaid and Health Choice providers in accordance with applicable State or federal law or regulation.

(b) Enrollment Screening. – The Department must screen all initial provider applications for enrollment in Medicaid and Health Choice, including applications for a new practice location, and all revalidation requests based on Department assessment of risk and assignment of the provider to a categorical risk level of "limited," "moderate," or "high." If a provider could fit within more than one risk level described in this section, the highest level of screening is applicable.

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

- (1) Ambulatory surgical centers.
- (1a) Behavioral health and intellectual and developmental disability provider agencies that are nationally accredited by an entity approved by the Secretary.
- (2) End-stage renal disease facilities.
- (3) Federally qualified health centers.
- (4) Health programs operated by an Indian Health Program (as defined in section 4(12) of the Indian Health Care Improvement Act) or an urban Indian organization (as defined in section 4(29) of the Indian Health Care Improvement Act) that receives funding from the Indian Health Service pursuant to Title V of the Indian Health Care Improvement Act.
- (5) Histocompatibility laboratories.

- (6) Hospitals, including critical access hospitals, Department of Veterans Affairs Hospitals, and other State or federally owned hospital facilities.
  - (6a) Licensed outpatient behavioral health providers.
  - (7) Local Education Agencies.
  - (8) Mammography screening centers.
  - (9) Mass immunization roster billers.
  - (10) Nursing facilities, including Intermediate Care Facilities for ~~the Mentally Retarded~~. Individuals with Intellectual Disabilities.
  - (11) Organ procurement organizations.
  - (12) Physician or nonphysician practitioners (including nurse practitioners, CRNAs, physician assistants, physician extenders, occupational therapists, speech/language pathologists, chiropractors, and audiologists), optometrists, dentists and orthodontists, and medical groups or clinics.
  - (13) Radiation therapy centers.
  - (14) Rural health clinics.
  - (15) Hearing aid dealers.
  - (16) Portable X-ray suppliers.
  - (17) Religious nonmedical health care institutions.
  - (18) Registered dietitians.
  - (19) Clearinghouses, billing agents, and alternate payees.
  - (20) Local health departments.
- (d) When the Department designates a provider as a "limited" categorical level of risk, the Department shall conduct such screening functions as required by federal law.
- (e) Moderate Categorical Risk Provider Types. – The following provider types are hereby designated as "moderate" categorical risk:
- (1) Ambulance services.
  - (2) Comprehensive outpatient rehabilitation facilities.
  - ~~(3) Critical Access Behavioral Health Agencies.~~
  - (4) Repealed by Session Laws 2013-378, s. 6, effective October 1, 2013.
  - (5) Hospice organizations.
  - (6) Independent clinical laboratories.
  - (7) Independent diagnostic testing facilities.
  - (8) Pharmacy Services.
  - (9) Physical therapists enrolling as individuals or as group practices.
  - (10) Revalidating adult care homes delivering Medicaid-reimbursed services.
  - (11) Revalidating agencies providing durable medical equipment, including, but not limited to, orthotics and prosthetics.
  - (12) Revalidating agencies providing ~~home~~ nonbehavioral health home- or community-based services pursuant to waivers authorized by the federal Centers for Medicare and Medicaid Services under 42 U.S.C. § 1396n(c).
  - (13) Revalidating agencies providing private duty nursing, home health, personal care services or in-home care services, or home infusion.
  - (14) Nonemergency medical transportation.
- (f) When the Department designates a provider as a "moderate" categorical level of risk, the Department shall conduct such screening functions as required by federal law and regulation.
- (g) High Categorical Risk Provider Types. – The following provider types are hereby designated as "high" categorical risk:
- (1) Prospective (newly enrolling) adult care homes delivering Medicaid-reimbursed services.
  - (2) Agencies providing behavioral health services, excluding ~~Critical Access Behavioral Health Agencies.~~ (i) behavioral health and intellectual and

developmental disability provider agencies that are nationally accredited by an entity approved by the Secretary and (ii) licensed outpatient behavioral health providers.

- (3) ~~Directly enrolled outpatient behavioral health services providers.~~
- (4) Prospective (newly enrolling) agencies providing durable medical equipment, including, but not limited to, orthotics and prosthetics.
- (5) Agencies providing HIV case management.
- (6) Prospective (newly enrolling) agencies providing ~~home~~-nonbehavioral health ~~home~~- or community-based services pursuant to waivers authorized by the federal Centers for Medicare and Medicaid Services under 42 U.S.C. § 1396n(c).
- (7) Prospective (newly enrolling) agencies providing personal care services or in-home care services.
- (8) Prospective (newly enrolling) agencies providing private duty nursing, home health, or home infusion.
- (9) Providers against whom the Department has imposed a payment suspension based upon a credible allegation of fraud in accordance with 42 C.F.R. § 455.23 within the previous 12-month period. The Department shall return the provider to its original risk category not later than 12 months after the cessation of the payment suspension.
- (10) Providers that were excluded, or whose owners, operators, or managing employees were excluded, by the U.S. Department of Health and Human Services Office of Inspector General, the Medicare program, or another state's Medicaid or Children's Health Insurance Program within the previous 10 years.
- (11) Providers who have incurred a Medicaid or Health Choice final overpayment, assessment, or fine to the Department in excess of twenty percent (20%) of the provider's payments received from Medicaid and Health Choice in the previous 12-month period. The Department shall return the provider to its original risk category not later than 12 months after the completion of the provider's repayment of the final overpayment, assessment, or fine.
- (12) Providers whose owners, operators, or managing employees were convicted of a disqualifying offense pursuant to G.S. 108C-4 but were granted an exemption by the Department within the previous 10 years.

(h) When the Department designates a provider as a "high" categorical level of risk, the Department shall conduct such screening functions as required by federal law and regulation.

(i) For providers dually enrolled in the federal Medicare program and Medicaid, the Department may rely on the results of the provider screening performed by Medicare contractors.

(j) For out-of-state providers, the Department may rely on the results of the provider screening performed by the Medicaid agencies or Children's Health Insurance Program agencies of other states."

**SECTION 11H.12.(b)** G.S. 108C-2 is amended by adding a new subdivision to read:

"(12) Secretary. – The Secretary of the Department of Health and Human Services."

**SECTION 11H.12.(c)** This section is effective when it becomes law and applies to initial provider applications and revalidation requests made on or after that day.

## **SUBPART XI-I. DIVISION OF HEALTH BENEFITS**

### **USE OF MEDICAID TRANSFORMATION FUND FOR MEDICAID TRANSFORMATION NEEDS**

**SECTION 11L.1.(a)** There is appropriated from the Medicaid Transformation Reserve in the General Fund to the Medicaid Transformation Fund, established under Section 12H.29 of S.L. 2015-241, the sum of sixty million dollars (\$60,000,000) in nonrecurring funds for the 2018-2019 fiscal year.

**SECTION 11L.1.(b)** Subject to the fulfillment of conditions specified in subsection (d) of this section, the sum of up to sixty million dollars (\$60,000,000) in nonrecurring funds from the Medicaid Transformation Fund may be transferred to the Department of Health and Human Services, Division of Health Benefits (DHB), for the sole purpose of providing the State share for up to one hundred ninety-two million dollars (\$192,000,000) in total requirements for qualifying needs directly related to Medicaid Transformation, as required by S.L. 2015-241, as amended. Funds may be transferred to DHB as qualifying needs arise during the 2018-2019 fiscal year and need not be transferred in one lump sum.

For the purposes of this section, the term "qualifying need" shall be limited to information technology, staffing, including time-limited staffing, and contracts related to the following Medicaid Transformation needs:

- (1) American Sign Language interpreters.
- (2) An Electronic Data Interchange and Information Exchange Portal.
- (3) Development of new operating procedures and operational support.
- (4) Enrollment broker services.
- (5) Finance and program integrity capabilities.
- (6) Ombudsman programs.
- (7) Provider credentialing verification.
- (8) Provider data management.
- (9) Startup costs associated with program design and procurement support.
- (10) Technical and operational integration.

**SECTION 11L.1.(c)** A request by the Department of Health and Human Services, Division of Health Benefits (DHB), for the transfer of funds pursuant to subsection (c) of this section shall be made to the Office of State Budget and Management (OSBM) and shall include the amount requested and the specific qualifying need for which the funds are to be used. No funds shall be transferred to DHB until OSBM verifies the following information:

- (1) The amount requested is to be used for a qualifying need in the 2018-2019 fiscal year.
- (2) The amount requested provides a State share that will not result in total requirements that exceed one hundred ninety-two million dollars (\$192,000,000).

**SECTION 11L.1.(d)** Any federal funds received in any fiscal year by the Department of Health and Human Services, Division of Health Benefits (DHB), that represent a return of State share already expended on a qualifying need related to the funds received by the DHB under this section shall be deposited into the Medicaid Transformation Fund.

## **SUBPART XI-J. MISCELLANEOUS [RESERVED]**

## **SUBPART XI-K. DIVISIONS OF VOCATIONAL REHABILITATION, SERVICES FOR THE BLIND, AND SERVICES FOR THE DEAF AND HARD OF HEARING [RESERVED]**

## **SUBPART XI-L. DHHS BLOCK GRANTS**

### **REVISE DHHS BLOCK GRANTS**

**SECTION 11L.1.** Section 11L.1 of S.L. 2017-57, as amended by Section 3.4 of S.L. 2017-197, reads as rewritten:



**"DHHS BLOCK GRANTS**

**"SECTION 11L.1.(a)** Except as otherwise provided, appropriations from federal block grant funds are made for each year of the fiscal biennium ending June 30, 2019, according to the following schedule:

|                                                                 |                     |                     |
|-----------------------------------------------------------------|---------------------|---------------------|
| <b>TEMPORARY ASSISTANCE FOR<br/>NEEDY FAMILIES (TANF) FUNDS</b> | <b>FY 2017-2018</b> | <b>FY 2018-2019</b> |
|-----------------------------------------------------------------|---------------------|---------------------|

**Local Program Expenditures****Division of Social Services**

|                                                                                                 |              |                                             |
|-------------------------------------------------------------------------------------------------|--------------|---------------------------------------------|
| 01. Work First Family Assistance                                                                | \$49,479,444 | <del>\$49,479,444</del> <u>\$41,722,815</u> |
| 02. Work First County Block Grants                                                              | 80,093,566   | 80,093,566                                  |
| 03. Work First Electing Counties                                                                | 2,378,213    | 2,378,213                                   |
| 04. Adoption Services – Special<br>Children Adoption Fund                                       | 2,026,877    | 2,026,877                                   |
| 05. Child Protective Services – Child<br>Welfare Workers for Local DSS                          | 9,412,391    | 9,412,391                                   |
| <u>05A. Funding for Counties to Assist with County<br/>Implementation of NC FAST, Project 4</u> | <u>0</u>     | <u>639,158</u>                              |
| 06. Child Welfare Program<br>Improvement Plan                                                   | 775,176      | 775,176                                     |
| 07. Child Welfare Collaborative                                                                 | 400,000      | 400,000                                     |
| 08. Child Welfare Initiatives                                                                   | 1,400,000    | 1,400,000                                   |

**Division of Child Development and Early Education**

|                                   |            |                                         |
|-----------------------------------|------------|-----------------------------------------|
| 09. Subsidized Child Care Program | 53,605,680 | <del>58,112,735</del> <u>56,070,412</u> |
| 10. NC Pre-K Services             | 6,000,000  | <del>12,200,000</del> <u>62,200,000</u> |
| 10A. Swap Child Care Subsidy      | 392,420    | 294,697                                 |

**Division of Public Health**

|                                           |           |                                       |
|-------------------------------------------|-----------|---------------------------------------|
| 11. Teen Pregnancy Prevention Initiatives | 2,950,000 | <del>2,950,000</del> <u>3,200,000</u> |
|-------------------------------------------|-----------|---------------------------------------|

**DHHS Administration**

|                                 |           |           |
|---------------------------------|-----------|-----------|
| 12. Division of Social Services | 2,482,260 | 2,482,260 |
| 13. Office of the Secretary     | 34,042    | 34,042    |

|                                                      |           |                              |
|------------------------------------------------------|-----------|------------------------------|
| 14. Eligibility Systems – Operations and Maintenance | 2,908,598 | 2,765,192                    |
| 15. NC FAST Implementation                           | 48,495    | <del>875,264</del> 1,560,070 |

#### **Transfers to Other Block Grants**

#### **Division of Child Development and Early Education**

|                                                     |            |                                  |
|-----------------------------------------------------|------------|----------------------------------|
| 16. Transfer to the Child Care and Development Fund | 71,773,001 | <del>71,773,001</del> 21,773,001 |
|-----------------------------------------------------|------------|----------------------------------|

#### **Division of Social Services**

|                                                                                                                     |           |                                 |
|---------------------------------------------------------------------------------------------------------------------|-----------|---------------------------------|
| 17. Transfer to Social Services Block Grant for Child Protective Services – Training                                | 1,300,000 | 1,300,000                       |
| 18. Transfer to Social Services Block Grant for Child Protective Services                                           | 5,040,000 | 5,040,000                       |
| 19. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services       | 7,500,000 | <del>7,500,000</del> 13,097,783 |
| 20. Transfer to Social Services Block Grant – Foster Care Services                                                  | 1,385,152 | 1,385,152                       |
| <u>21. Transfer to Social Services Block Grant – Child Advocacy Centers</u>                                         | <u>0</u>  | <u>1,582,000</u>                |
| <u>22. Transfer to Social Services Block Grant – Child Protective Services, Child Welfare Training for Counties</u> | <u>0</u>  | <u>737,067</u>                  |
| <u>23. Division of Social Services – Workforce Investment Opportunities Act (WIOA)</u>                              | <u>0</u>  | <u>93,216</u>                   |

#### **TOTAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

**\$301,385,315 ~~\$312,678,010~~ \$324,463,088**

#### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS**

#### **Local Program Expenditures**

#### **Division of Child Development and Early Education**

|                           |              |                                             |
|---------------------------|--------------|---------------------------------------------|
| 01. Subsidized Child Care | \$28,600,000 | <del>\$28,600,000</del> <u>\$25,036,470</u> |
|---------------------------|--------------|---------------------------------------------|

|                                                                                                                  |                     |                                                   |
|------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------|
| 02. Swap for Subsidized Child Care                                                                               | 3,304,255           | 0                                                 |
| <b>TOTAL TEMPORARY ASSISTANCE FOR<br/>NEEDY FAMILIES (TANF) EMERGENCY<br/>CONTINGENCY FUNDS</b>                  | <b>\$31,904,255</b> | <b><del>\$28,600,000</del><u>\$25,036,470</u></b> |
| <b>SOCIAL SERVICES BLOCK GRANT</b>                                                                               |                     |                                                   |
| <b>Local Program Expenditures</b>                                                                                |                     |                                                   |
| <b>Divisions of Social Services and Aging and Adult Services</b>                                                 |                     |                                                   |
| 01. County Departments of Social Services<br>(Transfer From TANF <del>\$7,500,000</del> <u>\$13,097,783</u> )    | \$32,971,498        | \$33,003,632                                      |
| 02. EBCI Tribal Public Health and Human Services                                                                 | 244,740             | 244,740                                           |
| 03. Child Protective Services<br>(Transfer From TANF)                                                            | 5,040,000           | 5,040,000                                         |
| 04. State In-Home Services Fund                                                                                  | 1,943,950           | 1,943,950                                         |
| 05. Adult Protective Services                                                                                    | 1,245,363           | 1,245,363                                         |
| 06. State Adult Day Care Fund                                                                                    | 1,994,084           | 1,994,084                                         |
| 07. Child Protective Services/CPS<br>Investigative Services – Child Medical<br>Evaluation Program                | 901,868             | 901,868                                           |
| 08. Special Children Adoption Incentive Fund                                                                     | 462,600             | 462,600                                           |
| 09. Child Protective Services – Child<br>Welfare Training for Counties<br>(Transfer From TANF)                   | 1,300,000           | 1,300,000                                         |
| 10. Child Protective Services – Child<br>Welfare Training for Counties<br>(Transfer from TANF <u>\$737,067</u> ) | 737,067             | 737,067                                           |
| 11. Home and Community Care Block<br>Grant (HCCBG)                                                               | 1,696,888           | <del>1,696,888</del> <u>2,696,888</u>             |
| 12. Child Advocacy Centers<br>(Transfer from TANF <u>\$1,582,000</u> )                                           | 582,000             | <del>582,000</del> <u>1,582,000</u>               |
| 13. Guardianship – Division of Social Services                                                                   | 815,362             | <del>815,362</del> <u>1,802,671</u>               |
| 14. Foster Care Services<br>(Transfer From TANF)                                                                 | 1,385,152           | 1,385,152                                         |

**Division of Central Management and Support**

|                                                     |           |                                |
|-----------------------------------------------------|-----------|--------------------------------|
| 15. DHHS Competitive Block Grants<br>for Nonprofits | 4,524,525 | <del>4,524,525</del> 4,774,525 |
|-----------------------------------------------------|-----------|--------------------------------|

**Division of Mental Health, Developmental Disabilities, and Substance Abuse Services**

|                                                                                                                         |           |           |
|-------------------------------------------------------------------------------------------------------------------------|-----------|-----------|
| 16. Mental Health Services – Adult and<br>Child/Developmental Disabilities Program/<br>Substance Abuse Services – Adult | 4,181,729 | 4,149,595 |
|-------------------------------------------------------------------------------------------------------------------------|-----------|-----------|

**DHHS Program Expenditures****Division of Services for the Blind**

|                                |           |                                |
|--------------------------------|-----------|--------------------------------|
| 17. Independent Living Program | 3,361,323 | <del>3,361,323</del> 3,447,247 |
|--------------------------------|-----------|--------------------------------|

**Division of Health Service Regulation**

|                                                          |         |         |
|----------------------------------------------------------|---------|---------|
| 18. Adult Care Licensure Program                         | 381,087 | 381,087 |
| 19. Mental Health Licensure and<br>Certification Program | 190,284 | 190,284 |

**Division of Aging and Adult Services**

|                  |           |           |
|------------------|-----------|-----------|
| 20. Guardianship | 3,825,443 | 3,825,443 |
|------------------|-----------|-----------|

**DHHS Administration**

|                                                                                            |         |                            |
|--------------------------------------------------------------------------------------------|---------|----------------------------|
| 21. Division of Aging and Adult Services                                                   | 577,745 | <del>577,745</del> 569,503 |
| 22. Division of Social Services                                                            | 634,680 | 634,680                    |
| 23. Office of the Secretary/Controller's Office                                            | 127,731 | 127,731                    |
| 24. Legislative Increases/Fringe Benefits                                                  | 236,278 | 236,278                    |
| 25. Division of Child Development and<br>Early Education                                   | 13,878  | 13,878                     |
| 26. Division of Mental Health, Developmental<br>Disabilities, and Substance Abuse Services | 27,446  | 27,446                     |
| 27. Division of Health Service Regulation                                                  | 118,946 | 118,946                    |

**TOTAL SOCIAL SERVICES BLOCK GRANT**    **\$69,521,667**    **~~\$69,521,667~~\$72,926,658**

**LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT****Local Program Expenditures**

**Division of Social Services**

|                                                  |              |                                             |
|--------------------------------------------------|--------------|---------------------------------------------|
| 01. Low-Income Energy Assistance Program (LIEAP) | \$36,402,610 | <del>\$35,419,272</del> <u>\$43,982,501</u> |
| 02. Crisis Intervention Program (CIP)            | 36,402,610   | <del>35,419,272</del> <u>43,982,501</u>     |

**Local Administration****Division of Social Services**

|                               |           |                                       |
|-------------------------------|-----------|---------------------------------------|
| 03. County DSS Administration | 5,978,512 | <del>5,817,014</del> <u>7,223,378</u> |
|-------------------------------|-----------|---------------------------------------|

**DHHS Administration****Division of Central Management and Support**

|                                                 |           |                                       |
|-------------------------------------------------|-----------|---------------------------------------|
| 04. Division of Social Services                 | 10,000    | 10,000                                |
| 05. Office of the Secretary/DIRM                | 252,603   | 128,954                               |
| 06. Office of the Secretary/Controller's Office | 18,378    | 18,378                                |
| 07. NC FAST Development                         | 139,991   | <del>2,468,390</del> <u>2,287,188</u> |
| 08. NC FAST Operations and Maintenance          | 2,135,701 | 2,539,033                             |

**Transfers to Other State Agencies****Department of Environmental Quality**

|                                                                            |            |                                         |
|----------------------------------------------------------------------------|------------|-----------------------------------------|
| 09. Weatherization Program                                                 | 10,716,043 | <del>10,426,573</del> <u>10,112,346</u> |
| 10. Heating Air Repair and Replacement Program (HARRP)                     | 5,701,752  | <del>5,547,732</del> <u>5,445,109</u>   |
| 11. Local Residential Energy Efficiency Service Providers – Weatherization | 439,982    | <del>428,097</del> <u>561,797</u>       |
| 12. Local Residential Energy Efficiency Service Providers – HARRP          | 234,105    | <del>227,781</del> <u>302,506</u>       |
| 13. <del>DENR-DEQ</del> – Weatherization Administration                    | 439,982    | <del>428,097</del> <u>561,797</u>       |
| 14. <del>DENR-DEQ</del> – HARRP Administration                             | 234,105    | <del>227,781</del> <u>302,506</u>       |

**Department of Administration**

|                                       |        |        |
|---------------------------------------|--------|--------|
| 15. N.C. Commission on Indian Affairs | 87,736 | 87,736 |
|---------------------------------------|--------|--------|

|                                                                         |                      |                                 |                             |
|-------------------------------------------------------------------------|----------------------|---------------------------------|-----------------------------|
| <b>TOTAL LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT</b>                   | <b>\$99,194,110</b>  | <b><del>\$99,194,110</del></b>  | <b><u>\$117,545,730</u></b> |
| <b>CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT</b>                      |                      |                                 |                             |
| <b>Local Program Expenditures</b>                                       |                      |                                 |                             |
| <b>Division of Child Development and Early Education</b>                |                      |                                 |                             |
| 01. Child Care Services<br>(Smart Start \$7,000,000)                    | \$152,923,849        | <del>\$152,416,794</del>        | <u>\$228,856,999</u>        |
| 02. Transfer from TANF Block Grant<br>for Child Care Subsidies          | 71,773,001           | <del>71,773,001</del>           | <u>121,773,001</u>          |
| 03. Quality and Availability Initiatives<br>(TEACH Program \$3,800,000) | 45,761,678           | <del>45,761,678</del>           | <u>55,782,313</u>           |
| <b>DHHS Administration</b>                                              |                      |                                 |                             |
| <b>Division of Child Development and Early Education</b>                |                      |                                 |                             |
| 04. DCDEE Administrative Expenses                                       | 9,042,159            | <del>8,929,324</del>            | <u>9,352,632</u>            |
| <b>Division of Social Services</b>                                      |                      |                                 |                             |
| 05. Local Subsidized Child Care<br>Services Support                     | 16,436,361           | <del>16,436,361</del>           | <u>18,503,830</u>           |
| 06. Direct Deposit for Child Care Payments                              | 505,100              |                                 | 505,100                     |
| <b>Division of Central Management and Support</b>                       |                      |                                 |                             |
| 07. NC FAST Development                                                 | 24,237               | <del>427,865</del>              | <u>396,999</u>              |
| 08. NC FAST Operations and Maintenance                                  | 2,758,389            |                                 | 2,581,225                   |
| 09. DHHS Central Administration – DIRM<br>Technical Services            | 645,162              |                                 | 645,162                     |
| 10. Central Regional Maintenance                                        | 287,854              |                                 | 287,854                     |
| 11. DHHS Central Administration                                         | 7,346                |                                 | 7,346                       |
| <b>Division of Public Health</b>                                        |                      |                                 |                             |
| 12. Child Care Health Consultation Contracts                            | 62,205               |                                 | 62,205                      |
| <b>TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT</b>                | <b>\$300,227,341</b> | <b><del>\$299,833,915</del></b> | <b><u>\$338,754,666</u></b> |

## **MENTAL HEALTH SERVICES BLOCK GRANT**

### **Local Program Expenditures**

|                                                                |             |                                           |
|----------------------------------------------------------------|-------------|-------------------------------------------|
| 01. Mental Health Services – Child                             | \$3,619,833 | <del>\$3,619,833</del> <u>\$4,118,045</u> |
| 02. Mental Health Services – Adult/Child                       | 10,967,792  | <del>10,967,792</del> <u>12,477,331</u>   |
| 03. Crisis Solutions Initiative – Critical Time Intervention   | 750,000     | <del>750,000</del> <u>0</u>               |
| 04. Mental Health Services – First Psychotic Symptom Treatment | 1,430,851   | <del>1,430,851</del> <u>12,321,873</u>    |
| <u>04A. Three-Way Contracts</u>                                | <u>0</u>    | <u>4,101,480</u>                          |

### **DHHS Administration**

#### **Division of Mental Health, Developmental Disabilities, and Substance Abuse Services**

|                    |         |         |
|--------------------|---------|---------|
| 05. Administration | 200,000 | 200,000 |
|--------------------|---------|---------|

#### **TOTAL MENTAL HEALTH SERVICES BLOCK GRANT**

**\$16,968,476    ~~\$16,968,476~~ \$23,218,729**

## **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

### **Local Program Expenditures**

#### **Division of Mental Health, Developmental Disabilities, and Substance Abuse Services**

|                                                                                                                                                                                        |             |                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------|
| 01. Substance Abuse – HIV and IV Drug                                                                                                                                                  | \$3,919,723 | \$3,919,723                             |
| 02. Substance Abuse Prevention                                                                                                                                                         | 8,998,382   | 8,998,382                               |
| 03. Substance Abuse Services – Treatment for Children/Adults<br>(Medication-Assisted Opioid Use Disorder Treatment Pilot Program \$500,000;<br>First Step Farm of WNC, Inc. \$100,000) | 27,722,717  | <del>27,621,286</del> <u>31,032,102</u> |
| 04. Crisis Solutions Initiatives – Walk-In Crisis Centers                                                                                                                              | 420,000     | <del>420,000</del> <u>0</u>             |
| 05. Crisis Solutions Initiatives – Collegiate Wellness/Addiction Recovery                                                                                                              | 1,085,000   | 1,085,000                               |
| 06. Crisis Solutions Initiatives – Community Paramedic Mobile Crisis Management                                                                                                        | 60,000      | 60,000                                  |
| 07. Crisis Solutions Initiatives – Innovative                                                                                                                                          |             |                                         |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                     |                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-----------------------------------------------------------|
| Technologies                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 41,000              | <u>41,000</u>                                             |
| <b>DHHS Program Expenditures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |                     |                                                           |
| <b>Division of Central Management and Support</b>                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                                                           |
| 08. Competitive Block Grant                                                                                                                                                                                                                                                                                                                                                                                                                                     | 1,600,000           | 1,600,000                                                 |
| <b>DHHS Administration</b>                                                                                                                                                                                                                                                                                                                                                                                                                                      |                     |                                                           |
| <b>Division of Mental Health, Developmental Disabilities, and Substance Abuse Services</b>                                                                                                                                                                                                                                                                                                                                                                      |                     |                                                           |
| 09. Administration                                                                                                                                                                                                                                                                                                                                                                                                                                              | 454,000             | 454,000                                                   |
| 10. Controlled Substance Reporting System Enhancement                                                                                                                                                                                                                                                                                                                                                                                                           | 326,224             | 427,655                                                   |
| <u>10A. Veteran's Initiatives</u>                                                                                                                                                                                                                                                                                                                                                                                                                               | <u>250,000</u>      | <u>250,000</u>                                            |
| <b>Division of Public Health</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |                     |                                                           |
| 11. HIV Testing for Individuals in Substance Abuse Treatment                                                                                                                                                                                                                                                                                                                                                                                                    | 965,949             | <del>965,949</del> <u>241,488</u>                         |
| <del>Transfers to Other State Agencies</del>                                                                                                                                                                                                                                                                                                                                                                                                                    |                     |                                                           |
| <del>Department of Military and Veterans Affairs</del>                                                                                                                                                                                                                                                                                                                                                                                                          |                     |                                                           |
| <del>12. Crisis Solutions Initiative—Veteran's Crisis</del>                                                                                                                                                                                                                                                                                                                                                                                                     | <del>250,000</del>  | <del>250,000</del>                                        |
| <b>TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>                                                                                                                                                                                                                                                                                                                                                                                               | <b>\$45,842,995</b> | <del><b>\$45,842,995</b></del> <b><u>\$48,068,350</u></b> |
| <b>MATERNAL AND CHILD HEALTH BLOCK GRANT</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                     |                                                           |
| <b>Local Program Expenditures</b>                                                                                                                                                                                                                                                                                                                                                                                                                               |                     |                                                           |
| <b>Division of Public Health</b>                                                                                                                                                                                                                                                                                                                                                                                                                                |                     |                                                           |
| 01. Women and Children's Health Services<br>(Safe Sleep Campaign \$45,000; Sickle Cell Centers \$100,000; Prevent Blindness \$575,000; March of Dimes \$350,000; Teen Pregnancy Prevention Initiatives \$650,000; 17P Project \$52,000; Nurse-Family Partnership \$550,000; Carolina Pregnancy Care Fellowship \$400,000; Perinatal & Neonatal Outreach Coordinator Contracts <del>\$440,000</del> <u>\$440,000</u> ; Mountain Area Pregnancy Center \$250,000) | \$11,802,435        | <del>\$11,802,435</del> <u>\$13,858,445</u>               |



|                                                                                |                     |                                                           |
|--------------------------------------------------------------------------------|---------------------|-----------------------------------------------------------|
| 02. Oral Health                                                                | 48,227              | 48,227                                                    |
| 03. Evidence-Based Programs in Counties<br>With Highest Infant Mortality Rates | 1,575,000           | 1,575,000                                                 |
| 03A. Every Week Counts                                                         | 2,200,000           | <del>2,200,000</del> 3,000,000                            |
| <b>DHHS Program Expenditures</b>                                               |                     |                                                           |
| 04. Children's Health Services                                                 | 1,427,323           | 1,427,323                                                 |
| 05. Women's Health – Maternal Health                                           | 169,864             | 169,864                                                   |
| 06. Women and Children's Health – Perinatal<br>Strategic Plan Support Position | 68,245              | 68,245                                                    |
| 07. State Center for Health Statistics                                         | 158,583             | 158,583                                                   |
| 08. Health Promotion – Injury and<br>Violence Prevention                       | 87,271              | 87,271                                                    |
| <b>DHHS Administration</b>                                                     |                     |                                                           |
| 09. Division of Public Health Administration                                   | 552,571             | 552,571                                                   |
| <b>TOTAL MATERNAL AND CHILD<br/>HEALTH BLOCK GRANT</b>                         | <b>\$18,089,519</b> | <del><b>\$18,089,519</b></del> <b><u>\$20,945,529</u></b> |
| <b>PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>                                  |                     |                                                           |
| <b>Local Program Expenditures</b>                                              |                     |                                                           |
| 01. Physical Activity and Prevention                                           | \$3,545,093         | \$3,545,093                                               |
| 02. Injury and Violence Prevention<br>(Services to Rape Victims – Set-Aside)   | 180,778             | 180,778                                                   |
| <b>DHHS Program Expenditures</b>                                               |                     |                                                           |
| <b>Division of Public Health</b>                                               |                     |                                                           |
| 03. HIV/STD Prevention and<br>Community Planning                               | 145,819             | 145,819                                                   |
| 04. Oral Health Preventive Services                                            | 451,809             | 451,809                                                   |
| 05. Laboratory Services – Testing,<br>Training, and Consultation               | 21,012              | 21,012                                                    |
| 06. Injury and Violence Prevention<br>(Services to Rape Victims – Set-Aside)   | 192,315             | 192,315                                                   |
| Senate Bill 99                                                                 | Session Law 2018-5  | Page 113                                                  |

|                                                                                           |                     |                                                           |
|-------------------------------------------------------------------------------------------|---------------------|-----------------------------------------------------------|
| 07. State Laboratory Services – Testing, Training, and Consultation                       | 199,634             | 199,634                                                   |
| 08. Performance Improvement and Accountability                                            | 1,104,455           | 1,104,455                                                 |
| 09. State Center for Health Statistics                                                    | 107,291             | 107,291                                                   |
| <b>DHHS Administration</b>                                                                |                     |                                                           |
| <b>Division of Public Health</b>                                                          |                     |                                                           |
| 10. Division of Public Health                                                             | 172,820             | 172,820                                                   |
| <b>TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>                                       | <b>\$6,121,026</b>  | <b>\$6,121,026</b>                                        |
| <b>COMMUNITY SERVICES BLOCK GRANT</b>                                                     |                     |                                                           |
| 01. Community Action Agencies                                                             | \$24,187,142        | <del>\$24,187,142</del> <u>\$17,196,466</u>               |
| 02. Limited Purpose Agencies                                                              | 1,343,730           | <del>1,343,730</del> <u>1,780,434</u>                     |
| 03. Office of Economic Opportunity                                                        | 1,343,730           | <del>1,343,730</del> <u>801,021</u>                       |
| <u>04. Office of Economic Opportunity – Workforce Investment Opportunities Act (WIOA)</u> | <u>0</u>            | <u>60,000</u>                                             |
| <b>TOTAL COMMUNITY SERVICES BLOCK GRANT</b>                                               | <b>\$26,874,602</b> | <del><b>\$26,874,602</b></del> <u><b>\$19,837,921</b></u> |

## "GENERAL PROVISIONS

"**SECTION 11L.1.(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 11L.1.(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 fiscal years 2017-2018 and 2018-2019, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used only 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 and shall not be used to supplant State funds.

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 Oversight Committee on Health and Human Services and the Fiscal Research Division.

**"SECTION 11L.1.(d)** Except as otherwise provided, appropriations from federal Block Grant funds are made for each year of the fiscal biennium ending June 30, 2019, according to the schedule enacted for State fiscal years 2017-2018 and 2018-2019 or until a new schedule is enacted by the General Assembly.

**"SECTION 11L.1.(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 Management. The Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section. Additionally, if budgeted allocations are decreased, the Office of State Budget and Management shall not approve any reduction of funds designated for subrecipients in subsection (a) of this section under (i) Item 03 of the Substance Abuse Prevention and Treatment Block Grant or (ii) Item 01 of the Maternal and Child Health Block Grant. The Office of State Budget and Management shall consult with the Joint Legislative Oversight Committee on Health and Human Services for review prior to implementing the any changes. The In consulting, 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 Joint Legislative Oversight 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 11L.1.(f)** Except as otherwise provided, the Department of Health and Human Services shall have flexibility to transfer funding between the Temporary Assistance for Needy Families (TANF) Block Grant and the TANF Emergency Contingency Funds Block Grant so long as the total allocation for the line items within those block grants remains the same.

#### **"TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

**"SECTION 11L.1.(g)** The sum of eighty million ninety-three thousand five hundred sixty-six dollars (\$80,093,566) for each year of the 2017-2019 fiscal biennium appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, 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. The Division shall also have the authority to realign

appropriated funds from Work First Family Assistance for electing counties to the Work First County Block Grant for electing counties based on current year expenditures so long as the electing counties meet Maintenance of Effort requirements.

**"SECTION 11L.1.(h)** The sum of nine million four hundred twelve thousand three hundred ninety-one dollars (\$9,412,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for each fiscal year of the 2017-2019 fiscal biennium 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 fiscal years 2017-2018 and 2018-2019 shall not be less than the total expended from State and local funds for the 2012-2013 fiscal year.

**"SECTION 11L.1.(i)** 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 each fiscal year of the 2017-2019 fiscal biennium shall be used in accordance with G.S. 108A-50.2. 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 11L.1.(j)** The sum of one million four hundred thousand dollars (\$1,400,000) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for each fiscal year of the 2017-2019 fiscal biennium shall be used for child welfare initiatives to (i) enhance the skills of social workers to improve the outcomes for families and children involved in child welfare and (ii) enhance the provision of services to families in their homes in the least restrictive setting.

**"SECTION 11L.1.(j1)** Of the three million two hundred thousand dollars (\$3,200,000) allocated in this section in TANF funds to the Department of Health and Human Services, Division of Public Health, for the 2018-2019 fiscal year for teen pregnancy prevention initiatives, the sum of two hundred fifty thousand dollars (\$250,000) shall be used to provide services for foster care youth.

SHIFT NC shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services by November 1, 2018, on the funds expended in fiscal year 2017-2018 for teen pregnancy prevention initiatives. The report shall include, at a minimum, the amount of funds expended on (i) salaries and (ii) direct services.

## **"SOCIAL SERVICES BLOCK GRANT**

**"SECTION 11L.1.(k)** The sum of thirty-two million nine hundred seventy-one thousand four hundred ninety-eight dollars (\$32,971,498) for the 2017-2018 fiscal year and the sum of thirty-three million three thousand six hundred thirty-two dollars (\$33,003,632) for the 2018-2019 fiscal year appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, 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, as well as State Social Services Block Grant funds, among the State-level services based on current year actual expenditures.

Of the funds appropriated in this subsection for each year of the 2017-2019 fiscal biennium for county block grants, three million dollars (\$3,000,000) shall be used to assist counties in the implementation of Project 4, Child Services, in North Carolina Families Accessing Services Through Technology (NC FAST). These funds shall be available in each fiscal year of the fiscal biennium for this purpose.

**"SECTION 11L.1.(l)** 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 each fiscal year of the 2017-2019 fiscal biennium 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 11L.1.(m)** 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 11L.1.(n)** Social Services Block Grant funds appropriated for the Special Children Adoption Incentive Fund shall require a fifty percent (50%) local match.

**"SECTION 11L.1.(o)** The sum of five million forty thousand dollars (\$5,040,000) appropriated in this section in the Social Services Block Grant for each fiscal year of the 2017-2019 fiscal biennium 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 governments 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 11L.1.(p)** The sum of four million five hundred twenty-four thousand five hundred twenty-five dollars (\$4,524,525) for ~~each year of the 2017-2019 fiscal biennium~~ the 2017-2018 fiscal year and the sum of four million seven hundred seventy-four thousand five hundred twenty-five dollars (\$4,774,525) for the 2018-2019 fiscal year appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services (DHHS), Division of Central Management and Support, shall be used for DHHS competitive block grants pursuant to Section 11A.14 of this act. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**"SECTION 11L.1.(q)** The sum of five hundred eighty-two thousand dollars (\$582,000) for the 2017-2018 fiscal year and the sum of one million five hundred eighty-two thousand dollars (\$1,582,000) for the 2018-2019 fiscal year appropriated in this section in the Social Services Block Grant ~~for each fiscal year of the 2017-2019 fiscal biennium~~ to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers, and the funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**"SECTION 11L.1.(r)** The sum of three million eight hundred twenty-five thousand four hundred forty-three dollars (\$3,825,443) for each fiscal year of the 2017-2019 fiscal biennium appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, ~~Divisions of Social Services and Division of~~ Division of 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 existing corporate guardianship contracts during the 2017-2018 and 2018-2019 fiscal years.

**"SECTION 11L.1.(s)** The sum of seven hundred thirty-seven thousand sixty-seven dollars (\$737,067) appropriated in this section in the Social Services Block Grant for each fiscal year of the 2017-2019 fiscal biennium shall be allocated to the Department of Health and Human Services, Division of Social Services. These funds shall be used to assist with training needs for county child welfare training staff and shall not be used to supplant any other source of funding for staff. County departments of social services are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

#### **"LOW-INCOME ENERGY ASSISTANCE BLOCK GRANT**

**"SECTION 11L.1.(t)** Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Oversight Committee on Health and Human Services. Additional funds received shall be reported to the Joint Legislative Oversight Committee on Health and Human Services 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 Oversight Committee on Health and Human Services.

**"SECTION 11L.1.(u)** The sum of thirty-six million four hundred two thousand six hundred ten dollars (\$36,402,610) for the 2017-2018 fiscal year and the sum of ~~thirty-five million four hundred nineteen thousand two hundred seventy-two dollars (\$35,419,272)~~ forty-three million nine hundred eighty-two thousand five hundred one dollars (\$43,982,501) for the 2018-2019 fiscal year appropriated in this section in the Low-Income Energy Assistance Block Grant 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. The outreach plan shall comply with the following:

- (1) Ensure that eligible households are made aware of the available assistance, with particular attention paid to the elderly population age 60 and above and disabled persons receiving services through the Division of Aging and Adult Services.
- (2) Include efforts by the county department of social services to contact other State and local governmental entities and community-based organizations to (i) offer the opportunity to provide outreach and (ii) receive applications for energy assistance.
- (3) Be approved by the local board of social services or human services board prior to submission.

#### **"CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

**"SECTION 11L.1.(v)** 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 and Early Education for the subsidized child care program.

**"SECTION 11L.1.(w)** 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.

#### **"MENTAL HEALTH SERVICES BLOCK GRANT**

**"SECTION 11L.1.(x)** The sum of one million four hundred thirty thousand eight hundred fifty-one dollars (\$1,430,851) appropriated in this section in the Mental Health Services Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for ~~each fiscal year of the 2017-2019 fiscal biennium~~ the 2017-2018 fiscal year and the sum of two million three hundred twenty-one thousand eight hundred seventy-three dollars (\$2,321,873) for the 2018-2019 fiscal year is allocated for Mental Health Services – First Psychotic Symptom Treatment. The Division shall report on (i) the specific evidence-based treatment and services provided, (ii) the number of persons treated, and (iii) the measured outcomes or impact on the participants served. The Division shall report to the House of Representatives Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than December 31 of each year.

#### **"SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

**"SECTION 11L.1.(y)** The sum of two hundred fifty thousand dollars (\$250,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for each fiscal year of the 2017-2019 fiscal biennium shall be ~~allocated to the Department of Military and Veterans Affairs, for the call-in center established to assist veterans in locating service benefits and crisis services. The call-in center shall be staffed by certified veteran peers within the Department of Military and Veterans Affairs and trained by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services used to support Veteran initiatives.~~

**"SECTION 11L.1.(z)** The sum of five hundred thousand dollars (\$500,000) allocated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for each fiscal year of the 2017-2019 fiscal biennium shall be used for a medication-assisted opioid use disorder treatment pilot program.

#### **"MATERNAL AND CHILD HEALTH BLOCK GRANT**

**"SECTION 11L.1.(aa)** 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 2017-2018 fiscal year or the 2018-2019 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 11L.1.(bb)** The sum of one million five hundred seventy-five thousand dollars (\$1,575,000) appropriated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Public Health, for each fiscal year of the 2017-2019 fiscal biennium shall be used for evidence-based programs in counties with the highest infant mortality rates. The Division shall report on (i) the counties selected to receive the allocation, (ii) the specific evidence-based services provided, (iii) the number of women served, and (iv) any impact on the counties' infant mortality rate. The Division shall report its findings to the House of Representatives Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than December 31 of each year.

**"SECTION 11L.1.(cc)** No more than fifteen percent (15%) of the funds provided in this section in the Maternal and Child Health Block Grant to Carolina Pregnancy Care Fellowship

shall be used for administrative purposes. The balance of those funds shall be used for direct services.

**"SECTION 11L.1.(dd)** The sum of sixty-eight thousand two hundred forty-five dollars (\$68,245) allocated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Public Health, Women and Children's Health Section, for each fiscal year of the 2017-2019 fiscal biennium shall not be used to supplant existing State or federal funds. This allocation shall be used for a Public Health Program Consultant position assigned full-time to manage the North Carolina Perinatal Health Strategic Plan and provide staff support for the stakeholder work group.

**"SECTION 11L.1.(ee)** The sum of one hundred thousand dollars (\$100,000) allocated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Public Health, for each year of the 2017-2019 fiscal biennium for community-based sickle cell centers shall not be used to supplant existing State or federal funds.

### **"PREVENTIVE HEALTH SERVICES BLOCK GRANT**

**"SECTION 11L.1.(ff)** Of the four hundred fifty-one thousand eight hundred nine dollars (\$451,809) allocated in this section in the Preventive Health Services Block Grant in each year of the 2017-2019 fiscal biennium to the Department of Health and Human Services, Division of Public Health, Oral Health Preventive Services, one hundred twenty thousand two hundred eighty-six dollars (\$120,286) shall be used to establish a Public Health Epidemiologist II position and a Dental Equipment Technician I position."

## **PART XII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

### **FUTURE FARMERS OF AMERICA PROJECT COMPLETION**

**SECTION 12.1.(a)** Notwithstanding G.S. 143-720 and G.S. 143-721, of the funds appropriated to the Tobacco Trust Fund in this act, sixty thousand dollars (\$60,000), nonrecurring for the 2018-2019 fiscal year, shall be distributed to Southern Guilford High School to be provided to its Future Farmers of America program to complete the animal science project described in Section 13.3 of S.L. 2016-94.

**SECTION 12.1.(b)** As part of the annual report required pursuant to G.S. 143-722(a), the Tobacco Trust Fund Commission shall report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on project completion objectives, accomplishments, and itemized expenditures from the funds provided in this section. The Commission shall assist the Future Farmers of America program receiving funds pursuant to this section in reporting on the activities for which the funds were used.

**SECTION 12.1.(c)** Notwithstanding Article 8 of Chapter 143 of the General Statutes, G.S. 115C-522, or any other provision of law to the contrary, the funds distributed in subsection (a) of this section shall be used to complete the animal science project, including furnishings and utility connections, and shall not be subject to any bidding or contract requirements.

### **OYSTER MARKETING**

**SECTION 12.2.** Of the funds appropriated by this act to the Department of Agriculture and Consumer Services for agricultural marketing, the sum of twenty-five thousand dollars (\$25,000) is allocated to the Seafood Marketing Office to create and implement a program for the promotion of North Carolina oysters, including branding, promotion, and outreach activities directed at consumers, restaurants, and food tourism providers. The Department shall coordinate its program with the oyster promotion activities described in Section 13.13(d) of S.L. 2017-57.



## **CARRY FORWARD FOOD MARKETING FUNDS**

**SECTION 12.3.(a)** The Department of Agriculture and Consumer Services may carry forward to the 2018-2019 fiscal year any remaining balance of the nonrecurring funds appropriated to the Department for the 2017-2018 fiscal year by S.L. 2017-57 to be allocated to the Food Science Processing and Innovation Center in the Core Laboratory of the North Carolina Research Campus for marketing intended to connect farmers with prospective customers, promote inbound and outbound international trade missions, strengthen existing promotional campaigns around selected commodities, and other related marketing uses.

**SECTION 12.3.(b)** This section becomes effective June 30, 2018.

## **AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION TRUST FUND**

**SECTION 12.4.** Funds appropriated by this act to the North Carolina Agricultural Development and Farmland Preservation Trust Fund shall be used by the Department of Agriculture and Consumer Services in a manner that maximizes eligibility of the Fund for additional funding from federal and local governments as well as private funding sources.

## **NEW AND EMERGING CROPS PROGRAM**

**SECTION 12.5.(a)** Part 3 of Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

**"§ 106-22.7. New and emerging crops program.**

The Department of Agriculture and Consumer Services is authorized to create a program to advance and promote new and emerging crops. If the Department creates a new and emerging crops program, the Department shall merge its research initiative in bioenergy research into the program."

**SECTION 12.5.(b)** No more than fifty percent (50%) of the funds appropriated by this act to the Bioenergy Research Initiative may be used by the Department of Agriculture and Consumer Services to fund efforts to advance and promote new and emerging crops authorized by subsection (a) of this section.

## **PART XIII. DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **WATER SAFETY**

#### **AUTHORIZE THE GOVERNOR, UNDER CERTAIN CIRCUMSTANCES, TO REQUIRE A FACILITY TO CEASE ALL OPERATIONS AND ACTIVITIES THAT RESULT IN THE PRODUCTION OF A POLLUTANT**

**SECTION 13.1.(a)** Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-215.3E. Authority of Governor to require facility to cease operations and activities for unauthorized PFAS discharges.**

(a) The Governor is authorized to require a facility to cease all operations and activities in the State that result in the production of a pollutant if all of the following circumstances exist:

- (1) The facility has a National Pollutant Discharge Elimination System (NPDES) permit.
- (2) The Department has determined that the facility has had unauthorized discharges of per- and poly-fluoroalkyl substances (PFAS) into the air, surface water, and groundwater and these discharges have resulted in an exceedance of a standard set by the Environmental Management Commission for groundwater, surface water, or air quality, or an exceedance of a health

advisory standard established by the United States Environmental Protection Agency for any chemical classified as a PFAS, and the facility has received more than one notice of violation from the Department within a two-year period for unauthorized discharges of such substances.

(3) The Department has been unable to stop all ongoing unauthorized discharges of such substances from the facility that result in the violation of a standard or health advisory standard within one year from the time the Department first learned of the unauthorized discharges.

(4) The Department has determined that the best available scientific data indicates that the ongoing unauthorized discharges present a danger to the public health.

(b) In determining whether to exercise the authority established under this section, the Governor may take into account remedial actions undertaken by the operator of the facility.

(c) If the Governor exercises the authority established under this subsection to require a facility to cease operations and activities, the Governor shall issue an order in writing to the operator accordingly, including findings of fact that demonstrate the criteria set forth in subdivisions (1) through (4) of subsection (a) of this section have been met, which order shall be delivered by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4, to the facility's operator. An order to cease operations and activities issued pursuant to this subsection shall not become effective until 15 days after issuance of the order. A person to whom such order is issued may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after receipt of notice of the order. If the person does not file a petition within the required time, the Governor's decision is final and is not subject to review.

(d) The authority established by this section shall be in addition to, and not exclusive of, other authority given to the Commission, the Secretary, and the Department under this Article to take enforcement action against a person for unauthorized discharges of PFAS into the air, surface water, and groundwater, including the authority granted under G.S. 143-215.6C to request that the Attorney General institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper."

**SECTION 13.1.(b)** Subsection (a) of this section expires December 31, 2020.

## **REQUIRE ESTABLISHMENT OF PERMANENT REPLACEMENT WATER SUPPLIES FOR AFFECTED PARTIES WITH DRINKING WATER WELLS CONTAMINATED BY PER- AND POLY-FLUOROALKYL SUBSTANCES**

**SECTION 13.1.(c)** Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

### **"§ 143-215.2A. Relief for contaminated private drinking water wells.**

(a) The Secretary shall, upon direction of the Governor, order any person who the Secretary finds responsible for the discharge of industrial waste that includes per- and poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), into the air, groundwater, surface water, or onto the land that results in contamination of a private drinking water well, as that term is defined in G.S. 87-85, to establish permanent replacement water supplies for affected parties. For purposes of this section, the terms (i) "contamination" means an exceedance of a standard established by the Environmental Management Commission for groundwater, surface water, or air quality, or an exceedance of a health advisory standard established by the United States Environmental Protection Agency, for any chemical classified as a PFAS, including GenX; and (ii) "affected party" means a household, business, school, or public building with a well contaminated with PFAS, including GenX, as a result of the discharge of industrial waste.

(b) If the Secretary orders a person responsible for the discharge of a PFAS, including GenX, that results in contamination of a private drinking water well to establish a permanent

replacement water supply for an affected party with such a well pursuant to subsection (a) of this section, preference shall be given to permanent replacement water supplies by connection to public water supplies; provided that (i) an affected party may elect to receive a filtration system in lieu of a connection to public water supplies and (ii) if the Department determines that connection to a public water supply to a particular affected party would be cost-prohibitive, the Department shall authorize provision of a permanent replacement water supply to that affected party through installation of a filtration system. For affected parties for which filtration systems are installed, the person responsible shall be liable for any periodic required maintenance of the filtration system. An order issued by the Secretary pursuant to subsection (a) of this section shall include a deadline by which the responsible person must establish the permanent replacement water supply for the affected party or parties subject to the order.

(c) An order issued by the Secretary pursuant to subsection (a) of this section shall be delivered by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4, to the person ordered to establish the permanent replacement water supply and shall include detailed findings of fact and conclusions in support of the order. A person to whom such order is issued may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after receipt of notice of the order. If the person does not file a petition within the required time, the Secretary's decision is final and is not subject to review.

(d) A person required to establish a permanent replacement water supply pursuant to this section shall be jointly and severally liable for all necessary costs associated with establishment of the permanent replacement water supply. The remedy under this section is in addition to those provided by existing statutory and common law. Nothing in this section shall limit or diminish any rights of contribution for costs incurred herein.

(e) Nothing in this section shall be construed to (i) require an eligible affected party to connect to a public water supply or receive a filtration system or (ii) obviate the need for other federal, State, and local permits and approvals.

(f) All State entities and local governments shall expedite any permits and approvals that may be required for the establishment of permanent replacement water supplies required pursuant to this section."

**SECTION 13.1.(d)** In order to ensure the expeditious establishment of alternative permanent water supplies for each affected party, in accordance with the requirements of G.S. 143-215.2A, the sum of two million dollars (\$2,000,000) of the funds appropriated in this act to the Division of Water Infrastructure of the Department of Environmental Quality is allocated to provide funding to local governments for necessary expenditures that local governments may incur as a result of activities to connect affected parties to public water supplies pursuant to an order issued under G.S. 143-215.2A. These funds shall be deposited into the PFAS Recovery Fund, which is established within the Department as a special fund. The Department may distribute funds to local governments solely for the purposes of planning, analysis, and surveying of waterline extensions for affected parties subject to an order issued pursuant to G.S. 143-215.2A. No later than 30 days after completion of a local government's activities to connect an affected party to a public water supply pursuant to G.S. 143-215.2A, the Secretary shall deliver a statement of all funds paid from the PFAS Recovery Fund to the local government and the costs expended by the local government for such activities. The Department shall report on activities conducted and funds expended pursuant to this section on a quarterly basis to the Environmental Review Commission, and the Fiscal Research Division, beginning September 1, 2018.

**FUNDS TO THE CAPE FEAR PUBLIC UTILITY AUTHORITY FOR WATER QUALITY SAMPLING, AND TESTING OF TREATMENT TECHNIQUES, TO ADDRESS PER- AND POLY-FLUOROALKYL SUBSTANCES, INCLUDING GENX, AND OTHER CONTAMINANTS**

**SECTION 13.1.(e)** Four hundred fifty thousand dollars (\$450,000) of the funds appropriated in this act to the Division of Water Infrastructure of the Department of Environmental Quality shall be used to provide a grant-in-aid to the Cape Fear Public Utility Authority to implement a program to:

- (1) Perform nontargeted sampling of finished drinking water from the Authority's Sweeney Water Treatment Plant and in its Aquifer Storage and Recovery Well (ASR) to identify levels of per- and poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), that may be included in the water.
- (2) After establishing the baseline pursuant to testing conducted pursuant to subdivision (1) of this subsection, the Authority shall test the effectiveness of ion exchange and activated carbon technologies for treatment of PFAS, including GenX. In so doing, the Authority shall (i) install temporary ion exchange and carbon treatment systems suitable to treat 500 gallons per minute (GPM) flow as a minimum capacity and modify existing piping from the Plant and ASR to connect to the temporary treatment systems; (ii) after installation of the temporary treatment systems, test the water treated weekly, before and after treatment by ion exchange and activated carbon, over a period of six weeks at increasing flow rates to determine the relative effectiveness of the two technologies at reducing PFAS, including GenX; and (iii) after determination of the most successful treatment technology at a high flow of 500 GPM, continue sampling water treated by the technology at two-week intervals thereafter.

The Authority shall submit an interim report on activities conducted pursuant to this section to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, the Fiscal Research Division, and the Environmental Review Commission no later than December 1, 2018, and a final report with sampling results and treatment data no later than June 1, 2019.

**FUNDING TO ADDRESS PER- AND POLY-FLUOROALKYL SUBSTANCES, INCLUDING GENX/USE OF EXPERTISE AND TECHNOLOGY AVAILABLE IN INSTITUTIONS OF HIGHER EDUCATION LOCATED WITHIN THE STATE**

**SECTION 13.1.(f)** The General Assembly finds that (i) per- and poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), are present in multiple watersheds in the State, and impair drinking water and (ii) these contaminants have been discovered largely through academic research not through systematic water quality monitoring programs operated by the Department of Environmental Quality or other State or federal agencies. The General Assembly finds that the profound, extensive, and nationally recognized faculty expertise, technology, and instrumentation existing within the Universities of North Carolina at Chapel Hill and Wilmington, North Carolina State University, North Carolina A&T State University, Duke University, and other public and private institutions of higher education located throughout the State should be maximally utilized to address the occurrence of PFAS, including GenX, in drinking water resources.

**SECTION 13.1.(g)** The North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill (Collaboratory) shall identify faculty expertise, technology, and instrumentation, including mass spectrometers, located within institutions of higher education in the State, including the Universities of North Carolina at Chapel Hill and Wilmington, North Carolina State University, North Carolina A&T State University, Duke University, and other public and private institutions, and coordinate these faculty and resources to conduct nontargeted analysis for PFAS, including GenX, at all public water supply surface water intakes and one public water supply well selected by each municipal water system that operates groundwater

wells for public drinking water supplies as identified by the Department of Environmental Quality, to establish a water quality baseline for all sampling sites. The Collaboratory, in consultation with the participating institutions of higher education, shall establish a protocol for the baseline testing required by this subsection, as well as a protocol for periodic retesting of the municipal intakes and additional public water supply wells. No later than December 1, 2019, Collaboratory shall report the results of such sampling by identifying chemical families detected at each intake to the Environmental Review Commission, the Department of Environmental Quality, the Department of Health and Human Services, and the United States Environmental Protection Agency.

**SECTION 13.1.(h)** Beginning October 1, 2018, the Collaboratory shall report no less than quarterly to the Environmental Review Commission, the Department of Environmental Quality, and the Department of Health and Human Services on all activities conducted pursuant to this section, including any findings and recommendations for any steps the Department of Environmental Quality, the Department of Health and Human Services, the General Assembly, or any other unit of government should take in order to address the impacts of PFAS, including GenX, on surface water and groundwater quality, as well as air quality in the State.

**SECTION 13.1.(i)** Five million thirteen thousand dollars (\$5,013,000) of the funds appropriated in this act for the 2018-2019 fiscal year to the Board of Governors of The University of North Carolina shall be allocated to the Collaboratory to manage and implement the requirements of this section, which shall include distribution to the Collaboratory and participating institutions of higher education (i) to cover costs incurred as a result of activities conducted pursuant to this section, (ii) for acquisition or modification of essential scientific instruments, or (iii) for payments of costs for sample collection and analysis, training or hiring of research staff and other personnel, method development activities, and data management, including dissemination of relevant data to stakeholders. No overhead shall be taken from these funds from the participating institutions that receive any portion of these funds. Funds appropriated by this section shall not revert but shall remain available for nonrecurring expenses.

**SECTION 13.1.(j)** The Collaboratory should pursue relevant public and private funding opportunities that may be available to address the impacts of PFAS, including GenX, on surface water and groundwater quality, as well as air quality, in order to leverage funds appropriated by this section, or any other funds provided to the Collaboratory, including the Challenge Grant authorized in Section 27.5 of S.L. 2016-94, as amended by Section 10.4(a) of S.L. 2017-57.

**SECTION 13.1.(k)** In the event that the United States Environmental Protection Agency no longer provides access to its analytical instrumentation at no cost to the State for water quality sampling analysis related to per- and poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), or if the Department of Environmental Quality determines that such analysis is not being performed in a sufficiently timely manner, the Collaboratory shall coordinate such analysis in the most cost-effective manner using relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout institutions of higher education located throughout the State, until such time as the Department of Environmental Quality is able to perform such analysis with instrumentation acquired pursuant to subsection (q) of this section. The Collaboratory, in consultation with the Department and relevant experts across institutions of higher education in the State, including the Universities of North Carolina at Chapel Hill and Wilmington, North Carolina State University, North Carolina A&T State University, Duke University, and other public and private institutions, shall establish a protocol for delivery of such samples taken by the Department to the entity designated to perform analysis of the samples, chain of custody protocols, and other matters to ensure proper handling and processing of the samples, which protocols shall be subject to approval by the United States Environmental Protection Agency, if such approval is required pursuant to authority delegated from the United

States Environmental Protection Agency to the Department to administer federal environmental law.

**SECTION 13.1.(l)** The Collaboratory shall identify faculty expertise within institutions of higher education in the State, including the Universities of North Carolina at Chapel Hill and Wilmington, North Carolina State University, North Carolina A&T State University, Duke University, and other public and private institutions, and use technology and instrumentation existing throughout the institutions to conduct the following research (i) develop quantitative models to predict which private wells are most at risk of contamination from the discharge of PFAS, including GenX; (ii) test the performance of relevant technologies in removing such compounds; and (iii) study the air emissions and atmospheric deposition of PFAS, including GenX. In addition, Collaboratory may, using relevant faculty expertise, technology, and instrumentation existing throughout institutions identified, evaluate other research opportunities and conduct such research for improved water quality sampling and analyses techniques, data interpretation, and potential mitigation measures that may be necessary, with respect to the discharge of PFAS, including GenX.

#### **FUNDS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

**SECTION 13.1.(m)** One million three hundred thousand dollars (\$1,300,000) of the funds appropriated to the Department of Environmental Quality for the 2016-2017 fiscal year and allocated for in situ nutrient management by Section 14.13(e) of S.L. 2016-94, as amended by Section 13.24 of S.L. 2017-57, is reallocated for the purposes described in subsection (o) of this section.

**SECTION 13.1.(n)** Twenty-five thousand dollars (\$25,000) in nonrecurring funds appropriated to the Rural Economic Development Division of the Department of Commerce for the 2017-2018 fiscal year and provided as a grant-in-aid to the Town of Stedman by subdivision (15) of Section 15.8(b) of S.L. 2017-57 is transferred to the Department of Environmental Quality and allocated for the purposes described in subsection (o) of this section.

**SECTION 13.1.(o)** The funds provided to the Department of Environmental Quality by subsections (m) and (n) of this section shall be allocated for the 2018-2019 fiscal year as follows:

- (1) Six hundred thirteen thousand dollars (\$613,000) to the Division of Water Resources for time-limited positions and operations support of water quality sampling and targeted analysis of samples related to per- and poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), and to purchase supplies for operation of the mass spectrometer acquired pursuant to subsection (q) of this section to perform targeted analysis of water samples related to discharges of PFAS, including GenX.
- (2) Two hundred thousand dollars (\$200,000) to the Division of Water Resources for time-limited positions and operations support to address permitting backlogs.
- (3) Two hundred thirty-two thousand nine hundred fifty dollars (\$232,950) to the Division of Air Quality for sampling and analysis of atmospheric deposition of PFAS, including GenX.
- (4) Two hundred seventy-nine thousand fifty dollars (\$279,050) to the Division of Waste Management for sampling and analysis of PFAS, including GenX, in groundwater wells, soil, and sediment.

**SECTION 13.1.(p)** Funds reallocated by subsection (o) of this section shall not revert but shall remain available for nonrecurring expenses.

**SECTION 13.1.(q)** Five hundred thirty-seven thousand dollars (\$537,000) of the funds appropriated by this act for the 2018-2019 fiscal year to the Department of Environmental

Quality to purchase a triple quadrupole (QqQ) mass spectrometer shall be used to perform targeted analysis of water samples related to discharges of PFAS, including GenX, that are identified by testing conducted pursuant to subsections (f), (g), (h), and (i) of this section. Funds appropriated by this subsection shall not revert but shall remain available for nonrecurring expenses.

#### **NPDES PERMIT HOLDERS TO SUBMIT DOCUMENTATION OF POLLUTANTS IDENTIFIED AT TIME OF PERMIT APPLICATION**

**SECTION 13.1.(r)** Every applicant for a new permit, or permit renewal, of an individual National Pollutant Discharge Elimination System (NPDES) permit to be issued by the Department of Environmental Quality shall submit documentation to the Department in an electronic format as prescribed by the Department that will facilitate immediate public disclosure of the pollutants by certified test method to be included in the person's discharge.

#### **REPURPOSE PRE-REGULATORY LANDFILL FUNDS**

**SECTION 13.2.** Notwithstanding G.S. 130A-310.11(b), up to two million dollars (\$2,000,000) of the funds credited to the Inactive Hazardous Sites Cleanup Fund under G.S. 105-187.63 for the assessment and remediation of pre-1983 landfills shall instead be used by the Department of Environmental Quality's Division of Waste Management to provide a matching grant to Speedway Motorsports, Incorporated for the purpose of remediation activities at the Charlotte Motor Speedway in Cabarrus County. The Division shall provide one dollar (\$1.00) for every two non-State dollars (\$2.00) provided in kind or otherwise, up to a maximum of two million dollars (\$2,000,000) for the matching grant described in this section.

#### **CRAB POT CLEANUP PROGRAM**

**SECTION 13.3.** The North Carolina Coastal Federation may use up to ten percent (10%) of the funds allocated by this act for a crab pot cleanup program for administrative and overhead costs. The Federation shall report on the total amount of funds used, including amount spent per crab pot recovered and amount paid to third parties utilized in the cleanup program. The Federation shall also provide any recommendations to improve the program, including mechanisms to reuse or repurpose recovered crab pots and to increase efficiency of the program, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on or before April 1, 2019.

#### **WATER AND SEWER INFRASTRUCTURE GRANTS**

**SECTION 13.4.** Of the funds appropriated by this act to the Division of Water Infrastructure of the Department of Environmental Quality for water and sewer infrastructure grants, the following sums are allocated to the indicated local governments for the 2018-2019 fiscal year for various water infrastructure projects:

- (1) Two hundred one thousand dollars (\$201,000) to the Town of Richlands for a sewer line replacement project.
- (2) One million dollars (\$1,000,000) to the Town of Mount Airy for a water and sewer line extension project.
- (3) One million one hundred twenty-five thousand dollars (\$1,125,000) to the Town of Bath for a sewer system repair project.
- (4) Two hundred fifty thousand dollars (\$250,000) to the Town of Trenton for assistance with a water and sewer project.

#### **ECOSYSTEM RESTORATION FUND/STATE TREASURER INVESTMENT**

**SECTION 13.5.** G.S. 147-69.2(a) reads as rewritten:

"(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...  
(17l) The Ecosystem Restoration Fund.  
...."

#### **INCREASE AQUATIC WEED CONTROL FUNDING**

**SECTION 13.6.** G.S. 143-215.73F(b) reads as rewritten:

"(b) Uses of Fund. – Revenue in the Fund may only be used for the following purposes:

...  
(2) For aquatic weed control projects in waters of the State under Article 15 of Chapter 113A of the General Statutes. Funding for aquatic weed control projects is limited to five hundred thousand dollars (\$500,000) one million dollars (\$1,000,000) in each fiscal year.  
...."

#### **ACQUIRE PERMANENT DREDGING CAPACITY**

**SECTION 13.7.(a)** The General Assembly finds that the maintenance of the State's shallow draft navigation channels in a manner that keeps those channels navigable and safe and minimizes their closure or degradation is a vital public purpose and a proper governmental function and that declines in federal funding and dredging activity have significantly and adversely impacted the ability of the federal government to maintain these channels in a timely manner. The resulting deterioration in these channels damages the significant portion of the economy of the State's coastal regions that is dependent on the use of the navigation channels by watercraft. Therefore, it is the policy of the State to support and, when necessary to meet the public purposes set forth in this subsection, to supplement federal maintenance of these navigation channels. For purposes of this section, "shallow draft navigation channel" shall have the definition set forth in G.S. 143-215.73F(e).

**SECTION 13.7.(b)** Notwithstanding subsection (b) of G.S. 143-215.73F, fifteen million dollars (\$15,000,000) from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund shall be allocated to Dare County (Local Partner) to provide a forgivable loan to a private partner for the purchase of a shallow draft hopper dredge to be used under the direction of the Oregon Inlet Task Force in accordance with the work plan negotiated under subdivision (2) of subsection (e) of this section for maintenance of shallow draft navigation channels located throughout the State. For purposes of this section, Oregon Inlet Task Force refers to the advisory body initially appointed by the Dare County Commission at its January 22, 2013, meeting, as subsequently revised by the Commission. The Local Partner shall delegate by resolution any of its delegable duties under this section to the Task Force. The Task Force shall coordinate the use of the dredge funded by this section to ensure that dredging projects for all shallow draft navigation channels located in waters of the State are completed in an expeditious and timely manner.

**SECTION 13.7.(c)** The selection of a private partner shall be subject only to the requirements set forth in this subsection and shall be exempt from Articles 3 and 8 of Chapter 143 of the General Statutes. By August 1, 2018, the Local Partner shall issue a Request for Proposals (RFP) with required guidelines and eligibility criteria to private entities for the forgivable loan funded by this section. An eligible entity responding to the RFP shall submit to the Local Partner an application within 30 days in the manner and accompanied by such information as the Local Partner may require. The Local Partner shall select a private partner no later than 60 days after the deadline for submission of responses to the RFP.

**SECTION 13.7.(d)** The forgivable loan agreement between the Local Partner and the private entity receiving the loan (the Loan Parties) shall (i) be for a term of 10 years,



renewable for additional 5 year terms at the agreement of the Loan Parties, and (ii) include, at a minimum, the following:

- (1) The dredge for which funding is provided under this section shall be used primarily for maintenance of shallow draft navigation channels located in the State under the direction of the Task Force and based on the work plan as determined in the Memorandum of Agreement described in subdivision (e)(2) of this section.
- (2) To ensure that public funds are used only to carry out public purposes, the private entity shall provide, as service repayment on the forgivable loan, dredging of the State's shallow draft navigation channels at a cost-savings between the usual and customary rate for dredging services of this type (as determined by the Local Partner in consultation with the United States Army Corps of Engineers and the Department of Environmental Quality) and a lower rate specified for the dredging in the loan agreement. The agreement shall account for cost-savings that total fifteen million dollars (\$15,000,000) over the term of the agreement. The Local Partner shall annually forgive that portion of the loan and any interest accrued on the loan based on the provision of reduced cost dredging services.
- (3) At the option of the Loan Parties, the agreement may provide for use of the dredge to undertake supplemental dredging projects within the State at the usual and customary rate charged for such projects if the Local Partner determines that the dredge has capacity to undertake additional work. The Loan Parties shall prioritize supplemental dredging projects for local governments over supplemental dredging projects for private entities. Supplemental dredging projects authorized by this subdivision shall not be credited toward repayment of the forgivable loan under subdivision (2) of this subsection.
- (4) If the private entity does not provide cost-savings on dredging services at the State's shallow draft navigation channels in an amount equal to fifteen million dollars (\$15,000,000) over the term of the Agreement, the owner of the dredge shall repay the Local Partner within 90 days of the termination date of the Agreement in an amount equal to the remaining service repayment obligation plus any interest accrued on the remaining obligation. The Local Partner shall forward the funds repaid under this subdivision to the Office of State Budget and Management to be credited to the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund.

**SECTION 13.7.(e)** The Department of Environmental Quality, the Local Partner, and the private entity shall do all of the following:

- (1) Plan and allocate responsibilities for any permits, authorizations, or certifications necessary for operation of the dredge for the purposes described in this section. The Local Partner and the private entity shall structure ownership and operation of the dredge in a manner that allows work to be conducted to the maximum extent possible under general permits or through amendments to existing individual permits in order to minimize the expense and delay associated with permitting of dredge operations.
- (2) Upon request of the Local Partner, negotiate a Memorandum of Agreement or an amendment to the existing Memorandum of Agreement between the Department and the United States Army Corps of Engineers to incorporate in-kind contributions through the activities of the dredge acquired under this section into existing work plans for maintenance work on shallow draft navigation channels of the State.

**SECTION 13.7.(f)** The Local Partner shall perform all of the administrative functions necessary to implement this section, including implementing the forgivable loan agreement, loan monitoring, establishing service repayment conditions, including necessary documentation for the determination of the cost of dredging services, enforcing the agreement, and all other functions necessary for the execution and enforcement of the agreement.

**SECTION 13.7.(g)** The State shall incur no liability for and nothing in this section is intended to waive any sovereign immunity the State may have at common law for any damages or loss associated with the activities authorized by this section. Furthermore, nothing in this section is intended to waive or abrogate the Local Partner's immunity from civil liability in tort.

**SECTION 13.7.(h)** The Local Partner shall annually report no later than October 1 on dredging activities undertaken during the prior fiscal year to the Department of Environmental Quality, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources. The report shall also include detailed information about any default on the terms of the forgivable loan and resulting recoupment or repayment of the State's investment during the fiscal year. The reporting requirement imposed by this subsection shall expire upon the filing of the report covering the fiscal year in which the term of the forgivable loan agreement ends.

#### **NUTRIENT MANAGEMENT REGULATORY FRAMEWORK REVISIONS**

**SECTION 13.8.(a)** Subdivisions (1) and (2) of Section 14.13(c) of S.L. 2016-94 read as rewritten:

- "(1) With respect to Jordan Lake, the final results of its study and recommendations for further action (including any statutory or regulatory changes necessary to implement the recommendations) no later than December 31, ~~2018~~, 2019, with interim updates no later than December 31, 2016, ~~and December 31, 2017~~, and December 31, 2018.
- (2) With respect to Falls Lake, the final results of its study and recommendations for further action (including any statutory or regulatory changes necessary to implement the recommendations) no later than December 31, ~~2021~~, 2023, with interim updates no later than December 31, 2019, and December 31, ~~2020~~, 2021."

**SECTION 13.8.(b)** Section 14.13(d) of S.L. 2016-94 reads as rewritten:

**"SECTION 14.13.(d)** As part of the periodic review and readoption of rules required by G.S. 150B-21.3A, the Environmental Management Commission shall, based on the study required by subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations as defined in this section, review the following Nutrient Strategies:

- (1) The Falls Water Supply Nutrient Strategy, 15A NCAC 2B .0275 through .0282 and .0315.
- (2) The Jordan Lake Water Supply Nutrient Strategy, 15A NCAC 2B .0263 through .0273 and .0311.
- (3) Any changes to these regulations imposed by acts of the General Assembly.

The schedule set forth in this subsection shall modify the review and readoption schedule set by the Rules Review Commission under G.S. 150B-21.3A to the extent the schedules conflict. No later than December 31, 2016, the Department of Environmental Quality shall report to the Environmental Review Commission a list of any other rules and any acts of the General Assembly changing the rules identified in this subsection, and the Environmental Management Commission's review shall include the rules identified in this section and in that report. As part of its rule review process, the Environmental Management Commission shall (i) hold public hearings in the upstream and downstream portions of the Falls Lake and Jordan Lake river basins and subbasins and (ii) no later than December 31, 2016, convene a stakeholder working group

that represents all classes of users and all geographic parts of the impacted river basins and subbasins and that will provide input to the Environmental Management Commission regarding the revision to the Nutrient Strategies. The Environmental Management Commission shall ~~issue recommendations for revisions of the Nutrient Strategies based on its review and begin rule readoption required by G.S. 150B-21.3A no later than March 15, 2019.~~ begin rule readoption for the Jordan Lake Water Supply Nutrient Strategy on the earlier of the following: (i) upon receipt of the completed study and final recommendations prepared in response to subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations for nutrient management in Jordan Lake or (ii) December 31, 2020. The Environmental Management Commission shall begin rule readoption for the Falls Water Supply Nutrient Strategy on the earlier of the following: (i) upon receipt of the completed study and final recommendations prepared in response to subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations for nutrient management in Falls Lake or (ii) December 31, 2024. For purposes of the G.S. 150B-21.3A readoption process, the Nutrient Strategies shall be considered "necessary with substantive public interest."

**SECTION 13.8.(c)** Section 14.13(h) of S.L. 2016-94 reads as rewritten:

**"SECTION 14.13.(h)** The rules described below shall not take effect and are subject to the review and readoption required by subsection (d) of this section:

- (1) With respect to the Jordan Lake rules, as defined by subdivisions (2) and (3) of subsection (d) of this section, any rules with effective dates ~~between the effective date of this act and October 15, 2019.~~ after July 1, 2016. Rules delayed under this subdivision will have the effective date specified in the rules as readopted under subsection (d) of this section.
- (2) With respect to the Falls Lake rules, as defined by subdivisions (1) and (3) of subsection (d) of this section, any rules with effective dates between the effective date of this act and October 15, ~~2022.~~ 2022, provided that provisions of the Falls Lake rules which establish Stage I reduction actions and goals shall remain in effect until the Falls Lake rules, as modified under subsection (d) of this section, become effective. The due dates for reduction actions and goals set to be completed by December 31, 2020, and the reduction actions and goals identified as Stage II in the Falls Lake rules are delayed until the Falls Lake rules, as modified under subsection (d) of this section, become effective.

**SECTION 13.8.(d)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by Section 10.4 of S.L. 2017-57, the North Carolina Policy Collaboratory is authorized to use for the purposes set forth in this subsection no more than one million dollars (\$1,000,000) for the 2018-2019 fiscal year of the funds appropriated for the 2016-2017 fiscal year to the Office of State Budget and Management, Special Appropriations, and allocated to the Board of Trustees of the University of North Carolina at Chapel Hill for use as matching funds by the Collaboratory. Notwithstanding Section 27.5 of S.L. 2016-94, as amended by Section 10.4 of S.L. 2017-57, no match is required for funds reallocated by this subsection.

The Collaboratory shall use these funds to create an updated quantitative model of Jordan Lake and the Haw River subbasin of the Cape Fear River based on the nutrient management study funded by Section 14.13(c) of S.L. 2016-94. The funds may also be utilized for personnel costs, data acquisition, and software licensing related to the model update project funded by this subsection, but the University of North Carolina at Chapel Hill shall not charge for overhead costs against the funds reallocated by this subsection. Funds reallocated by this subsection shall not revert but shall continue to be available to the Collaboratory for the purposes described in this subsection.

**SECTION 13.8.(e)** In the report required by Section 14.13(c) of S.L. 2016-94, as amended by subsection (a) of this section, the Collaboratory shall present the results of the model

authorized by subsection (d) of this section, along with (i) recommendations for revisions or additions to the Jordan Lake Water Supply Nutrient Strategy and (ii) identification and analysis of issues and areas identified by its study and model where no scientific consensus exists or where data is unavailable or incomplete.

#### **DEQ GRANT-IN-AID**

**SECTION 13.9.(a)** Of the funds appropriated in this act to the Department of Environmental Quality, Division of Water Resources, the sum of five million dollars (\$5,000,000) shall be used to provide a grant-in-aid to Resource Institute, Inc., for the purpose of working with coastal local governments and engineering firms to explore opportunities for the development and implementation of emerging techniques that can extend the useful life of beach nourishment projects.

**SECTION 13.9.(b)** On or before October 1, 2019, Resource Institute, Inc., shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division. The report shall contain at least all of the following:

- (1) A list of participating local governments and engineering firms and other partners in the project.
- (2) A summary of the emerging techniques developed and implemented as a result of the efforts of the collaboration between local governments, engineering firms, and Resource Institute, Inc.
- (3) Documentation of the impact on the resilience of beach nourishment projects and the number of beach nourishment projects assisted.

#### **COASTAL STORM DAMAGE MITIGATION FUND**

**SECTION 13.10.(a)** Funds appropriated by this act for the Coastal Storm Damage Mitigation Fund for the 2018-2019 fiscal year shall be allocated to a locally sponsored project that is (i) derived from a regional management plan and formal interlocal agreement and (ii) authorized under a multidecade, programmatic permit authorization issued to the local sponsor.

**SECTION 13.10.(b)** G.S. 143-215.73M is amended by adding a new subsection to read:

"(e) Report. – The Department shall report annually no later than October 1 regarding projects funded under this section to the Fiscal Research Division and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources. The report shall include project type, project location, brief project description, entity receiving the funding, and amount of funding provided."

#### **VOLKSWAGEN SETTLEMENT FUNDS**

**SECTION 13.11.(a)** Section 13.2 of S.L. 2017-57 reads as rewritten:

**"SECTION 13.2.(a)** In developing the "Beneficiary Mitigation Plan" (Plan) as mandated in the procedures for distribution of the State's share of the environmental mitigation trust established in the consent decree resolving the case *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Civil Case No. 3:15-md-02672 in the United States District Court for the Northern District of ~~California~~, the agency California (Trust), the Department of Environmental Quality (DEQ) or any other agency, department, office, or division designated by the Governor as the lead agency under the procedures set forth in the trust agreement shall consult with the Department of Transportation, the Department of Commerce, and other interested State agencies in the formulation of the Plan.

**"SECTION 13.2.(b)** ~~As set forth in G.S. 114-2.4A(f), no~~ No funds may be expended under the Plan until ~~the lead agency DEQ, or any other agency, department, office, or division designated by the Governor as the lead agency,~~ has submitted the Plan to the Joint Legislative

Commission on Governmental Operations, the chairs of the House Appropriations Committee, the chairs of the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division and the General Assembly has appropriated the funds. ~~The lead agency designated by the Governor shall revise and resubmit the Plan to the trustee following the procedures set forth in the trust agreement to be consistent with the appropriation.~~ DEQ, or any other agency, department, office, or division designated by the Governor as the lead agency, is prohibited from directing payments of funds from the Trust to any third party unless the funds received from the Trust are deposited in the State Treasury and appropriated by an act of the General Assembly. Upon receipt of funds from the Trust in accordance with the Plan and funding requests submitted to the Trustee by DEQ, and the appropriation of the funds by an act of the General Assembly granting the Department legal authority to direct payment of funds, the Department may direct those funds in the manner approved by the Trustee consistent with the appropriation, the Plan, and the funding request.

**SECTION 13.11.(b)** The Volkswagen Litigation Environmental Mitigation Fund is established as a special fund in the State Treasury. The purpose of the Volkswagen Litigation Environmental Mitigation Fund is to receive funds received by the State as a beneficiary of the environmental mitigation trust fund established in the consent decree resolving the case *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Civil Case No. 3:15-md-02672 in the United States District Court for the Northern District of California (Trust).

**SECTION 13.11.(c)** The State Controller shall reserve to the Volkswagen Litigation Environmental Mitigation Fund funds received from the Trust. Funds reserved in the Volkswagen Litigation Environmental Mitigation Fund do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

## **SUBPART XIII-A. WILDLIFE RESOURCES COMMISSION**

### **OUTDOOR HERITAGE COUNCIL REVISIONS**

**SECTION 13A.1.(a)** G.S. 143B-344.62 reads as rewritten:  
**"§ 143B-344.62. Outdoor heritage advisory council.**

...

(c) The terms of the initial members of the Council shall commence October 1, 2015. Of the Governor's initial appointments, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the President Pro Tempore of the Senate, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the Speaker of the House of Representatives, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. The members appointed by the Commissioner of Agriculture and the chair of the Wildlife Resources Commission shall each serve an initial term of four years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. ~~No member shall serve more than two successive terms.~~

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(d) The initial chair of the Council shall be designated by the Governor from the Council members. ~~The initial chair shall hold this office for not more than one year.~~ Subsequent chairs shall be elected by the Council for terms of two years.

(e) The Council shall meet quarterly and at other times at the call of the chair. A majority of members of the Council shall constitute a quorum.

(f) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable. The reimbursements authorized by this subsection may be provided from the North Carolina Outdoor Heritage Trust Fund for Youth Outdoor Heritage Promotion.

(g) The Executive Director of the Wildlife Resources Commission shall provide clerical and other assistance as ~~needed~~, needed, including, but not limited to, office space, transportation support, and support for equipment and information technology needs of the Council.

(h) The Council shall be exempt from Article 3 of Chapter 143 of the General Statutes but may use the services of the Department of Administration in procuring goods and services for the Council."

**SECTION 13A.1.(b)** Part 36 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-344.64. Outdoor Heritage Advisory Council – report.**

On or before December 1, 2019, and at least annually thereafter, the Council shall submit a report to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division regarding its activities, initiatives, partnerships, and use of donated and appropriated funds."

**SECTION 13A.1.(c)** The Wildlife Resources Commission shall revise its plan for implementation of the North Carolina Outdoor Heritage Trust Fund for Youth Outdoor Heritage Promotion to provide that check-off donations by persons paying for transactions processed through the Commission, including, but not limited to, hunting and fishing licenses, or paying outdoor access fees issued by other organizations may include an option for a donation of any amount.

## **PART XIV. DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

### **CLEAN WATER MANAGEMENT TRUST FUND**

**SECTION 14.1.** From the funds appropriated in this act to the Department of Natural and Cultural Resources for the Clean Water Management Trust Fund for the 2018-2019 fiscal year, the Department shall make the following allocations:

- (1) Up to five hundred thousand dollars (\$500,000) to the Southwestern North Carolina Resource Conservation & Development Council for stream restoration and the implementation of best management practices on agricultural activities to reduce pollutant loading in a portion of the watershed of Jonathans Creek in Haywood County.
- (2) Up to one million dollars (\$1,000,000) to Appalachian State University to reduce sediment loading in Payne Branch impacting the University's water supply.

## **PART XV. DEPARTMENT OF COMMERCE**

### **ECONOMIC DEVELOPMENT MODIFICATIONS**

### **MAJOR MANUFACTURING AND TECHNOLOGY HEADQUARTERS INCENTIVES AND JDIG CHANGES**

**SECTION 15.1.(a)** G.S. 143B-437.51 reads as rewritten:

**"§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

- ...
- (5) Eligible position. – A position created by a business and filled by a new full-time employee in this State during the base period. For purposes of

high-yield projects and transformative projects, (i) positions created in the year the business achieves the minimum requirements set forth in this section may be considered eligible positions even if created outside the base period and (ii) in a year other than during the base period, an eligible position must be filled for at least 30 weeks of the applicable grant year.

(5a) Expansion position. – A position created by a business and filled by a new full-time employee in this State for a transformative project in any year in which the business receives the enhanced percentage of the withholdings of eligible positions pursuant to G.S. 143B-437.56(a1).

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, who is not a worker with an H-1B visa or with H-1B status, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

...

(9a) Transformative project. – A project for which the agreement requires that a business invest at least ~~four~~one billion dollars ~~(\$4,000,000,000)~~(\$1,000,000,000) in private funds and create at least ~~5,000~~3,000 eligible positions.

(10) Withholdings. – The amount withheld by a business from the wages of employees in eligible positions and, if applicable, expansion positions under Article 4A of Chapter 105 of the General Statutes."

**SECTION 15.1.(b)** G.S. 143B-437.52(c) reads as rewritten:

"(c) Award Limitations. – The following limitations apply to grants awarded under this Part:

(1) Maximum liability. – 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, is ~~twenty million dollars (\$20,000,000)~~thirty-five million dollars (\$35,000,000) for a year in which no grants are awarded for a high-yield project and is ~~thirty-five million dollars (\$35,000,000)~~forty-five million dollars (\$45,000,000) for a year in which a grant is awarded for a high-yield project. 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 the applicable amount. The Department shall make every effort to ensure that the average percentage of withholdings of eligible positions for grants awarded under this Part does not exceed the average of the range provided in G.S. 143B-437.56(a). The limitation in this subdivision does not apply to transformative projects.

(2) Semiannual commitment limitations. – Of the amount authorized in subdivision (1) of this subsection, no more than fifty percent (50%), excluding roll-over amounts, may be awarded in any single calendar semiannual period. A roll-over amount is any amount from a previous semiannual period in the same calendar year that was not awarded as a grant. The limitation of this subdivision does not apply to a grant awarded to a high-yield or transformative project.

(3) Geographic limitations. – Of the amount authorized in subdivision (1) of this subsection, no more than twenty million dollars (\$20,000,000) may be used

for projects located in counties with total employment of 500,000 or more and five million dollars (\$5,000,000) is reserved for projects located in counties with an annual ranking pursuant to G.S. 143B-437.08 in the highest fifty percent (50%) of the remaining counties. In measuring total employment, the Secretary shall use the latest available data published by the Quarterly Census of Employment and Wages program. The limitations of this subdivision do not apply to a grant awarded to a high-yield or transformative project."

**SECTION 15.1.(c)** G.S. 143B-437.55(b) reads as rewritten:

"(b) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of (i) ten thousand dollars ~~(\$10,000)~~ (\$10,000) if the project is either a high-yield project or transformative project, regardless of location in the State, or is located in a development tier three area, (ii) five thousand dollars ~~(\$5,000)~~ (\$5,000) if the project is located in a development tier two area, or (iii) one thousand dollars ~~(\$1,000)~~ (\$1,000) if the project is located in a development tier one area. The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited. Within 30 days of receipt of an application under this section but prior to any award being made, the Department of Commerce shall notify each governing body of an area where a submitted application proposes locating a project of the information listed in this subsection, provided that the governing body agrees, in writing, to any confidentiality requirements imposed by the Department under G.S. 132-6(d). The information required by this subsection includes all of the following:

...."

**SECTION 15.1.(d)** G.S. 143B-437.56 reads as rewritten:

**"§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.**

...

(a1) Notwithstanding the percentage specified by subsection (a) of this section, ~~if the amount of the grant awarded for a high-yield or transformative project shall be enhanced as provided in this subsection if the applicable conditions of this subsection are met. A business receiving an enhanced percentage of withholdings under this subsection that fails to maintain the minimum job creation requirement or meet all terms of the agreement will be disqualified from receiving the enhanced percentage and will have the applicable percentage set forth in subsection (a) of this section applied in the year in which the failure occurs and all remaining years of the grant term.~~

(1) ~~If the project is a high-yield or transformative project, the business has met the investment and job creation requirements, and, for three consecutive years, the business has met all terms of the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible positions for each consecutive year the business maintains the minimum job creation requirement and meets all terms of the agreement. A business receiving an enhanced percentage of the withholdings of eligible positions under this subsection that fails to maintain the minimum job creation requirement or meet all terms of the agreement will be disqualified from receiving the enhanced percentage and will have the applicable percentage set forth in subsection (a) of this section applied in the year in which the failure occurs and all remaining years of the grant term.~~ Ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.



(2) If the project is a transformative project and the business has met the investment and job creation requirements and all terms of the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible and expansion positions for each year the business maintains the minimum job creation requirement and meets all terms of the agreement. Ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61.

(b) The term of the grant shall not exceed the duration listed in this subsection. The first grant payment must be made within six years after the date on which the grant was awarded. The For projects other than transformative projects, the number of years in the base period for which grant payments may be made shall not exceed five years. For transformative projects, the number of years in the base period for which grant payments may be made shall not exceed 10 years. Maximum durations are as follows:

...  
(1a) For transformative projects in which the business receives the enhanced percentage pursuant to subsection (a1) of this section, 25-the base period plus 30 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage in one of the first 12 years, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a business is disqualified from receiving the enhanced percentage after the first 12 years, the term of the grant ends in the year the disqualification occurs.

...  
(c) The-Except as provided in subsection (a1) of this section, the grant may be based only on eligible positions created during the base period.

...  
(f) The-For projects other than transformative projects, the amount of a grant associated with any specific eligible position, including any amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six thousand five hundred dollars (\$6,500) in any year."

**SECTION 15.1.(e)** G.S. 143B-437.57(a) reads as rewritten:

"(a) Terms. – Each community economic development agreement shall include at least the following:

(1) A detailed description of the proposed project that will result in job creation and the number of new employees to be hired during the base period.

...  
(3) The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.

...  
(6) A method for the business to report annually to the Committee the number of eligible positions and, if applicable, expansion positions for which the grant is to be made.

...  
(11) A provision that requires the business to maintain employment levels in this State at the greater of the level of employment on the date of the application or the level of employment on the date of the award.

...  
(14) A provision setting out any allowed variation in the terms of the agreement that will not subject the business to grant reduction, amendment, or termination of the agreement under G.S. 143B-437.59.

(14a) If applicable, a provision for transformative projects setting out any allowed variation in the terms of the agreement that will result in a grant increase to the business for expansion positions. Grant increases for expansion positions may not include workers employed in North Carolina who fill expansion positions with the business as a result of a merger or acquisition occurring during the term of the agreement.

...

(23) ~~A~~ For projects other than transformative projects, a provision stating that the amount of a grant associated with any specific eligible position, including any amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six thousand five hundred dollars (\$6,500) in any year.

...."

**SECTION 15.1.(f)** G.S. 143B-437.58(a) reads as rewritten:

"(a) No later than March 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the ~~Committee~~ Department of Revenue an annual payroll report showing withholdings as a condition of its continuation in the grant program and identifying eligible positions that have been created during the base period that remain filled at the end of each year of the grant. Annual reports submitted to the ~~Committee~~ Department of Revenue shall include social security numbers of individual employees identified in the reports. Upon request of the Committee, the business shall also submit a copy of its State and federal tax ~~returns, returns~~ to the Department of Revenue. The Committee may inspect the information submitted to the Department of Revenue pursuant to this section at the Department of Revenue for purposes of award verification and calculation. Payroll and tax information, including social security numbers of individual employees and State and federal tax returns, submitted under this subsection is tax information subject to G.S. 105-259. Aggregated payroll or withholding tax information submitted or derived under this subsection is not tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the ~~Committee~~ Department of Revenue a fee of the greater of two thousand five hundred dollars (\$2,500) or three one-hundredths of one percent (.03%) of an amount equal to the grant less the maximum amount to be transferred pursuant to G.S. 143B-437.61. The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

**SECTION 15.1.(g)** Subsections (a), (b), and (d) of this section are effective when they become law and apply to grants awarded on or after that date. Subsection (c) of this section is effective when it becomes law and applies to applications received on or after that date. Subsection (e) of this section is effective when it becomes law and applies to agreements executed on or after that date. The remainder of this section is effective when it becomes law.

## **ELIMINATE ADJUSTMENT FACTORS TO DEVELOPMENT TIER AREAS**

**SECTION 15.2.(a)** G.S. 143B-437.08 reads as rewritten:

**"§ 143B-437.08. Development tier designation.**

...

(c) Annual Ranking. – After computing the development factor as provided in this ~~section~~ and making the adjustments required in this section, the Secretary of Commerce shall rank all the counties within the State according to their development factor from highest to lowest. The Secretary shall then identify all the areas of the State by development tier and publish this information. A development tier designation is effective only for the calendar year following the designation.

...

(e) ~~Adjustment for Certain Small Counties.—Regardless of the actual development factor, any county that has a population of less than 12,000 shall automatically be ranked one of the 40 highest counties, any county that has a population of less than 50,000 shall automatically be ranked one of the 80 highest counties, and any county that has a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census shall automatically be ranked one of the 40 highest counties.~~

(f) ~~Adjustment for Development Tier One Areas.—Regardless of the actual development factor, a county designated as a development tier one area shall automatically be ranked one of the 40 highest counties until it has been a development tier one area for at least two consecutive years.~~

...."

**SECTION 15.2.(b)** G.S. 143B-437.01(a1) reads as rewritten:

"(a1) Definitions. – The following definitions apply in this section:

...

- (4) Economically distressed county. – A county that is defined as a development tier one or two area under ~~G.S. 143B-437.08 after the adjustments of that section are applied.~~G.S. 143B-437.08.

...."

**SECTION 15.2.(c)** G.S. 143B-472.127 reads as rewritten:

**"§ 143B-472.127. Programs administered.**

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units. The Rural Infrastructure Authority shall, in awarding economic development grants or loans under the provisions of this subsection, give priority to local government units of the counties that have one of the 80 highest rankings under ~~G.S. 143B-437.08 after the adjustment of that section.~~G.S. 143B-437.08. The funds available for grants or loans under this program may be used as follows:

...."

**SECTION 15.2.(d)** G.S. 143B-472.128 reads as rewritten:

**"§ 143B-472.128. Rural Infrastructure Authority created; powers.**

...

- (j) Powers and Duties. – The Authority has the following powers and duties:

...

- (2) To award grants or loans as provided in G.S. 143B-472.127. In awarding grants or loans under G.S. 143B-472.127(a), priority shall be given to local government units of the counties that have one of the 80 highest rankings under ~~G.S. 143B-437.08 after the adjustment of that section.~~G.S. 143B-437.08.

...."

**SECTION 15.2.(e)** G.S. 143B-437.04 reads as rewritten:

**"§ 143B-437.04. Community development block grants.**

(a) The Department of Commerce shall adopt guidelines for the awarding of Community Development Block Grants to ensure that:

- (1) No local match is required for grants awarded for projects located in counties that have one of the 25 highest rankings under ~~G.S. 143B-437.08 or counties that have a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census.~~G.S. 143B-437.08.

...."

**SECTION 15.2.(f)** G.S. 143B-437.07 reads as rewritten:

**"§ 143B-437.07. Economic development grant reporting.**

(a) Report. – The Department of Commerce ~~must~~shall publish on or before 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 relevant time period. The relevant time period ends June 30 preceding the publication date of this subsection and begins (i) for incentives not awarded under Part 2G of this Article with the 2007 calendar year and (ii) for incentives awarded under Part 2G of this Article with the 2002 calendar year. The information in the report ~~must~~shall include all of the following:

...

- (3) The name, mailing address, telephone number, and Web site of the business recipient, or recipients if a joint venture, and the physical location of the site receiving the incentive. If the physical location of the site is undecided, then the name of the county in which the site will be located. The information regarding the physical location ~~must~~shall indicate whether the physical location is a new or expanded facility.

...

(b) Online Posting/Written Submission. – The Department of Commerce ~~must~~shall post on its Internet Web site a summary of the report compiled in subsection (a) of this section. The summary report ~~must~~shall 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~~shall 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 from the following programs: Job Development Investment Grant Program; the Job Maintenance and Capital Development Fund; One North Carolina Fund; and 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~~shall report annually on these statutory economic development incentives, as required under G.S. 105-256.

(d) County Economic Growth Assessments and Assistance. – Beginning in 2018 and every five years thereafter, the Department of Commerce shall determine the statewide value for each of the development factors listed in G.S. 143B-437.08. The Department shall annually (i) compare the latest determined statewide values to each county's development factors, (ii) report to each county any areas of performance below that of the statewide value, and (iii) offer assistance to each county, upon request, regarding how to improve performance relative to the economic indicator identified. The Department shall collate the reports and submit them on or before April 1 of each year to the Joint Legislative Economic Development and Global Engagement Oversight Committee with a comparison of each county's performance for the previous year. The collated report shall also include a list of each county requesting assistance and the Department's response to the request."

**SECTION 15.2.(g)** Subsections (a) through (e) of this section are effective when they become law and apply to economic development awards made and related determinations occurring on or after January 1, 2019. The remainder of this section is effective when it becomes law.

**REPEAL LEGACY TRANSFORMATIVE PROJECT PROVISIONS**

**SECTION 15.3.(a)** Subsections (d) and (e) of Section 15.15A of S.L. 2017-57 are repealed.

**SECTION 15.3.(b)** This section is effective when it becomes law.

#### **MODIFY FILM GRANT FUND**

**SECTION 15.4.(a)** G.S. 143B-437.02A reads as rewritten:

**"§ 143B-437.02A. The Film and Entertainment Grant Fund.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Film and Entertainment Grant Fund to provide funds to encourage the production of motion pictures, television shows, movies for television, productions intended for on-line distribution, and commercials and to develop the filmmaking industry within the State. The Department of Commerce shall adopt guidelines providing for the administration of the program. Those guidelines may provide for the Secretary to award the grant proceeds over a period of time, not to exceed three years. Those guidelines shall include the following provisions, which shall apply to each grant from the account:

- (1) The funds are reserved for a production on which the production company has qualifying expenses of at least the following:
  - a. For a feature-length film, ~~five million dollars (\$5,000,000) film:~~
    1. Three million dollars (\$3,000,000), if for theatrical viewing.
    2. One million dollars (\$1,000,000), if a movie for television.
  - b. For a television series, one million dollars (\$1,000,000) per episode.
  - c. For a commercial for theatrical or television viewing or on-line distribution, two hundred fifty thousand dollars (\$250,000).
- (2) The funds are not used to provide a grant in excess of any of the following:
  - a. An amount more than twenty-five percent (25%) of the qualifying expenses for the production.
  - b. An amount more than ~~five—seven~~ million dollars ~~(\$5,000,000)(\$7,000,000)~~ for a feature-length film, more than ~~nine~~ twelve million dollars ~~(\$9,000,000)(\$12,000,000)~~ for a single season of a television series, or two hundred fifty thousand dollars (\$250,000) for a commercial for theatrical or television viewing or on-line distribution.

...."

**SECTION 15.4.(b)** This section is effective when it becomes law and applies to grants for productions awarded on or after that date.

#### **TRANSFER CERTAIN COMMERCE FUNCTIONS TO EDPNC**

**SECTION 15.5.(a)** The Department of Commerce shall enter into negotiations with the nonprofit corporation with which it contracts pursuant to G.S. 143B-431.01 to provide international investment recruiting resources to market and advertise the State as a business destination.

**SECTION 15.5.(b)** G.S. 143B-431.01(a) reads as rewritten:

**"§ 143B-431.01. Department of Commerce – contracting of functions.**

(a) Purpose. – The purpose of this section is to establish a framework whereby the Department of Commerce may contract with a North Carolina nonprofit corporation to assist the Department in fostering and retaining jobs and business development, international investment recruiting, international trade, marketing, and travel and tourism. It is the intent of the General Assembly that the Department develop a plan to work cooperatively with a nonprofit corporation for these purposes while safeguarding programmatic transparency and accountability as well as the fiscal integrity of economic development programs of the State."

**SECTION 15.5.(c)** G.S. 143B-431.01(e) is amended by adding a new subdivision to read:

"(17) A provision requiring the nonprofit to provide international investment recruiting resources to market and advertise the State as a business destination."

**SECTION 15.5.(d)** G.S. 143B-432.2 is repealed.

**SECTION 15.5.(e)** G.S. 126-5(c1)(30a) is repealed.

**SECTION 15.5.(f)** Of the nonrecurring funds appropriated for the International Recruiting Coordination Office (IRCO) in the 2016-2017 fiscal year, at least six hundred twenty-five thousand dollars (\$625,000) shall be transferred to the nonprofit corporation described in G.S. 143B-431.01(b), of which at least five hundred seventy-five thousand dollars (\$575,000) shall be used by the nonprofit corporation for international investment recruiting and at least fifty thousand dollars (\$50,000) shall be used by the nonprofit corporation for outdoor recreation recruitment. Any funds appropriated for the IRCO that remain after the transfer described in this subsection shall revert to the General Fund at the end of the 2017-2018 fiscal year.

**SECTION 15.5.(g)** Subsection (c) of this section applies to contracts renewed or entered into on or after the effective date of this act. Subsection (f) of this section becomes effective June 30, 2018.

#### **UTILITY ACCOUNT TRANSFERS**

**SECTION 15.6.(a)** Notwithstanding G.S. 143B-437.01, the sum of five million dollars (\$5,000,000) transferred in this act from the Industrial Development Fund Utility Account to the Coastal Storm Damage Mitigation Fund shall be used for the purposes provided in G.S. 143-215.73M.

**SECTION 15.6.(b)** Notwithstanding G.S. 143B-437.01, the Department of Commerce shall use two million dollars (\$2,000,000) from the Industrial Development Fund Utility Account to provide a grant-in-aid to support the development of the lift fan repair and maintenance facility at the Cherry Point Marine Corps Air Station.

#### **CERTIFIED RETIREMENT COMMUNITY CHANGES**

**SECTION 15.7.(a)** G.S. 143B-437.100(d) reads as rewritten:

"(d) Certification. – The Department shall establish criteria for qualifying as a North Carolina certified retirement community. To be eligible to obtain certification as a North Carolina certified retirement community, the community shall meet each of the following requirements:

(1) Be located within ~~30~~50 miles of a hospital and of emergency medical services.

...

(4) Remit an ~~application~~annual fee to the ~~Department~~Department, or the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431.01, equal to the ~~greater-lesser of ten-three thousand dollars (\$10,000)(\$3,000)~~ or the product of fifty cents (50¢) multiplied by the population of the community, as determined by the most recent census.

...."

**SECTION 15.7.(b)** G.S. 143B-437.101(b) reads as rewritten:

"(b) Expiration. – A community's certification under this section expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the Department, an applicant community shall submit the following:

- (1) A completed new application in accordance with the requirements of this Part.
- (2) Data demonstrating the success or failure of the community's efforts to market and promote itself as a desirable location for retirees and potential retirees.
- (3) The annual fee required by G.S. 143B-437.100(d)(4)."

**SECTION 15.7.(c)** This section becomes effective July 1, 2018, and applies to applications and recertifications submitted on or after that date.

**DOWNTOWN REVITALIZATION AND ECONOMIC DEVELOPMENT GRANTS**

**SECTION 15.8.(a)** Of the funds appropriated in this act to the Rural Economic Development Division of the Department of Commerce, the Rural Economic Development Division shall provide grants-in-aid for downtown revitalization projects as follows:

|                            |           |
|----------------------------|-----------|
| City of Asheboro           | \$250,000 |
| City of Kings Mountain     | \$100,000 |
| City of Reidsville         | \$50,000  |
| City of Shelby             | \$100,000 |
| Town of Angier             | \$25,000  |
| Town of Bailey             | \$100,000 |
| Town of Cedar Point        | \$700,000 |
| Town of Chadbourn          | \$55,000  |
| Town of Connelly Springs   | \$37,000  |
| Town of Drexel             | \$41,500  |
| Town of Eureka             | \$25,000  |
| Town of Faith              | \$49,500  |
| Town of Four Oaks          | \$25,000  |
| Town of Fremont            | \$125,000 |
| Town of Glen Alpine        | \$34,700  |
| Town of High Shoals        | \$50,000  |
| Town of Hildebran          | \$44,000  |
| Town of Hookerton          | \$25,000  |
| Town of Indian Trail       | \$50,000  |
| Town of Jamestown          | \$50,000  |
| Town of Lansing            | \$25,000  |
| Town of Liberty            | \$70,000  |
| Town of Long View          | \$16,600  |
| Town of Louisburg          | \$150,000 |
| Town of Oak Ridge          | \$50,000  |
| Town of Pikeville          | \$50,000  |
| Town of Pilot Mountain     | \$50,000  |
| Town of Pleasant Garden    | \$50,000  |
| Town of Plymouth           | \$50,000  |
| Town of Rhodhiss           | \$16,400  |
| Town of Rutherford College | \$30,900  |
| Town of Seagrove           | \$100,000 |
| Town of Sedalia            | \$25,000  |
| Town of Seven Springs      | \$25,000  |
| Town of Smithfield         | \$25,000  |
| Town of Snow Hill          | \$25,000  |
| Town of St. Pauls          | \$28,500  |
| Town of Stallings          | \$50,000  |
| Town of Summerfield        | \$50,000  |
| Town of Tabor City         | \$35,000  |
| Town of Tobaccoville       | \$50,000  |
| Town of Walstonburg        | \$25,000  |
| Town of Wendell            | \$50,000  |

|                        |                    |
|------------------------|--------------------|
| Town of Whitsett       | \$25,000           |
| Town of Wilson's Mills | \$25,000           |
| Town of Zebulon        | \$50,000           |
| <b>Total</b>           | <b>\$3,084,100</b> |

**SECTION 15.8.(b)** Of the funds appropriated in this act to the Rural Economic Development Division of the Department of Commerce, the Rural Economic Development Division shall provide grants-in-aid for economic development projects as follows:

|                      |                  |
|----------------------|------------------|
| Town of Kernersville | \$75,000         |
| Village of Clemmons  | \$75,000         |
| Graham County        | \$25,000         |
| Pitt County          | \$250,000        |
| <b>Total</b>         | <b>\$425,000</b> |

#### **SUBPART XV-A. COMMERCE – STATE AID [RESERVED]**

#### **PART XVI. DEPARTMENT OF PUBLIC SAFETY**

#### **GRANTS FOR LAW ENFORCEMENT CAMERAS/STATEWIDE SEX OFFENDER REGISTRY/SAMARCAND TRAINING SIMULATOR UPGRADES**

**SECTION 16.1.(a)** Section 16.7 of S.L. 2017-57 reads as rewritten:

**"SECTION 16.7.(a)** Funds appropriated in S.L. 2015-241 and S.L. 2017-57 to the Department of Public Safety for body-worn camera grants shall not revert but shall be used ~~to~~ as follows:

- (1) Seventy-five thousand dollars (\$75,000) to Samarcand Training Academy for upgrades to its training simulator to support school safety.
- (2) Five hundred thousand dollars (\$500,000) to the North Carolina Sheriffs' Association to be used to provide grants to implement a statewide sex offender database that connects all 100 counties and allows for robust data entry and retrieval at the local level.
- (3) The remaining funds to provide matching grants to local and county law enforcement agencies in counties with a population of less than 75,000 according to the latest federal decennial census to purchase and place into service body-worn or dashboard video cameras, as defined by G.S. 132-1.4A, and for training and related expenses. These grant funds shall be administered by the Governor's Crime Commission, which shall develop guidelines and procedures for the administration and distribution of grants to those agencies. These guidelines and procedures shall include the following requirements and limitations:
  - ~~(1)a.~~ The maximum grant amount shall not exceed one hundred thousand dollars (\$100,000).
  - (2) ~~Recipient law enforcement agencies shall be required to provide one dollar (\$1.00) of local funds for every one dollar (\$1.00) of grant funds received.~~
  - ~~(3)b.~~ Grantees shall be required to have appropriate policies and procedures in place governing the operation of body-worn or dashboard cameras, as defined by G.S. 132-1.4A, and the proper storage of images recorded with those cameras.



**"SECTION 16.7.(b)** The Governor's Crime Commission shall submit a report on the grant funds distributed pursuant to this section during to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety as follows:

- (1) For the 2017-2018 fiscal year to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety year, no later than August 1, 2018.
- (2) For the 2018-2019 fiscal year, no later than August 1, 2019.

**"SECTION 16.7.(b1)** No later than July 1, 2019, the North Carolina Sheriffs' Association shall submit to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety a report on the use of the grant funds distributed pursuant to subdivision (2) of subsection (a) of this section.

**"SECTION 16.7.(c)** Definition. – The term "body-worn camera" means an operational video camera, including a microphone or other mechanism for allowing audio capture, affixed to a law enforcement officer's uniform and positioned in a way that allows the video camera to capture interactions the law enforcement officer has with the public."

**SECTION 16.1.(b)** This section becomes effective June 30, 2018, and applies to funds not obligated on that date.

## **GOVERNOR'S CRIME COMMISSION GRANT REPORTS**

**SECTION 16.2.(a)** Part 6 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

### **"§ 143B-1105. Grants reporting.**

(a) State Grants. – Beginning August 1, 2018, and annually thereafter, the Governor's Crime Commission (Commission) shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety (Committee) on all grant awards made by the Commission from State funds during the prior fiscal year. The report shall contain all of the following information:

- (1) The name of the unit of local government receiving the grant.
- (2) The purpose of the grant.
- (3) The economic tier of the county where the unit of local government receiving the grant is located.
- (4) Any recommended changes to State-funded grant programs to benefit local law enforcement agencies.

(b) Federal Grants. – Beginning December 1, 2018, and annually thereafter, the Commission shall report to the chairs of the Committee on Justice and Public Safety on all grant awards made by the Commission from federal funds during the prior federal fiscal year. The report shall contain all of the following information:

- (1) A list of all federal grants administered in the prior federal fiscal year.
- (2) The names of all entities receiving federal grants.
- (3) The amount, the purpose, and the terms of each grant.
- (4) Whether there are any terms, conditions, or other contingencies that may arise as a result of a freeze on federal funds or result in compliance issues.
- (5) A list of any penalties that have been assessed. The list shall include the entity against which the penalty was assessed, the reason for the assessment, and the source of funds used to pay any penalty.

(c) Reporting Notice of Penalty. – The Commission shall notify the chairs of the Committee of the receipt of any notice of assessment or notice of penalty. The Commission must notify the chairs in writing, within 30 days of the receipt of the notice, and must include a copy of the notice and any subsequent correspondence by the Commission with the agency assessing the penalty."

**SECTION 16.2.(b)** The Governor's Crime Commission may include the reports on grants for body-worn or dashboard video camera required under Section 16.1 of this act in the

State Grants report required under G.S. 143B-1105(a), as enacted in this act. The Commission shall include information from December 1, 2013, to December 1, 2018, in the initial report required under G.S. 143B-1105(b) as enacted in subsection (a) of this section.

## **SAMARCAND TRAINING ACADEMY**

**SECTION 16.3.** G.S. 143-341(8)i.3. reads as rewritten:

### **"§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...  
(8) General Services:

...  
i. To establish and operate a central motor fleet and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...  
3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol, the State Bureau of Investigation, the Samarcand Training Academy, or the constituent institutions of The University of North Carolina which are used primarily for law-enforcement purposes.

...."

## **SUBPART XVI-A. GENERAL PROVISIONS [RESERVED]**

## **SUBPART XVI-B. DIVISION OF LAW ENFORCEMENT**

### **VIPER IN-KIND CONTRIBUTIONS/USER SURVEY/INCREASE OUTREACH**

**SECTION 16B.1.(a)** The Department of Public Safety (Department) shall determine the value of all in-kind contributions made by units of local government, the federal government, and nongovernmental entities to support the North Carolina Voice Interoperability Plan for Emergency Responders (VIPER) system. As used in this subsection, an in-kind contribution includes cash, land, buildings, towers, and equipment for VIPER sites. The Department shall report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety by July 1, 2019.

**SECTION 16B.1.(b)** The Department shall increase outreach to VIPER stakeholders beyond those that participate in the State Interoperability Executive Committee. The outreach may include zone or regional meetings conducted by the State Highway Patrol with local chiefs of police, sheriffs, fire chiefs, and representatives of emergency medical services.

**SECTION 16B.1.(c)** The Department shall conduct an annual survey of local, State, and federal users of VIPER in order to track and measure user satisfaction and feedback over time. Beginning November 1, 2019, and annually thereafter, the Department shall report the survey results to the Joint Legislative Oversight Committee on Justice and Public Safety. This subsection expires July 1, 2025.

### **VIPER BUILD-OUT/SUPPORT**

**SECTION 16B.2.** Notwithstanding G.S. 148-10.4, for fiscal year 2018-2019, the sum of sixteen million five hundred thousand dollars (\$16,500,000) nonrecurring shall be transferred from Budget Code 24550, Fund Code 2325, to Budget Code 14550, Fund Code 1414,

to be used to upgrade and support North Carolina's Voice Interoperability Plan for Emergency Responders (VIPER) and to be allocated as follows:

- (1) Eight million seven hundred thousand dollars (\$8,700,000) for GTR base station hardware upgrades.
- (2) Five million dollars (\$5,000,000) for Service Upgrade Assurance catch-up.
- (3) One million five hundred thousand dollars (\$1,500,000) for long-term contract for Service Upgrade Assurance.
- (4) One million three hundred thousand dollars (\$1,300,000) for MOSCAD security monitoring.

## **ENSURE ENFORCEMENT OF TOBACCO LAWS/PREVENTION OF SALES TO YOUTH**

**SECTION 16B.3.(a)** G.S. 143B-928 reads as rewritten:

**"§ 143B-928. Alcohol Law Enforcement Branch to remain separate and discrete component of the State Bureau of Investigation; retention of ~~funds~~; funds; youth access to tobacco products.**

...  
(d) The Alcohol Law Enforcement branch has jurisdiction and primary responsibility to enforce G.S. 14-313 regarding youth access to tobacco products."

**SECTION 16B.3.(b)** G.S. 18B-500(b) reads as rewritten:

"(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ABC and lottery ~~laws~~; laws and G.S. 14-313 regarding youth access to tobacco products."

**SECTION 16B.3.(c)** This section becomes effective July 1, 2018, and applies to offenses committed on or after that date.

## **SUBPART XVI-C. DIVISION OF ADULT CORRECTION**

### **EXTEND REENTRY COUNCIL CONTRACTS**

**SECTION 16C.1.(a)** Section 16C.11D of S.L. 2017-57 reads as rewritten:

**"SECTION 16C.11D.** For the ~~2017-2018~~2017-2019 fiscal ~~year~~, biennium, the Department of Public Safety may use existing Treatment for Effective Community Supervision funds to continue support for Local Reentry Councils in the following five pilot sites:

- (1) Hoke/Scotland/Robeson Counties – Robeson County Manager's Office.
- (2) Nash/Edgecombe/Wilson Counties – NC Community Action Association.
- (3) Pitt County – Life of NC, Inc., dba STRIVE.
- (4) Buncombe County – Buncombe County Health & Human Services/RHA.
- (5) Mecklenburg County – Mecklenburg Criminal Justice Services, Mecklenburg County Manager's Office."

**SECTION 16C.1.(b)** This section becomes effective June 30, 2018.

### **PRISON REFORM FUNDING AND REPORTING**

**SECTION 16C.2.(a)** Notwithstanding G.S. 148-10.4, for fiscal year 2018-2019, the sum of fifteen million dollars (\$15,000,000) nonrecurring shall be transferred from Budget Code 24550, Fund Code 2325, to Budget Code 14550, Fund Code 1399, for prison facility infrastructure improvements related to safety equipment.

**SECTION 16C.2.(b)** The Department of Public Safety (Department) shall report quarterly beginning November 1, 2018, and continuing quarterly until November 1, 2019, to the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation of the

recommendations contained in the National Institute of Corrections Security Operational Assessment report of November 2017.

The report by the Department shall include all of the following:

- (1) All modifications to Department rules, policies, and procedures related to disciplinary actions against correctional officers and other correctional staff.
- (2) All modifications to Department rules, policies, and procedures related to disciplinary actions against inmates.
- (3) Information regarding improvements in collaboration between the Department and Correction Enterprises.
- (4) The amount, content, quality, and frequency of staff training.
- (5) Modifications to inmate work assignments, including assessments of the appropriateness of particular work assignments based on inmate classification.
- (6) The results of security audits and inspections, listed both by facility and aggregated.
- (7) Facility infrastructure improvements made to emergency communication, location tracking capabilities, and installation of additional cameras.
- (8) Increased availability of staff personal safety equipment and institutional safety equipment.
- (9) Adequacy of staffing of prison facilities and actions taken to increase staffing levels.
- (10) Changes to the hiring and orientation processes and procedures for correctional officers.

#### **SUBPART XVI-D. DIVISION OF JUVENILE JUSTICE**

##### **CONTINUE CRISIS AND ASSESSMENT CENTERS CONTRACTS**

**SECTION 16D.1.** Notwithstanding any other provision of law, of the funds appropriated to the Department of Public Safety for the 2018-2019 fiscal year, the Department shall adjust its budget to achieve a savings of at least seven hundred thousand dollars (\$700,000). The Department shall use the savings realized from the adjustments required under this section to increase the contract with the Methodist Home for Children, Inc., for the continued operation of crisis and assessment centers. The Department shall not use funds that have reverted or are carried forward to achieve the savings required under this section.

#### **SUBPART XVI-E. EMERGENCY MANAGEMENT AND NATIONAL GUARD [RESERVED]**

#### **PART XVII. DEPARTMENT OF JUSTICE**

##### **CRIMINAL JUSTICE FELLOWS PROGRAM**

**SECTION 17.1.(a)** G.S. 17C-1 through G.S. 17C-13 are designated as Article 1 of Chapter 17C of the General Statutes which is entitled "General."

**SECTION 17.1.(b)** Chapter 17C of the General Statutes is amended by adding a new Article to read:

"Article 2.

"North Carolina Criminal Justice Fellows Program.

**"§ 17C-20. Definitions.**

As used in this Article, the following definitions apply:

- (1) Commission. – The North Carolina Criminal Justice Education and Training Standards Commission.

- (2) Committee. – The North Carolina Criminal Justice Fellows Committee.
- (3) Community college. – As defined in G.S. 115D-2(2).
- (4) Division. – The Criminal Justice Standards Division of the North Carolina Department of Justice.
- (5) Eligible county. – A county with a population of less than 75,000 according to the latest federal decennial census.
- (6) Eligible criminal justice professions. – State and local sworn law enforcement officers, State correctional officers, other correctional officers maintained by local governments and juvenile justice agencies, sworn sheriffs and deputy sheriffs, detention officers, and telecommunicators under the direct supervision of a law enforcement agency.
- (7) Program. – The North Carolina Criminal Justice Fellows Program.
- (8) Recipient. – An individual selected by the Committee to receive a forgivable loan under the Program.

**"§ 17C-21. North Carolina Criminal Justice Fellows Committee established; membership.**

(a) Committee Established. – There is established the North Carolina Criminal Justice Fellows Committee. The Committee shall be a Special Committee of the North Carolina Criminal Justice Education and Training Standards Commission, as defined in the Commission's bylaws. The Committee shall determine program and forgivable loan recipient selection criteria, selection procedures, and shall select the recipients to receive forgivable loans under the North Carolina Criminal Justice Fellows Program in accordance with the requirements of this Article.

(b) Membership. – The Committee shall consist of 10 members who shall be appointed as follows:

- (1) The chair of the Commission shall appoint eight members of the Commission to the Committee as follows:
  - a. Three at-large members.
  - b. Two sworn law enforcement officers.
  - c. Two correctional officers.
  - d. The ex officio member representing the President of The North Carolina Community College System.
- (2) The chair of the North Carolina Sheriffs' Education and Training Standards Commission shall appoint two members of the North Carolina Sheriffs' Education and Training Standards Commission to the Committee.

(c) Terms of Office. – Appointments to the Committee shall be for two-year terms, commencing July 1, 2018.

(d) Chair; Meetings. – The chair of the Commission shall call the first meeting of the Committee. The Committee members shall elect a chair and a vice-chair from the membership of the Committee pursuant to the Commission's bylaws to serve one-year terms. The Committee shall meet regularly at times and places deemed necessary by the chair or, in the absence of the chair, by the vice-chair.

(e) Expenses. – Committee members shall receive per diem, subsistence, and travel allowances in accordance with G.S. 138-5 or G.S. 138-6, as appropriate.

(f) Vacancies. – Except as otherwise provided, if a vacancy occurs in the membership of the Committee, the appointing authority shall appoint another person meeting the same qualifications to serve for the balance of the unexpired term.

**"§ 17C-22. North Carolina Criminal Justice Fellows Program established; administration.**

(a) Program. □ There is established the North Carolina Criminal Justice Fellows Program to be administered by the Committee with the assistance of the Division. The purpose of the Program is to increase the number of criminal justice professionals by providing forgivable loans to exceptional individuals to obtain Applied Associate Degrees in Criminal Justice or other Committee-approved related fields of study as preparation to enter a criminal justice profession.

(b) Program Administrator. □ The Director of the Division shall select a member of the Division staff, with the consent of the Committee, to serve as the Program administrator. The Program administrator will be responsible for all administrative duties and oversight of the Program as established by the Committee. The Program administrator will conduct recruitment efforts to include the following:

- (1) Target eligible counties.
- (2) Target high school graduates who, due to economic circumstances, are displaced, unemployed, or underemployed.
- (3) Target high school seniors who demonstrate an interest in becoming criminal justice professionals.
- (4) Engage with criminal justice professionals and leaders in eligible counties for input in the Program.
- (5) Attend high school career days, job fairs, and other activities in eligible counties to recruit qualified individuals into the Program.

(c) Awards of Forgivable Loans. – The Program shall provide forgivable loans of up to three thousand one hundred fifty-two dollars (\$3,152.00) per year for up to two years to selected individuals. The funds from the forgivable loans may be used for tuition, fees, and the cost of books. The Committee may determine the maximum amount of loan proceeds that may be applied to community college fees and course textbooks. The number of forgivable loans awarded annually shall not exceed 100 and the total number of recipients in the Program each year shall not exceed 200. The Committee shall select recipients no later than June 1 of each year.

(d) Eligibility Criteria. – An applicant must be domiciled in an eligible county at the time of application, a resident for tuition purposes as defined in G.S. 116-143.1(a)(2), a high school graduate or a high school senior who will graduate from high school by the end of the current academic year, and demonstrate the intent upon completion of the Program to be employed as a criminal justice professional in an eligible county. An applicant who has been convicted of any of the following is ineligible to receive a forgivable loan:

- (1) A felony.
- (2) A crime for which the punishment could have been imprisonment for more than two years.
- (3) A crime or unlawful act defined as a Class B misdemeanor within the five-year period prior to the date of application.
- (4) Four or more crimes or unlawful acts defined as Class A misdemeanors, except the trainee may be enrolled if the last conviction date occurred more than two years prior to the date of application.
- (5) A combination of four or more Class A misdemeanors or Class B misdemeanors regardless of the date of conviction.

(e) Application Process. – The Committee may specify required application materials, including a certified State and local background check for applicants who are at least 18 years of age. Application materials and Committee deliberations are confidential and are not a public record as defined in G.S. 132-1. The Committee shall publish application, award, and notification deadlines and provide written notification to applicants regarding the outcome of the Committee's deliberations.

(f) Award of Forgivable Loan. – The Committee shall adopt standards for awarding forgivable loans based on measures the Committee deems appropriate, including the following, and the selection of recipients by the Committee shall be final:

- (1) Scholastic Profile as determined by SAT or ACT scores, grade point average, and class rank when available.
- (2) Potential for excellence in an eligible criminal justice profession.
- (3) School and community service.

(4) At least two references.

(5) Demonstrated writing ability.

(g) Administration of Forgivable Loan Awards. – Upon the naming of recipients by the Committee, the Division shall perform all administrative functions necessary to implement this Article, which functions shall include dissemination of information, disbursement, receipt, liaison with participating community colleges, determination of the acceptability of service repayment agreements, and all other functions necessary for the execution, payment, and enforcement of promissory notes required under this Article.

(h) Recipient Obligations. – A recipient must become and remain a full-time student at a North Carolina community college in an Applied Associate Degree in Criminal Justice or in a Committee-approved related field of study at all times during each of the recipient's two academic years of community college study and pursue continuously studies that will qualify the recipient to be employed in an eligible criminal justice profession upon graduation. The recipient must maintain a minimum cumulative 2.0 GPA throughout the course of study and also maintain appropriate credit hours for each semester to obtain an Applied Associate Degree in Criminal Justice or Committee-approved field of study within two years. The recipient must also accept employment in an eligible county as a criminal justice professional for at least four out of five years following graduation. The Committee may adopt additional recipient obligations it deems appropriate.

(i) Annual Report. – The Program administrator, in coordination with the Committee, shall report no later than January 1, 2020, and annually thereafter, to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the following:

(1) The number of forgivable loans awarded for each academic year disaggregated to include geographic and other demographic information.

(2) Aggregated student performance, retention, and graduation rates.

(3) Employment subsequent to completion of the Program broken down by eligible county and eligible criminal justice profession.

(4) Forgiveness, termination, default, and repayment rates.

(5) Retention rates of recipients within eligible criminal justice professions disaggregated by eligible county.

**"§ 17C-23. Terms of forgivable loans; receipt and disbursement of funds; default.**

(a) Forgivable Loans. – All forgivable loans shall be evidenced by notes made payable to the Program that bear interest at a rate not to exceed ten percent (10%) per year as set by the Committee and beginning on the first day of September after the completion of the Program or 60 days after termination of the forgivable loan, whichever is earlier. The forgivable loan may be terminated upon the recipient's withdrawal from school, by the recipient's failure to meet the standards set by the Committee, or by the recipient's default based on conditions set by the Committee. The Committee may only disburse funds to the community college where the recipient is enrolled and may not disburse funds directly to a recipient.

(b) Forgiveness. – The Committee shall forgive the loan and any interest accrued on the loan if, within five years after obtaining an Applied Associate Degree in Criminal Justice or Committee-approved field of study, the recipient is employed on a full-time basis for a period of at least four years in an eligible county in an eligible criminal justice profession. The recipient shall provide the Committee within 60 days of completion of the Program verification of the recipient's intent to seek employment as a criminal justice professional in an eligible county. The recipient shall provide verification of employment to the Committee each year until the obligation is satisfied. The Committee shall also forgive the loan if it finds that it is impossible for the recipient to meet the terms of the loan, after or before graduation, due to death or permanent disability of the recipient.

(c) Extension. – The Committee may extend repayment of the loan for up to two years on a year-to-year basis for each year if (i) the recipient is on active duty with the Armed Forces

of the United States or (ii) the Committee, in its sole discretion, determines that circumstances warrant an extension.

(d) Repayment. – If the recipient notifies the Committee that the recipient intends to forego forgiveness of the loan after completion of the Program, the Committee shall provide the recipient with the conditions of repayment and the recipient will have 60 days to begin repayment of all funds distributed, including interest. The recipient will have up to 60 months to repay all funds distributed, including interest.

(e) Default. – The Committee shall determine the events that constitute a default during the Program, including, but not limited to, failure by the recipient to comply with the obligations set out in G.S. 17C-22(h). In the event of default during the Program, the Committee may declare the entire unpaid amount of indebtedness evidenced by the note, including interest, immediately due and payable. A default shall preclude further participation by the recipient in the Program. Upon default, the Committee shall notify the recipient, in writing, by certified mail, return receipt requested, addressed to the recipient at the last address on file with the Committee. Refusal or nondelivery at that address will be deemed delivered after seven days. The Committee may allow a recipient who is in default to repay all funds distributed, including interest. If the Committee approves repayment, the recipient will receive the conditions of repayment and will have 60 days to begin repayment of all funds distributed, including interest. The recipient will have up to 60 months to repay all funds distributed, including interest."

**SECTION 17.1.(c)** 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:

- ...
- (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:

- ...
- j. The Division of Criminal Justice Education and Training Standards of the Department of Justice for the training of criminal justice professionals, as defined in G.S. 17C-20(6), who are required to be certified under (i) Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission or (ii) Chapter 17E of the General Statutes and the rules of the North Carolina Sheriffs' Education and Training Standards Commission."

**SECTION 17.1.(d)** The Division shall report to the chairs of the Senate Appropriations Committee on Justice and Public Safety and the chairs of the House Appropriations Committee on Justice and Public Safety no later than April 1, 2019, regarding implementation of this section, including the number of recipients the Committee anticipates will participate in the Program during the 2019-2020 academic year.

## **REPORT ON ATTORNEY GENERAL'S OFFICE MANAGEMENT FLEXIBILITY REDUCTION**

**SECTION 17.2.** Section 17.5 of S.L. 2017-57 is amended by adding a new subsection to read:



"SECTION 17.5.(c) The Attorney General shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by August 1, 2018, on implementation of this section."

## **PART XVIII. JUDICIAL DEPARTMENT**

### **SUBPART XVIII-A. OFFICE OF INDIGENT DEFENSE SERVICES**

#### **MODIFY REPORT DATE/PUBLIC DEFENDER WORKLOAD FORMULA**

**SECTION 18A.1.** Section 18A.2 of S.L. 2017-57 reads as rewritten:

**"SECTION 18A.2.** Indigent Defense Services, ~~Services (IDS)~~, in conjunction with the Administrative Office of the Courts and the National Center for State Courts, shall develop a workload formula for the public defender offices. Indigent Defense Services shall use funds available to develop the workload formula.

~~The report shall include~~ IDS shall make an interim and a final report on the workload formula as well as the number of public defenders that Indigent Defense Services it recommends to be allocated to each public defender office. The report shall be submitted ~~IDS shall submit the reports to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety no later than May 1, 2018-2018, and the final report is due no later than December 1, 2018."~~

#### **CREATE NEW PUBLIC DEFENDER DISTRICT IN MCDOWELL AND RUTHERFORD COUNTIES/EXPAND DISTRICT 3B**

**SECTION 18A.2.(a)** G.S. 7A-498.7 reads as rewritten:

**"§ 7A-498.7. Public Defender Offices.**

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

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

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be

established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than ~~two and not more than three~~ and not more than four names nominated as follows:

- (1) Not less than two and not more than three by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services.
- (2) One name submitted by the Administrative Officer of the Courts after consultation with the Director of the Office of Indigent Defense Services.

(b1) The appointment required under subsection (b) of this section shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 that includes the county or counties of the defender district for which the public defender is being appointed.

...."

**SECTION 18A.2.(b)** The Office of Indigent Defense Services may use up to the sum of one million four hundred thousand dollars (\$1,400,000) in funds appropriated to create new positions for the Public Defender District 29A, as provided in subsection (a) of this section. These positions shall include the public defender, up to eight assistant public defenders, and up to four support positions.

**SECTION 18A.2.(c)** The Office of Indigent Defense Services may use up to the sum of one million three hundred thousand dollars (\$1,300,000) in funds appropriated to create new positions for Public Defender District 3B, as provided in subsection (a) of this section. These positions shall include up to five assistant public defenders and appropriate support positions.

## **OPT-OUT/UNIFORM FEE SCHEDULE IDS PILOT PROJECT**

**SECTION 18A.3.** Subsection 19A.4(b) of S.L. 2016-94 reads as rewritten:

**"SECTION 19A.4.(b)** Sites. – The Administrative Office of the Courts shall, after consultation with the Office of Indigent Defense Services, select one or more counties in at least six judicial districts in which to implement the pilot project. Two of those counties shall have small caseloads in district court; two shall have medium caseloads in district court; and two shall have large caseloads in district court. Any judicial district selected by the Administrative Office of the Courts shall participate in the pilot project. The following districts shall not be selected as sites for the implementation of the pilot project: District 10, District 18, and District 26.

The chief district court judge of a county selected to participate in the pilot project may request to withdraw the county from participation in all or portions of the pilot project. The request shall be in writing, submitted to the Administrative Office of the Courts, and shall include specific reasons for the request. The Administrative Office of the Courts, after consultation with the Office of Indigent Defense Services, may, in its discretion, grant the request. If a county withdraws completely from the pilot program, the Administrative Office of the Courts may, after consultation with the Office of Indigent Defense Services, select another county that has a similar caseload to participate in the pilot program."

## **FINAL REPORT ON STANDARDS FOR INDIGENCY**

**SECTION 18A.4.** Section 18A.3 of S.L. 2017-57 reads as rewritten:

**"SECTION 18A.3.** The Administrative Office of the Courts, in conjunction with Indigent Defense Services, shall study and develop specific statewide standards for determining indigency for defendants. The study shall include a review of the practices of other states regarding determination of indigency, analysis of the cost-effectiveness of alternatives to the status quo, and implementation plans for the standards agreed upon. The standards may take local expenses

and cost-of-living into account. The implementation plans should include procedures for auditing future indigency determinations to ensure that the new standards are working as intended. The Administrative Office of the Courts and Indigent Defense Services shall issue ~~a~~an interim report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by ~~February 1, 2018.~~February 1, 2018, and a final report by October 1, 2018."

## **SUBPART XVIII-B. ADMINISTRATIVE OFFICE OF THE COURTS**

### **NOTICE OF FEE WAIVER/IMPLEMENTATION REPORT**

**SECTION 18B.1.** G.S. 7A-304 is amended by adding a new subsection to read:

"(a2) The Administrative Office of the Courts shall report on October 1, 2018, and annually thereafter, to the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation of the notice of waiver of costs to the government entities directly affected as required by subsection (a) of this section."

### **STUDY APPROPRIATE HOUSING/TREATMENT FOR DWI OFFENDERS**

**SECTION 18B.2.** The North Carolina Sentencing and Policy Advisory Commission (Commission), in consultation with the Department of Public Safety and the North Carolina Sheriffs' Association, shall study the most effective setting to house and provide appropriate treatment services for Driving While Impaired Aggravated Level One and Level One offenders. The study shall consider whether State prisons, county jails, or dedicated multicounty jail treatment facilities are the most appropriate setting.

The Commission shall report the findings and recommendations, including any legislative proposals, to the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety by February 1, 2019.

### **FIVE-YEAR PROJECTION STATEWIDE MISDEMEANANT CONFINEMENT BEDS**

**SECTION 18B.3.(a)** Article 4 of Chapter 164 of the North Carolina General Statutes is amended by adding a new section to read:

#### **"§ 164-51. Five-year projection; Statewide Misdemeanant Confinement Program.**

The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission (Commission) and with the assistance of the North Carolina Sheriffs' Association (Sheriffs' Association), shall develop projections of available bed space in the Statewide Misdemeanant Confinement Program (Program). The projections shall cover the next five fiscal years beginning with the 2018-2019 fiscal year. All State agencies, the Sheriffs' Association, and the person having administrative control of a local confinement facility as defined in G.S. 153A-217(5) shall furnish to the Commission data related to available bed space as requested to implement this section.

The Commission shall report its projections to the chairs of the Senate Appropriations Committee on Justice and Public Safety and the chairs of the House Appropriations Committee on Justice and Public Safety no later than February 15, 2019, and annually thereafter."

**SECTION 18B.3.(b)** The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission (Commission) and with the assistance of the North Carolina Sheriffs' Association (Sheriffs' Association), shall study the feasibility of developing five-year population projections for the Statewide Misdemeanant Confinement Program. The study shall examine potential data needs and existing data, as well as potential projection methods, including making modifications to the existing population simulation model, developing a new model, or using another approach. All State agencies, the Sheriffs' Association, and the person having administrative control of a local confinement facility as defined in

G.S. 153A-217(5) shall furnish to the Commission data related to the population as requested to implement this section.

The Commission shall report the results of the feasibility study to the chairs of the Senate Appropriations Committee on Justice and Public Safety and the chairs of the House Appropriations Committee on Justice and Public Safety no later than February 15, 2019.

## **E-COURTS SYSTEM**

**SECTION 18B.4.(a)** Notwithstanding G.S. 143C-1-2(b), for the fiscal year 2018-2019, the Judicial Department shall transfer any unexpended, unencumbered funds to Budget Code 22006-2006 to be used to implement an integrated information technology system (e-Courts) in accordance with G.S. 7A-343.2(b). The cumulative sum transferred shall not exceed three percent (3%) of the Judicial Department's certified budgets for Budget Code 12000, Administrative Office of the Courts, and Budget Code 12001, Office of Indigent Defense Services, for the 2018-2019 fiscal year.

**SECTION 18B.4.(b)** The Administrative Office of the Courts (AOC) shall develop a plan for implementing the e-Courts system, including estimates of the overall scope, the overall cost, annual costs, and the benchmarks that will be met in each year of the project. AOC is encouraged to consult with the Department of Information Technology when developing the plan for the e-Courts system. AOC shall submit the plan for the e-Courts system to the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety no later than March 1, 2019.

## **ALLOCATION OF SUPERIOR COURT JUDGES**

**SECTION 18B.5.(a)** G.S. 7A-41(a) reads as rewritten:

**"§ 7A-41. Superior court divisions and districts; judges.**

(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

| Judicial Division | Superior Court District | Counties                                                       | No. of Resident Judges |
|-------------------|-------------------------|----------------------------------------------------------------|------------------------|
| First             | 1                       | Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans | 2                      |
| First             | 2                       | Beaufort, Hyde, Martin, Tyrrell, Washington                    | 1                      |
| First             | 3A                      | Pitt                                                           | 2                      |
| Second            | 3B                      | Carteret, Craven, Pamlico                                      | 3                      |
| Second            | 4A                      | Duplin, Jones, Sampson                                         | 1                      |
| Second            | 4B                      | Onslow                                                         | 1                      |
| Second            | 5A                      | (part of New Hanover, part of Pender see subsection (b))       | 1                      |
|                   | 5B                      | (part of New Hanover,                                          | 1                      |

|        |     |                                                               |           |
|--------|-----|---------------------------------------------------------------|-----------|
|        |     | part of Pender                                                |           |
|        |     | see subsection (b))                                           |           |
|        | 5C  | (part of New Hanover,<br>see subsection (b))                  | 1         |
| First  | 6A  | Halifax                                                       | 1         |
| First  | 6B  | Bertie, Hertford,<br>Northampton                              | 1         |
| First  | 7A  | Nash                                                          | 1         |
| First  | 7B  | (part of Wilson,<br>part of Edgecombe,<br>see subsection (b)) | 1         |
| First  | 7C  | (part of Wilson,<br>part of Edgecombe,<br>see subsection (b)) | 1         |
| Second | 8A  | Lenoir and Greene                                             | 1         |
| Second | 8B  | Wayne                                                         | 1         |
| Third  | 9   | Franklin, Granville,<br>Person, Vance, Warren                 | 2         |
| Third  | 10A | (part of Wake,<br>see subsection (b))                         | 1         |
| Third  | 10B | (part of Wake,<br>see subsection (b))                         | 2         |
| Third  | 10C | (part of Wake,<br>see subsection (b))                         |           |
| Third  | 10D | (part of Wake,<br>see subsection (b))                         | 1         |
| Fourth | 11A | Harnett,<br>Lee                                               | 1         |
| Fourth | 11B | Johnston                                                      | 1         |
| Fourth | 12A | (part of Cumberland,<br>see subsection (b))                   | 1         |
| Fourth | 12B | (part of Cumberland,<br>see subsection (b))                   | 1         |
| Fourth | 12C | (part of Cumberland,<br>see subsection (b))                   | 2         |
| Fourth | 13A | Bladen, Columbus                                              | 1         |
| Fourth | 13B | Brunswick                                                     | 1         |
| Third  | 14A | (part of Durham,<br>see subsection (b))                       | 1         |
| Third  | 14B | (part of Durham,<br>see subsection (b))                       | 3         |
| Third  | 15A | Alamance                                                      | 2         |
| Third  | 15B | Orange, Chatham                                               | 2         |
| Fourth | 16A | Anson, Richmond,<br>Scotland, Hoke                            | 2         |
| Fourth | 16B | Robeson                                                       | 2         |
| Fifth  | 17A | Caswell, Rockingham                                           | <u>32</u> |
| Fifth  | 17B | Stokes, Surry                                                 | <u>21</u> |
| Fifth  | 18A | (part of Guilford,<br>see subsection (b))                     | 1         |

|         |     |                                                 |                       |
|---------|-----|-------------------------------------------------|-----------------------|
| Fifth   | 18B | (part of Guilford,<br>see subsection (b))       | 1                     |
| Fifth   | 18C | (part of Guilford,<br>see subsection (b))       | 1                     |
| Fifth   | 18D | (part of Guilford,<br>see subsection (b))       | 1                     |
| Fifth   | 18E | (part of Guilford,<br>see subsection (b))       | 1                     |
| Sixth   | 19A | Cabarrus                                        | 1                     |
| Fifth   | 19B | Montgomery, Randolph                            | <del>4</del> <u>2</u> |
| Sixth   | 19C | Rowan                                           | 1                     |
| Fourth  | 19D | Moore                                           | 1                     |
| Sixth   | 20A | Stanly                                          | 1                     |
| Sixth   | 20B | Union                                           | 2                     |
| Fifth   | 21A | (part of Forsyth,<br>see subsection (b))        | 1                     |
| Fifth   | 21B | (part of Forsyth,<br>see subsection (b))        | 1                     |
| Fifth   | 21C | (part of Forsyth,<br>see subsection (b))        | 1                     |
| Fifth   | 21D | (part of Forsyth,<br>see subsection (b))        | 1                     |
| Sixth   | 22A | Alexander, Iredell                              | 2                     |
| Sixth   | 22B | Davidson, Davie                                 | 2                     |
| Fifth   | 23  | Alleghany, Ashe,<br>Wilkes, Yadkin              | 1                     |
| Eighth  | 24  | Avery, Madison,<br>Mitchell,<br>Watauga, Yancey | 2                     |
| Seventh | 25A | Burke, Caldwell                                 | 2                     |
| Seventh | 25B | Catawba                                         | 2                     |
| Seventh | 26A | (part of Mecklenburg,<br>see subsection (b))    | 2                     |
| Seventh | 26B | (part of Mecklenburg,<br>see subsection (b))    | 3                     |
| Seventh | 26C | (part of Mecklenburg,<br>see subsection (b))    | 2                     |
| Seventh | 27A | Gaston                                          | 2                     |
| Seventh | 27B | Cleveland, Lincoln                              | 2                     |
| Eighth  | 28  | Buncombe                                        | 2                     |
| Eighth  | 29A | McDowell,<br>Rutherford                         | 1                     |
| Eighth  | 29B | Henderson, Polk,<br>Transylvania                | 1                     |
| Eighth  | 30A | Cherokee, Clay,<br>Graham, Macon,<br>Swain      | 1                     |
| Eighth  | 30B | Haywood, Jackson                                | 1."                   |

**SECTION 18B.5.(b)** In order to implement the changes in subsection (a) of this section, the following applies:

- (1) In order to implement the changes in subsection (a) of this section, the superior court judgeship serving District 17A that was allocated to Judicial District 9A of the superior court of the General Court of Justice pursuant to Section 18B.9(b) of S.L. 2017-57 shall be reallocated to Judicial District 19B of the superior court of the General Court of Justice effective January 1, 2019.
- (2) The reduction in judgeships in Judicial District 17B of the superior court of the General Court of Justice applies to the judgeship with a term that expires on December 31, 2018.

**SECTION 18B.5.(c)** This section becomes effective January 1, 2019, and elections conducted in 2018 shall be conducted in accordance with the districts as modified by this section.

#### **ALLOCATION OF ASSISTANT DISTRICT ATTORNEYS**

**SECTION 18B.6.** Effective January 1, 2019, G.S. 7A-41(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

| Prosecutorial District | Counties                                                       | No. of Full-Time Asst. District Attorneys |
|------------------------|----------------------------------------------------------------|-------------------------------------------|
| 1                      | Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans | 11                                        |
| 2                      | Beaufort, Hyde, Martin, Tyrrell, Washington                    | 8                                         |
| 3                      | Pitt                                                           | 12                                        |
| 4                      | Carteret, Craven, Pamlico                                      | 13                                        |
| 5                      | Duplin, Jones, Onslow, Sampson                                 | 19                                        |
| 6                      | New Hanover, Pender                                            | 19                                        |
| 7                      | Bertie, Halifax, Hertford, Northampton                         | 11                                        |
| 8                      | Edgecombe, Nash, Wilson                                        | 19                                        |
| 9                      | Greene, Lenoir, Wayne                                          | 14                                        |
| 10                     | Franklin, Granville, Person Vance, Warren                      | <del>13</del> 14                          |
| 11                     | Wake                                                           | 42                                        |
| 12                     | Harnett, Lee                                                   | 11                                        |
| 13                     | Johnston                                                       | 10                                        |
| 14                     | Cumberland                                                     | 25                                        |
| 15                     | Bladen, Brunswick, Columbus                                    | 14                                        |
| 16                     | Durham                                                         | 18                                        |
| 17                     | Alamance                                                       | 12                                        |
| 18                     | Orange, Chatham                                                | 10                                        |
| 19                     | Scotland, Hoke                                                 | 7                                         |
| 20                     | Robeson                                                        | 12                                        |
| 21                     | Anson, Richmond                                                | 6                                         |
| 22                     | Caswell, Rockingham                                            | <del>10</del> 9                           |
| 23                     | Stokes, Surry                                                  | 8                                         |
| 24                     | Guilford                                                       | 34                                        |
| 25                     | Cabarrus                                                       | 9                                         |
| 26                     | Montgomery, Randolph                                           | 10                                        |
| 27                     | Rowan                                                          | 9                                         |

|    |                                                             |    |
|----|-------------------------------------------------------------|----|
| 28 | Moore                                                       | 5  |
| 29 | Stanly                                                      | 5  |
| 30 | Union                                                       | 11 |
| 31 | Forsyth                                                     | 27 |
| 32 | Alexander, Iredell                                          | 12 |
| 33 | Davidson, Davie                                             | 12 |
| 34 | Alleghany, Ashe, Wilkes, Yadkin                             | 9  |
| 35 | Avery, Madison, Mitchell,<br>Watauga, Yancey                | 8  |
| 36 | Burke, Caldwell, Catawba                                    | 19 |
| 37 | Mecklenburg                                                 | 58 |
| 38 | Gaston                                                      | 15 |
| 39 | Cleveland, Lincoln                                          | 12 |
| 40 | Buncombe                                                    | 14 |
| 41 | McDowell, Rutherford                                        | 8  |
| 42 | Henderson, Polk, Transylvania                               | 9  |
| 43 | Cherokee, Clay, Graham,<br>Haywood, Jackson, Macon, Swain." | 12 |

## **PART XIX. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

### **IMPROVEMENTS TO VETERANS CEMETERY**

**SECTION 19.1.** The Department of Military and Veterans Affairs is authorized to apply for federal funds for future improvements to Coastal Carolina State Veterans Cemetery. The amount of federal funds applied for shall not require a State match that exceeds the cash balance in Budget Code 23050 after all budgetary requirements have been met. By November 1, 2018, the Department shall submit a report to the Joint Legislative Oversight Committee on General Government providing the details of any improvement projects and federal grant requests, including match requirements and a time line for project development and completion.

### **VA SCHOLARSHIPS/TECHNICAL AMENDMENT**

**SECTION 19.2.** G.S. 143B-1226 reads as rewritten:

**"§ 143B-1226. Classes or categories of eligibility under which scholarships may be awarded.**

...  
(b) Scholarship Eligibility Classes. –

- ...  
(4) Class III: Under this class a scholarship may be awarded to not more than 100 children yearly, each of whose veteran parent, at the time the benefits pursuant to this Part are sought to be availed of:
- a. Is or was at the time of his death drawing pension for permanent and total disability, nonservice-connected, as rated by the United States Department of Veterans Affairs.
  - b. ~~Is deceased and who does not fall within the provisions of any other eligibility class described in G.S. 143B-1226(1), (2), (3), (4)a., nor (5).deceased.~~
  - c. Served in a combat zone, or waters adjacent to a combat zone, or any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal, ~~who does not fall within the provisions of any other class described in G.S. 143B-1226(1), (2), (3), (4)a., or (5).medal.~~



...."

## **MILITARY AFFAIRS COMMISSION/MEMBERS AND PAYMENT OF EXPENSES FROM BRAC FUNDS**

**SECTION 19.3.(a)** Section 19.1(f) of S.L. 2017-57 reads as rewritten:

"**SECTION 19.1.(f)** Notwithstanding G.S. 143B-1214 and G.S. 143B-1217, the funds appropriated in this act to the Military Presence Stabilization Fund for the 2017-2018 fiscal year may be used for the following purposes:

- (1) Up to the sum of two hundred twenty-five thousand dollars (\$225,000) may be used to provide grants to local communities or military installations. These funds shall only be used for actual project expenses and shall not be used to pay for lobbying the North Carolina General Assembly, salaries, travel, or other administrative costs. The North Carolina Military Affairs Commission shall establish guidelines for applying for these grants.
- (2) Administrative expenses and reimbursements for members of the North Carolina Military Affairs Commission.
- (3) Federal advocacy and lobbying support.
- (4) Updates to strategic planning analysis and strategic plan.
- (5) Economic impact analyses.
- (6) Public-public/public-private (P4) initiatives.
- (7) Identification and implementation of innovated measures to increase the military value of installations.
- (8) Fully fund the position at the North Carolina Economic Development Center."

**SECTION 19.3.(b)** Section 19.1 of S.L. 2017-57 is amended by adding a new subsection to read as follows:

"**SECTION 19.1.(f1)** The Department shall pay expenses authorized by subsection (f) of this section and approved by the North Carolina Military Affairs Commission within 30 days of receiving a request from the Commission that payment be made. Notwithstanding the 30-day time period provided for in this subsection, the Department shall make payment on a contract or grant awarded by the Commission no later than the date payment is due according to the terms of the contract or grant, and the Commission shall not be required to request that the Department make the contract or grant payment. The chair may authorize a member of the Commission's Executive Steering Group or another representative to make a request for payment. Upon receipt of a request for payment, the Department shall issue a written acknowledgment of the request to the Commission or duly authorized representative and shall, once payment has been made, provide proof of payment to the Commission or duly authorized representative."

**SECTION 19.3.(c)** Section 19.1(g) of S.L. 2017-57 reads as rewritten:

"**SECTION 19.1.(g)** The North Carolina Military Affairs Commission shall report to the Joint Legislative Oversight Committee on General Government no later than ~~February 15, 2018,~~ February 15, 2019, on the expenditures from the Military Presence Stabilization Fund."

**SECTION 19.3.(d)** G.S. 143B-1311 reads as rewritten:

"§ 143B-1311. **Membership.**

...

- (b) The voting members of the Commission shall be appointed as follows:

...

- (2) Five members appointed by the Speaker of the House of Representatives, consisting of:
  - a. One member of the House of Representatives. A House member who has served in the military or has extensive experience in the area of military affairs shall be selected. ~~The House member shall not vote on matters that expend funds appropriated by the General Assembly.~~

- ...
- (3) Five members appointed by the President Pro Tempore of the Senate, consisting of:
- a. One member of the Senate. A Senate member who has served in the military or has extensive experience in the area of military affairs shall be selected. ~~The Senate member shall not vote on matters that expend funds appropriated by the General Assembly.~~

...

(f) The Chair of the Commission shall be appointed by the Governor from the voting members of the Commission. A member of the General Assembly who is appointed to the Commission shall not vote on matters that expend funds appropriated by the General Assembly.

...."

## **PART XX. OFFICE OF ADMINISTRATIVE HEARINGS [RESERVED]**

## **PART XXI. TREASURER**

### **LOCAL GOVERNMENT COMMISSION/REPORTS FROM LOCAL GOVERNMENTS**

**SECTION 21.1.(a)** G.S. 159-33.1 reads as rewritten:

#### **"§ 159-33.1. Semiannual reports of financial information.**

The finance officer of each unit and public authority shall submit to the secretary on January 1 and July 1 of each year (or such other dates as the secretary may prescribe) a statement of financial information concerning the unit or public authority. The secretary may prescribe the information to be included in the statement and may prescribe the form of the ~~statement.~~ statement; provided, however, the secretary shall prescribe that the finance officer of each city and county shall include in the statement the total revenues received from building inspections, by type, and the total expenditures paid from all revenues received, by type."

**SECTION 21.1.(b)** The Local Government Commission shall incorporate in information technology projects to assist local governments in accounting and financial management one or more line items on which each city and county shall provide the total revenue received from building inspections and the total expenditures paid from the revenue received.

## **PART XXII. DEPARTMENT OF INSURANCE**

### **WORKERS' COMPENSATION/ALLOW ALTERNATIVE EMPLOYER PENALTY**

**SECTION 22.1.** G.S. 97-94 reads as rewritten:

#### **"§ 97-94. Employers required to give proof that they have complied with preceding section; penalty for not keeping liability insured; review; liability for compensation; criminal penalties for failure to secure payment of compensation.**

(a) Every employer subject to the compensation provisions of this Article shall file with the Commission, in form prescribed by it, as often as the Commission determines to be necessary, evidence of its compliance with the provisions of G.S. 97-93 and all other provisions relating thereto.

~~(b) Any employer required to secure the payment of compensation under this Article who refuses or neglects to secure such compensation shall be punished by a penalty of one dollar (\$1.00) for each employee, but not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each day of such refusal or neglect, and until the same ceases; and the employer shall be liable during continuance of such refusal or neglect to an employee either for compensation under this Article or at law at the election of the injured employee.~~

~~The penalty herein provided may be assessed by the Industrial Commission administratively, with the right to a hearing if requested within 30 days after notice of the assessment of the penalty~~

~~and the right of review and appeal as in other cases. Enforcement of the penalty shall be made by the Office of the Attorney General. The clear proceeds of penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.~~

(b1) Any employer required to secure the payment of compensation under this Article who refuses or neglects to secure such compensation shall be punished by a penalty of one dollar (\$1.00) for each employee, but not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00), for each day of such refusal or neglect and until the same ceases.

(b2) As an alternative to the penalty imposed in subsection (b1) of this section, the employer may submit to the Commission evidence that the employer has obtained workers' compensation insurance coverage from either an insurer licensed to do business in North Carolina or the North Carolina Workers' Compensation Insurance Plan. In addition to submitting such evidence, the employer shall submit to the Commission all payroll records for the period or periods of noncompliance. The Commission shall, after verifying the coverage and upon the request of the employer, rescind the penalty assessed under subsection (b1) of this section and impose a penalty by:

- (1) First, determining the per employee cost of the current policy by dividing the cost of the policy by the number of employees covered by the policy.
- (2) Second, determining the average number of employees during the period of noncompliance.
- (3) Third, multiplying the per employee cost of the current policy by the average number of employees during the period of noncompliance and, to that total, by applying an additional penalty of ten percent (10%).

The alternate penalty provided by this subsection is available only to an employer not previously penalized under this section.

(c) Any penalty imposed by this section may be assessed by the Industrial Commission administratively, with the right to a hearing if requested within 30 days after notice of the assessment of the penalty and the right of review and appeal as in other cases. For the purposes of assessing the penalties set forth in subsections (b1) and (b2) of this section, the penalty shall not apply to a period of noncompliance that occurred more than three years prior to the date the Industrial Commission first assessed the penalty. Enforcement of the penalty shall be made by the Office of the Attorney General. The clear proceeds of penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

In addition to any penalty under this section, the employer shall be liable, during the continuance of the refusal or neglect, to an employee for compensation under this Article or at law at the election of the injured employee. The Industrial Commission shall prioritize the payment of any compensation due an injured employee under this Article over the payment of any penalty owed pursuant to this section.

Any employer required to secure the payment of compensation under this Article who willfully fails to secure such compensation shall be guilty of a Class H felony. Any employer required to secure the payment of compensation under this Article who neglects to secure the payment of compensation shall be guilty of a Class 1 misdemeanor.

(d) Any person who, with the ability and authority to bring an employer in compliance with G.S. 97-93, willfully fails to bring the employer in compliance, shall be guilty of a Class H felony. Any person who, with the ability and authority to bring an employer in compliance with G.S. 97-93, neglects to bring the employer in compliance, shall be guilty of a Class 1 misdemeanor. Any person who violates this subsection may be assessed a civil penalty by the Commission in an amount up to one hundred percent (100%) of the amount of any compensation due the employer's employees injured during the time the employer failed to comply with G.S. 97-93.

(e) Notwithstanding the provisions of G.S. 97-101, the Commission may suspend collection or remit all or part of any civil penalty imposed under this section on condition that the employer or person pays ~~the~~any compensation due and complies with G.S. 97-93."

#### **INSURANCE REGULATORY FEE**

**SECTION 22.2.** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2019 calendar year.

### **PART XXIII. BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT**

#### **HAVA FUNDS**

**SECTION 23.1.** By October 1, 2018, the Bipartisan State Board of Elections and Ethics Enforcement (State Board) shall submit a status report on the use of 2018 Help America Vote Act (HAVA) funds to the Joint Legislative Oversight Committee on General Government and the Joint Legislative Elections Oversight Committee. The report shall include a budget and a time frame for using the HAVA funds for security upgrades and other necessary improvements. Additionally, the State Board shall report on any remaining HAVA funds awarded from prior federal grants.

### **PART XXIV. GENERAL ASSEMBLY**

#### **CHILD WELL-BEING TRANSFORMATION COUNCIL**

**SECTION 24.1.(a)** Article 82 of Chapter 143 of the General Statutes is repealed.

**SECTION 24.1.(b)** North Carolina Child Well-Being Transformation Council Creation; Purpose; Findings. – There is established the North Carolina Child Well-Being Transformation Council (Children's Council) for the purpose of coordinating, collaborating, and communicating among agencies and organizations involved in providing public services to children. The welfare of North Carolina's children is a priority. There are many public and private agencies and organizations across the State involved with promoting the welfare of children and protecting them from harm, such as those involving child care, education, health care, social services, and juvenile justice. Though these agencies and organizations provide important services, they often fail to collaborate, coordinate, and communicate about those services. A more systematic and coordinated approach to services will help ensure that the State achieves the best possible outcomes for children.

**SECTION 24.1.(c)** Membership. – The Children's Council shall be located administratively in the General Assembly. The Children's Council shall consist of 25 members. In making appointments, each appointing authority shall select members who have appropriate experience and knowledge of the issues to be examined by the Children's Council and shall strive to ensure members are appointed who represent the geographical, political, gender, and racial diversity of this State. The Children's Council members shall be appointed on or after September 1, 2018, as follows:

- (1) Six members shall be appointed by the President Pro Tempore of the Senate, as follows:
  - a. Two shall be members of the Senate.
  - b. One shall be a representative from the Administrative Office of the Courts.
  - c. One shall be a representative from a child welfare private provider organization.
  - d. One shall be a representative from The Duke Endowment.

- e. One shall be a representative from the North Carolina Pediatric Society.
- (2) Six members shall be appointed by the Speaker of the House of Representatives, as follows:
  - a. Two shall be members of the House of Representatives.
  - b. One shall be a representative from the Department of Public Instruction.
  - c. One shall be a representative from Indigent Defense Services.
  - d. One shall be a representative from the United States military.
  - e. One shall be a representative of the Hospital Association.
- (3) Thirteen members shall be appointed by the Governor, as follows:
  - a. One shall be a representative from the Department of Health and Human Services, Division of Child Development and Early Education.
  - b. One shall be a representative from the Department of Health and Human Services, Division of Social Services.
  - c. One shall be a representative from the Department of Public Safety, Division of Juvenile Justice.
  - d. One shall be a representative from the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
  - e. One shall be a representative from the Guardian ad Litem program.
  - f. One shall be a representative from Disability Rights NC.
  - g. One shall be a representative from a local management entity/managed care organization (LME/MCO).
  - h. Two shall be representatives from the Department of Health and Human Services, Division of Public Health, one with expertise in substance abuse disorders and one with expertise in children's health.
  - i. One shall be a representative from the Department of Health and Human Services, Division of Medical Assistance.
  - j. One shall be a representative from Children's Advocacy Centers of North Carolina.
  - k. One shall be a representative from the North Carolina Child Fatality Task Force.
  - l. One shall be a director of a county department of social services.

**SECTION 24.1.(d) Vacancies.** – A vacancy shall be filled within 30 days by the authority making the initial appointment.

**SECTION 24.1.(e) Organization.** – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Children's Council, who shall serve for a term of one year. The Children's Council shall meet quarterly each year upon the call of the cochairs. A majority of the membership of the Children's Council shall constitute a quorum. No action may be taken except by a majority vote at a meeting at which a quorum is present. The Open Meetings Law, Article 33C of Chapter 143 of the General Statutes, and the Public Records Act, Chapter 132 of the General Statutes, shall apply to the Children's Council.

**SECTION 24.1.(f) Powers and Duties.** – The Children's Council shall direct its focus on the following initiatives:

- (1) Mapping the network of child-serving agencies and organizations in the State.
- (2) Cataloging examples of failures in coordination, collaboration, and communication in the context of child welfare.

- (3) Reviewing the work of bodies similar to the Children's Council operating in other states to identify promising practices and focus areas for the Children's Council's work.
- (4) Monitoring changes in the social services and child welfare system associated with reform and regional supervision.
- (5) Identifying gaps in coordination, collaboration, and communication related to all publicly funded child serving programs.
- (6) Recommending changes in law, policy, or practice necessary to remedy gaps or problems impacting coordination, collaboration, and communication among publicly funded child-serving agencies.

**SECTION 24.1.(g)** Staff. – The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Children's Council in its work, including, after consultation with the Council, an individual who has recognized expertise in matters related to children's welfare to support the work of the Council. Upon the direction of the Legislative Services Commission, the Director of Legislative Assistants of the Senate and of the House of Representatives shall assign clerical staff to the Children's Council. Subject to approval of the Legislative Services Commission, the Children's Council may hold meetings in the Legislative Complex.

**SECTION 24.1.(h)** Subsistence. – Members of the Children's Council shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, and 138-6.

**SECTION 24.1.(i)** Reporting; Termination. – By June 30, 2019, the Children's Council shall submit an interim report to the chairs of the Senate Appropriations Committee on Health and Human Services, the chairs of the House of Representatives Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division. The report shall include a summary of the Council's work for the previous year, any findings and recommendations for change, and a work plan for the upcoming year. By June 30, 2020, the Children's Council shall submit a final report and shall terminate on that date.

**SECTION 24.1.(j)** The School of Government at the University of North Carolina at Chapel Hill shall do all of the following:

- (1) Convene the first meeting of the Children's Council no later than October 31, 2018, and host the first four meetings of the Children's Council.
- (2) Facilitate the work of the Children's Council during the meetings. The Children's Council shall focus on the initiatives outlined in subsection (f) of this section.
- (3) Provide necessary clerical and administrative support for the meetings in collaboration with clerical staff assigned to the Children's Council pursuant to subsection (g) of this section; conduct research and provide technical assistance, as appropriate; and assist with the preparation of the Children's Council first report due on June 30, 2019.

**SECTION 24.1.(k)** Subsection (a) of this section becomes effective June 30, 2018.

## **PART XXV. OFFICE OF THE GOVERNOR [RESERVED]**

## **PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT**

### **RESULTS FIRST PROJECT/PERFORMANCE-BASED MANAGEMENT IN STATE BUDGETING**

**SECTION 26.1.(a)** Section 26.3 of S.L. 2017-57 is amended by adding a new subsection to read as follows:

"SECTION 26.3.(d) By October 1, 2018, the Office of State Budget and Management, in consultation with Results First partner agencies and the Pew-MacArthur Results First Initiative, shall develop and publish descriptive, formal definitions for tiered-levels of evidence. Each definition shall outline the criteria needed to qualify for each tier of evidence. The Office of State Budget and Management shall also identify which program or service areas will be expected to include evidence and research to support budget proposals. The definitions may be periodically updated as needed. The definitions, and any subsequent updates, shall be included in the annual report required by subsection (c) of this section."

**SECTION 26.1.(b)** The Office of State Budget and Management shall research best practices in performance management from leading states, academia, and nongovernmental organizations and implement a pilot performance management initiative that is designed to inform the budget process and operational management of State programs. By November 30, 2018, the Office of State Budget and Management shall report to the Joint Legislative Oversight Committee on General Government on the progress of implementing the pilot. The report may include recommendations for additional legislation. For purposes of this section, the term "performance management" means an ongoing process of measuring, evaluating, and adjusting actions to improve outcomes.

#### **AMEND PURPOSES FOR FUNDS APPROPRIATED FOR STANLY COMMUNITY COLLEGE**

**SECTION 26.2.(a)** Notwithstanding any provision of S.L. 2017-57, or of the Committee Report described in Section 39.2 of that act, to the contrary, the sum of four hundred fifty thousand dollars (\$450,000) in nonrecurring funds for the 2017-2018 fiscal year appropriated for Stanly Community College for a culinary arts facility shall be transferred to the Office of State Budget and Management. These funds shall be allocated for the 2018-2019 fiscal year as follows:

- (1) One hundred thousand dollars (\$100,000) for the Center Rural Fire Department, Station 56.
- (2) One hundred fifty thousand dollars (\$150,000) for the Walter B. Hill American Legion Post 76, Albemarle (Stanly County Fair Grounds).
- (3) Fifty thousand dollars (\$50,000) to the Stanly County Board of Education for Oakboro Choice STEM School.
- (4) Fifty thousand dollars (\$50,000) for the East Side Volunteer Fire Department, Station 65.
- (5) Fifty thousand dollars (\$50,000) for the Oakboro Rural Volunteer Fire Department, Station 44.
- (6) Fifty thousand dollars (\$50,000) for the Aquadale Rural Volunteer Fire Department, Station 50.

**SECTION 26.2.(b)** This section becomes effective June 30, 2018.

#### **STATE BUDGET AND MANAGEMENT SPECIAL PROVISIONS**

**SECTION 26.3.** Of the funds appropriated in this act to the Office of State Budget and Management, Special Appropriations, the sum of three million one hundred sixty-five thousand three hundred seven dollars (\$3,165,307) in nonrecurring funds for the 2018-2019 fiscal year shall be allocated as follows:

- (1) To provide grants-in-aid to the following local fire departments:
  - a. \$50,000 to Beaver Dam Volunteer Fire Department, Incorporated.
  - b. \$50,000 to Bethany Rural Fire Department, Inc.
  - c. \$2,500 to Britts Township Volunteer Fire Department, Inc.
  - d. \$20,000 to Burnsville Volunteer Fire Department, Inc.
  - e. \$150,000 to Center Rural Fire and Rescue Department, Inc.

- f. \$3,000 to Cerro Gordo Volunteer Fire Department and Rescue Squad.
  - g. \$3,000 to Chadbourn Fire and Rescue, Inc.
  - h. \$100,000 to Cullowhee Volunteer Fire Department, Inc.
  - i. \$2,500 to Deep Branch Volunteer Fire Department, Inc.
  - j. \$2,500 to East Howellsville Volunteer Fire Department, Inc.
  - k. \$3,000 to Evergreen Volunteer Fire Department.
  - l. \$2,269 to Fair Bluff Fire Department and Rescue Squad, Inc.
  - m. \$50,000 to Godwin-Falcon Fire Department, Inc.
  - n. \$20,000 to Gullledge Volunteer Fire Department, Inc.
  - o. \$100,000 to the City of Lawndale for the Volunteer Fire Department.
  - p. \$20,000 to the Town of Lilesville for the Lilesville Volunteer Fire Department.
  - q. \$203,000 to the City of Lincolnton for the Lincolnton Fire Department.
  - r. \$32,500 to Lyman Volunteer Fire Department, Inc.
  - s. \$3,000 to Nakina Fire & Rescue Squad, Inc.
  - t. \$35,000 to Onslow County for the Nine Mile Volunteer Fire Department.
  - u. \$3,000 to Old Dock/Cyprus Creek Volunteer Fire Department and Auxiliary.
  - v. \$20,000 to Town of Peachland for the Peachland Volunteer Fire Department.
  - w. \$2,500 to Pembroke Rural Voluntary Fire Department, Inc.
  - x. \$50,000 to Piney Creek Volunteer Fire Department, Incorporated.
  - y. \$20,000 to the Town of Polkton for the Polkton Volunteer Fire Department.
  - z. \$2,500 to the Town of Proctorville for the Proctorville Volunteer Fire Department.
  - aa. \$15,000 to Prospect Volunteer Fire Department, Inc., in Maxton, NC.
  - bb. \$3,000 to the Rennert Volunteer Fire Department.
  - cc. \$3,000 to Roseland Volunteer Fire Department, Inc.
  - dd. \$50,000 to Stedman Volunteer Fire Department, Inc.
  - ee. \$2,269 to Tabor City Voluntary Fire Department Auxiliary, Inc.
  - ff. \$50,000 to the Town of Unionville for the Unionville Volunteer Fire Department.
  - gg. \$50,000 to Wade Community Volunteer Fire Department.
  - hh. \$2,269 to Williams Township Community Volunteer Fire Department.
- (2) To provide grants-in-aid to the following local governments:
- a. \$350,000 to Davie County for renovation of an old county hospital in Mocksville.
  - b. \$10,000 to Robeson County for the Allenton Community Building.
  - c. \$50,000 to the Town of Apex for sidewalk completion on Laura Duncan Road.
  - d. \$3,000 to the Town of Boardman for Town Hall renovations.
  - e. \$15,000 to the Town of Bunn for sidewalks.
  - f. \$4,000 to the Town of Cerro Gordo for office repairs and upgrading computers and billing systems.
  - g. \$35,000 to the Town of Four Oaks for land purchase.
  - h. \$30,000 to the Town of Franklinton for road improvements.
  - i. \$15,000 to the Town of Lumber Bridge for Town Hall improvements.



- j. \$125,000 to the Town of Matthews for improvements of Crestdale Road.
  - k. \$15,000 to the Town of Maxton for a learning center.
  - l. \$150,000 to the Town of Maysville for Town Hall expansion.
  - m. \$300,000 to the Town of North Wilkesboro for the intersection of 6th and B Street.
  - n. \$190,000 to the Town of Rolesville:
    - 1. \$150,000 for the sidewalk near Rolesville High School.
    - 2. \$40,000 for general sidewalks.
  - o. \$32,500 to the Town of Warsaw for public purposes.
- (3) To provide law enforcement grants-in-aid to the following local governments:
- a. \$100,000 to the Bladen County Sheriff's Department for a law enforcement training center.
  - b. \$15,000 to the Bryson City Police Department for a K-9 transport unit.
  - c. \$65,000 to the Macon County Sheriff's Department for in-car cameras.
  - d. \$10,000 for the Ashe County Sheriff's Department to fight opioid abuse.
  - e. \$10,000 to the Brunswick County Sheriff's Department to fight opioid abuse.
  - f. \$10,000 to the Cleveland County Sheriff's Department to fight opioid abuse.
  - g. \$10,000 to the Columbus County Sheriff's Department to fight opioid abuse.
  - h. \$10,000 to the Rockingham County Sheriff's Department to fight opioid abuse.
  - i. \$10,000 to the Rutherford County Sheriff's Department to fight opioid abuse.
  - j. \$10,000 to the Swain County Sheriff's Department to fight opioid abuse.
- (4) To provide emergency management grants-in-aid to the following local governments:
- a. \$15,000 to Haywood County for emergency management.
  - b. \$15,000 to Jackson County for emergency management.
  - c. \$100,000 to Rockingham County for EMS equipment replacements and upgrades.
  - d. \$55,000 to the Town of Lake Waccamaw for a rescue vessel.
- (5) To provide grants-in-aid to the following nonprofit organizations:
- a. \$7,500 to All the King's Children Foundation.
  - b. \$5,000 to Colors of Life Community Development.
  - c. \$35,000 to the Forsyth Jail and Prison Ministries.
  - d. \$100,000 to Onslow County for a YMCA.
  - e. \$5,000 to Parkton Ruritan Club, Inc.
  - f. \$25,000 to Project Healing Waters Fly Fishing, Inc., North Carolina Region.
  - g. \$30,000 to Dare County for Special Olympics.
  - h. \$20,000 to The Greater Bath Foundation.
  - i. \$7,500 to Men of Faith, Integrity and Character.
  - j. \$40,000 to Lenoir County United Way (Lenoir-Greene United Way).
  - k. \$5,000 to the United Saddletree Center for repairs and upgrades.

## **PART XXVI-A. OFFICE OF STATE HUMAN RESOURCES**

## OFFICE OF STATE HUMAN RESOURCES/CRIMINAL RECORD CHECKS FOR PROSPECTIVE TEMPORARY EMPLOYEES

**SECTION 26A.1.** Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read as follows:

### **"§ 143B-968. Criminal record checks for the Office of State Human Resources.**

(a) The Department of Public Safety may provide to the Office of State Human Resources from the State and National Repositories of Criminal Histories the criminal history of any prospective temporary employee of a State agency or department if a criminal record check is a requirement for employment by the agency or department with which the individual would be temporarily assigned. The Office of State Human Resources shall provide to the Department of Public Safety, along with the request, the fingerprints of the prospective temporary employee, a form signed by the prospective temporary employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of State Human Resources shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. If the Department of Public Safety charges the Office of State Human Resources a fee for conducting the criminal record check, the agency or department with which the individual would be temporarily assigned shall reimburse the Office of State Human Resources for the fee charged."

## OSHR/TEMPORARY EMPLOYMENT NEEDS OF CABINET & COUNCIL OF STATE AGENCIES

**SECTION 26A.2.** G.S. 126-6.3 reads as rewritten:

### **"§ 126-6.3. Temporary employment needs of State agencies shall be met through Cabinet and Council of State agencies; use of the Temporary Solutions Program.**

(a) Use of Temporary Solutions Required. ~~Required for Cabinet Agencies.~~ – Notwithstanding G.S. 126-5 or any other provision of law, all ~~State~~ Cabinet agencies that utilize temporary employees to perform work that is not information technology-related shall employ them through the Temporary Solutions Program administered by the Office of State Human Resources. The Director of the Office of State Human Resources may create exceptions to this requirement when doing so would be in the best interests of the State in the sole discretion of the Director. An exception shall be invalid unless it is in writing. Council of State agencies may use the Temporary Solutions Program in the discretion of the agency.

(b) Compliance Monitoring. – The Office of State Human Resources shall monitor the employment of temporary employees by Cabinet and Council of State agencies ~~subject to this section~~ and shall report biannually to the Joint Legislative Oversight Committee on General Government and to the Fiscal Research Division on agency compliance with this section and policies and rules adopted pursuant to it. Each State agency granted an exception under this section from using the Temporary Solutions Program and any Council of State agency that elected to not use the Temporary Solutions Program shall record the time worked by each temporary employee in the agency, including the number of hours worked per week, number of months worked, and the amount of time the employee was not employed after 11 consecutive months of service with the agency. To the extent possible for temporary employees, agencies shall use BEACON, or the State payroll system that supersedes BEACON, for payroll purposes.

If it is not feasible for an agency to use BEACON, or the superseding system for payroll purposes, the agency shall report the information required by this section to the Office of State Human Resources in accordance with guidelines and requirements established by the Director of Temporary Solutions.

(c) ~~State Agency Defined.~~Definitions. – For purposes of this section, "State agency" means ~~at the following definitions shall apply:~~

- (1) Cabinet agency. – A unit of the executive branch of State government, such as a department, an institution, a division, a commission, a board, or a council, ~~regardless of whether or not the agency council that is under the control of the Governor. The term does not include an agency that is under the control of an official who is part a member of the Council of State.~~
- (2) Council of State agency. – An agency that is under the control of an official who is a member of the Council of State."

## **MARKET RATE STUDY FOR AREA DIRECTOR SALARY RANGE REVISIONS**

**SECTION 26A.3.(a)** No later than December 1, 2018, the Office of State Human Resources shall recommend to the State Human Resources Commission a revision to the salary range established by the Commission under Article 3 of Chapter 126 of the General Statutes for area directors, as defined in G.S. 122C-3. In forming its recommendation, the Office of State Human Resources shall use funds available to hire an outside consultant to conduct a market compensation study of organizations nationwide with similar functions as the local management entities/managed care organizations (LME/MCOs) and of similar size, including number of covered lives, annual service expenditures, and geographic service areas. The market compensation study shall include both public and not-for-profit managed care organizations. In forming its recommendation, the Office of State Human Resources shall seek input from the Secretary of the Department of Health and Human Services and the LME/MCO area boards.

**SECTION 26A.3.(b)** The State Human Resources Commission shall use the results of the market compensation study conducted pursuant to subsection (a) of this section to fulfill its responsibility for approving area director salary ranges under G.S. 126-9.

## **PART XXVII. STATE AUDITOR**

### **OFFICE OF STATE AUDITOR/STATE AGENCIES REQUIRED TO PREPARE FINANCIAL STATEMENTS PRIOR TO AUDIT**

**SECTION 27.1.** G.S. 147-64.6 reads as rewritten:

**"§ 147-64.6. Duties and responsibilities.**

...

(c) The Auditor shall be responsible for the following acts and activities:

...

- (3) The Auditor, on the Auditor's own initiative and as often as the Auditor deems necessary, or as requested by the Governor or the General Assembly, shall, to the extent deemed practicable and consistent with the Auditor's overall responsibility as contained in this act, make or cause to be made audits of all or any part of the activities of the State agencies. Each agency or department receiving a financial statement audit by the Auditor under this subdivision shall prepare a financial statement and supplementary information in the format required by the Auditor. Financial statements and supplementary information prepared as required by this subdivision shall be completed and submitted to the Auditor not later than 60 days after the deadline for the agency's or department's Comprehensive Annual Financial Report submission as established by the State Controller.

...."

**PART XXVIII. HOUSING FINANCE AGENCY [RESERVED]**

**PART XXIX. DEPARTMENT OF THE SECRETARY OF STATE [RESERVED]**

**PART XXX. OFFICE OF LT. GOVERNOR [RESERVED]**

**PART XXXI. DEPARTMENT OF ADMINISTRATION**

**DOA/CONTRACT MANAGEMENT TRAINING FOR CERTAIN STATE EMPLOYEES**

**SECTION 31.1.(a)** G.S. 143-49 reads as rewritten:

**"§ 143-49. Powers and duties of Secretary.**

The Secretary of Administration has the power and authority, and it is the Secretary's duty, subject to the provisions of this Article:

...

- (15) To work in conjunction with the Office of State Human Resources, the Division of Purchase and Contract, and the University of North Carolina School of Government to develop a rigorous contract management training and certification program for State employees. Certification in the contract management training program is mandatory for all State employees who are responsible for awarding contracts or monitoring contract compliance. The program shall be administered by the Office of State Human Resources.

...."

**SECTION 31.1.(b)** Of the funds appropriated in this act to the Department of Administration, the sum of two hundred sixty-six thousand dollars (\$266,000) for the 2018-2019 fiscal year shall be used to develop and implement a contracting specialist training program for the Department of Health and Human Services. The Department of Administration shall consult with the University of North Carolina School of Government (SOG) in developing and implementing the program. The Department of Administration shall not use these funds for any purposes other than the following:

- (1) One hundred thousand dollars (\$100,000) in nonrecurring funds to design curriculum for a contracting specialist training program based on the National Contract Management Association's Contract Management Standard, or the guiding principles of another nationally recognized professional organization for public sector contract management professionals. The curriculum must be designed specifically for Department of Health and Human Services employees with responsibility for contract management, contract administration, or both.
- (2) One hundred sixty-six thousand dollars (\$166,000) in recurring funds for two full-time equivalent positions within the Department of Administration, Division of Purchase and Contract, dedicated to providing employees identified by the Department of Health and Human Services with instructor-led training for the contracting specialist training program curriculum developed pursuant to subdivision (1) of this section.

**SECTION 31.1.(c)** By November 1, 2018, the Department of Administration shall (i) report to the Joint Legislative Oversight Committee on General Government on State agencies' compliance with the requirements of subsection (a) of this section and (ii) report to the Joint Legislative Oversight Committee on General Government and the Joint Legislative Oversight Committee on Health and Human Services on the development and implementation of a

contracting specialist training program for the Department of Health and Human Services as required by subsection (b) of this section.

## **DOA/MANAGE STATE PORTFOLIO OF REAL PROPERTY**

**SECTION 31.2.(a)** The Department of Administration shall coordinate with other State agencies to use existing geographic information systems and information technology systems in developing a real estate information system to manage the State's owned and leased real property portfolio in the manner required by G.S. 143-341.2. By November 1, 2018, the Department shall report to the Joint Legislative Oversight Committee on General Government on its progress in implementing the provisions of this subsection.

**SECTION 31.2.(b)** Notwithstanding the provisions of G.S. 66-58.12(c), the sum of one million dollars (\$1,000,000) in nonrecurring funds for the 2018-2019 fiscal year transferred in this act from the E-Commerce Fund in the Department of Administration Budget Code 24100, Fund Code 2514, to Department of Administration Budget Code 14100, Fund Code 1412, shall be used to develop a real estate information system for the purposes authorized by subsection (a) of this section.

## **PART XXXII. DEPARTMENT OF REVENUE**

### **DOR TAX FRAUD ANALYTICS**

**SECTION 32.1.** Section 32.2 of S.L. 2017-57 reads as rewritten:

"**SECTION 32.2.(a)** Of the funds appropriated in this act to the Department of Revenue, the sum of four million four hundred thousand dollars (\$4,400,000) in nonrecurring funds for the ~~2017-2018~~2018-2019 fiscal year shall be used to continue and expand the Department's tax fraud analysis contract. These funds shall be used as follows:

- (1) ~~\$1,300,000 to expand and enhance eNC3.~~
- (2) ~~\$2,000,000~~\$3,300,000 to pay for fraud detection ~~analytics~~analytics and information reporting.
- (3) \$1,100,000 for hosting infrastructure.

"**SECTION 32.2.(b)** The Department of Revenue shall continue to coordinate with the Government Data Analytics Center (GDAC) and utilize the subject matter expertise and technical infrastructure available through existing GDAC public-private partnerships for fraud detection analytics and infrastructure."

## **PART XXXIII. OFFICE OF STATE CONTROLLER [RESERVED]**

## **PART XXXIV. DEPARTMENT OF TRANSPORTATION**

### **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 34.1.(a)** Subsections (b) and (c) of Section 34.1 of S.L. 2017-57 are repealed.

**SECTION 34.1.(b)** The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

|                           |                    |
|---------------------------|--------------------|
| For Fiscal Year 2019-2020 | \$ 2,288.5 million |
| For Fiscal Year 2020-2021 | \$ 2,376.7 million |
| For Fiscal Year 2021-2022 | \$ 2,415.6 million |
| For Fiscal Year 2022-2023 | \$ 2,449.6 million |

**SECTION 34.1.(c)** The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

|                           |                    |
|---------------------------|--------------------|
| For Fiscal Year 2019-2020 | \$ 1,576.4 million |
| For Fiscal Year 2020-2021 | \$ 1,604.1 million |

For Fiscal Year 2021-2022

\$ 1,631.5 million

For Fiscal Year 2022-2023

\$ 1,669.4 million

**SECTION 34.1.(d)** The Department of Transportation, in collaboration with the Office of State Budget and Management, shall develop a four-year revenue forecast. The first fiscal year in the four-year revenue forecast shall be the 2024-2025 fiscal year. The four-year revenue forecast developed under this subsection shall be used (i) to develop the four-year cash flow estimates included in the biennial budgets, (ii) to develop the Strategic Transportation Improvement Program, and (iii) by the Department of the State Treasurer to compute transportation debt capacity.

## **CONTINGENCY FUNDS**

**SECTION 34.2.(a)** Section 34.2(b) of S.L. 2017-57 reads as rewritten:

**"SECTION 34.2.(b)** Of the funds appropriated in this act to the Department of Transportation, twelve million dollars (\$12,000,000) for each fiscal year of the 2017-2019 fiscal biennium shall be allocated statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, railroad infrastructure, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subsection require prior approval by the Secretary of Transportation. Funds allocated under this subsection shall not revert at the end of the applicable fiscal year but shall remain available until expended. The use of funds that do not revert under this subsection is not restricted to the fiscal year in which the funds were allocated."

**SECTION 34.2.(b)** This section becomes effective June 30, 2018.

## **DOT PILOT PROGRAM/FUNDING AND OVERSIGHT OF TIME-CRITICAL ECONOMIC DEVELOPMENT PROJECT**

**SECTION 34.3.(a)** Limited Authority for Time-Critical Economic Development Project. – Notwithstanding any provision of law to the contrary, the Department of Transportation may let, administer, and oversee any contract related to the site preparation and design of the non-transportation portion of a project meeting all of the following criteria:

- (1) The project is located in Edgecombe County.
- (2) The project received a grant under the Job Development Investment Grant Program established under G.S. 143B-437.52.
- (3) The Community Economic Development Agreement entered into pursuant to G.S. 143B-437.57 for the project requires that the business invest at least five hundred million dollars (\$500,000,000) in private funds and create at least 800 eligible positions.

The Department shall only let contracts under this subsection in accordance with the requirements of Article 2 of Chapter 136 of the General Statutes. The authority set forth in this subsection expires July 1, 2020.

**SECTION 34.3.(b)** Source of Funding for Costs. – Of the funds appropriated in this act to the General Maintenance Reserve in the Highway Fund, the Department of Transportation may use up to the sum of thirty million dollars (\$30,000,000) in nonrecurring funds to cover costs incurred by the Department in utilizing the authority set forth in subsection (a) of this section.

**SECTION 34.3.(c)** Report. – By January 15, 2019, the Department of Transportation shall submit a report to the Joint Legislative Transportation Oversight Committee, the Joint Legislative Oversight Committee on Governmental Operations, and the Fiscal Research Division of the General Assembly detailing the use of funds under subsection (b) of this section. The report shall include the total amount of funds expended and the types of costs for which the funds were or are going to be expended.

**SECTION 34.3.(d)** General Fund Repayment Schedule. – For each fiscal year of the 2021-2023 and 2023-2025 fiscal biennia, a sum equal to twenty-five percent (25%) of the funds

used by the Department of Transportation under subsection (b) of this section is appropriated in nonrecurring funds from the General Fund to the General Maintenance Reserve in the Highway Fund to be used for any purpose allowable under law for funds in the General Maintenance Reserve.

**SECTION 34.3.(e)** Effective Date. – Subsection (a) of this section is effective when it becomes law and applies retroactively to July 1, 2017. Subsection (b) of this section becomes effective July 1, 2018. The remainder of this section is effective when it becomes law.

#### **COMPENSATION TO NC STATE FOR DOT I-440 PROJECT**

**SECTION 34.4.** Notwithstanding any provision of Subchapter II of Chapter 146 of the General Statutes to the contrary, proceeds derived from compensation received by the State for any impact from the I-440 Expansion Project (STIP Project No. U-2719) on improvements to land owned, assigned to, or under the supervision and control of North Carolina State University (University) or an associated entity, as defined in the UNC Policy Manual 600.2.5.2[R] as adopted June 8, 2015, shall be deposited in the fund, budget code, or account of the University or associated entity, respectively. Funds deposited pursuant to this section shall be used to remedy the impact from the I-440 Expansion Project and are appropriated for the purpose set forth in this section. Funds deposited pursuant to this section shall not revert but shall remain available until expended in accordance with the purpose set forth in this section.

#### **TOLL ROAD AND LANE CLARIFICATIONS**

**SECTION 34.5.(a)** G.S. 136-89.188 reads as rewritten:

**"§ 136-89.188. Use of revenues.**

(a) Revenues derived from a Turnpike Project authorized under this Article shall be used only for the following: following costs associated with the Project from which the revenue was derived or a contiguous toll facility:

- (1) Authority administration costs.
- (2) Turnpike Project development, Development, right-of-way acquisition, design, construction, expansion, operation, maintenance, reconstruction, rehabilitation, and replacement, replacement costs.
- (3) Debt service on the Authority's revenue bonds or related purposes such as the establishment of debt service reserve funds.
- (4) Debt service, debt service reserve funds, and other financing costs related to any of the following:
  - a. A financing undertaken by a private entity under a partnership agreement with the entity for a Turnpike the Project.
  - b. Private activity bonds issued under law related to a Turnpike the Project.
  - c. Any federal or State loan, line of credit, or loan guarantee relating to a Turnpike the Project.
- (5) A return on investment of any private entity under a partnership agreement with the entity for a Turnpike the Project.
- (6) Any other uses granted to a private entity under a partnership agreement with the entity for a Turnpike the Project.

(b) The Authority may use up to one hundred percent (100%) of the revenue derived from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination of debt service and operation and maintenance expenses of the Turnpike Projects, Project.

(c) The Authority shall use not more than five percent (5%) of total revenue derived from all Turnpike Projects for Authority administration costs.

~~(d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll revenues generated from a converted segment of the State highway system previously planned for~~

~~operation as a nontoll facility shall only be used for the funding or financing of the right of way acquisition, construction, expansion, operations, maintenance, and Authority administration costs associated with the converted segment or a contiguous toll facility."~~

**SECTION 34.5.(b)** G.S. 136-89.199 reads as rewritten:

**"§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

(a) Authority. – Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing non-toll general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use.

(b) Reporting. – At least 90 days prior to the letting of a contract for the designation of a HOT lane or other type of managed lane under subsection (a) of this section, the Authority shall submit a report to the Joint Legislative Transportation Oversight Committee detailing (i) the reasoning for the designation of the HOT lane or other type of managed lane and (ii) the terms of the contract that will be let. The reporting requirement in this subsection does not apply to any project proposed by the Authority that is subject to the reporting requirement set forth in G.S. 136-89.183(a)(2)."

**SECTION 34.5.(c)** G.S. 136-189.11(f)(3) reads as rewritten:

"(3) Funds obtained through highway tolling. – Upon authorization to construct a project with funding from toll revenue, the Department shall make available for allocation an amount equal to one-half of the project construction cost derived from toll revenue bonds. Upon authorization to construct a toll project in which no project construction cost is derived from toll revenue bonds, the Department shall make available for allocation an amount equal to one-half of the revenue expected from the project over the first 10 years of the project, less operations costs, as set forth in the Investment Grade Traffic and Revenue Study. The amount made available for allocation to other eligible highway projects shall not exceed two hundred million dollars (\$200,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds have been committed on or before July 1, 2015. The amount made available for allocation to other eligible highway projects shall not exceed one hundred million dollars (\$100,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds are committed after July 1, 2015. If the toll project is located in one or more Metropolitan Planning Organization or Rural Transportation Planning Organization boundaries, based on the boundaries in existence at the time of letting of the project construction contract, the bonus allocation shall be distributed proportionately to lane miles of new capacity within the Organization's boundaries. The Organization shall apply the bonus allocation only within those counties in which the toll project is located."

**SECTION 34.5.(d)** Subsection (a) of this section is effective when it becomes law and applies to revenues derived on or after that date. Subsection (b) of this section is effective when it becomes law and applies to projects whose contracts are advertised on or after that date. The remainder of this section is effective when it becomes law.

## **CLARIFY STI LAW**



**SECTION 34.6.(a)** G.S. 136-189.11(d)(1)b. reads as rewritten:

"b. Project cap. – No more than ten percent (10%) of the funds projected to be allocated to the Statewide Strategic Mobility category over any five-year period may be assigned to any ~~contiguous~~ project or group of projects in the same corridor within a Highway Division or within adjoining Highway Divisions."

**SECTION 34.6.(b)** G.S. 136-189.11(f)(3), as amended by Section 34.5 of this act, reads as rewritten:

"(3) Funds obtained through highway tolling. – Upon authorization to construct a project with funding from toll revenue, the Department shall make available for allocation an amount equal to one-half of the project construction cost derived from toll revenue bonds. Upon authorization to construct a toll project in which no project construction cost is derived from toll revenue bonds, the Department shall make available for allocation an amount equal to one-half of the revenue expected from the project over the first 10 years of the project, less operations costs, as set forth in the Investment Grade Traffic and Revenue Study. The amount made available for allocation to other eligible highway projects shall not exceed two hundred million dollars (\$200,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds have been committed on or before July 1, 2015. The amount made available for allocation to other eligible highway projects shall not exceed one hundred million dollars (\$100,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds are committed after July 1, 2015. If the toll project is located in one or more Metropolitan Planning Organization or Rural Transportation Planning Organization boundaries, based on the boundaries in existence at the time of letting of the project construction contract, the bonus allocation shall be distributed proportionately to lane miles of new capacity within the Organization's boundaries. The Organization shall apply the bonus allocation only within those counties in which the toll project is located. Except for tolls removed pursuant to G.S. 136-89.196, if a toll is removed or a toll is not implemented, any funds made available for allocation or allocated under this subdivision shall be withheld by the Department or repaid to the Department, as applicable. Any funds withheld or repaid under this subdivision may be reallocated according to the requirements of this subdivision."

**SECTION 34.6.(c)** G.S. 136-189.11(c) is amended by adding a new subdivision to read:

"(4) State funds used to match federal Congestion Mitigation and Air Quality Improvement (CMAQ) program funds apportioned to the State pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149 for projects on the State highway system that improve the safety, mobility, and operational characteristics of the State highway system for motorists."

**SECTION 34.6.(d)** G.S. 136-189.11(e)(1) reads as rewritten:

"(1) Limitation on variance. – The Department, in obligating funds in accordance with this section, shall ensure that the percentage amount obligated to Statewide Strategic Mobility Projects, Regional Impact Projects, and Division Need Projects does not vary by more than ~~ten~~fifteen percent ~~(10%)~~(15%) over any five-year period and ten percent (10%) over any 10-year period from the percentage required to be allocated to each of those categories by this section.

Funds obligated among distribution regions or divisions pursuant to this section may vary up to ~~ten~~fifteen percent (~~10%~~)(15%) over any five-year ~~period~~period and ten percent (10%) over any 10-year period."

**SECTION 34.6.(e)** G.S. 136-189.11(d)(3)b.4. reads as rewritten:

"4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as ~~transformational~~transformative under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the ~~total~~ State investment in ~~each fiscal year~~ for all projects funded under this ~~sub-subdivision~~sub-sub-subdivision in any five-year period shall not exceed ~~ten~~one hundred million dollars (~~\$10,000,000~~)(\$100,000,000) in the aggregate and ~~five~~ten million dollars (~~\$5,000,000~~)(\$10,000,000) per project. Upon the release of a State Transportation Improvement Program, the Department shall submit a report to the Joint Legislative Transportation Oversight Committee detailing the projects funded under this sub-sub-subdivision."

**SECTION 34.6.(f)** The reporting requirement set forth in G.S. 136-189.11(d)(3)b.4., as enacted by subsection (e) of this section, becomes effective July 1, 2018, and applies to State Transportation Improvement Programs released on or after that date.

#### **STI/ADDITIONAL REQUIREMENT FOR HIGH-COST PROJECTS**

**SECTION 34.7.(a)** G.S. 136-189.11 is amended by adding a new subsection to read:

"(d1) Additional Requirement for High-Cost Projects. – A light rail project is ineligible for scoring, prioritization, and State funding until a written agreement is provided to the Department establishing that all non-State funding necessary to construct the project has been secured."

**SECTION 34.7.(b)** The Department of Transportation shall remove from the current and any future State Transportation Improvement Program all projects that fail to meet the requirement set forth in G.S. 136-189.11(d1), as enacted by subsection (a) of this section. Any project removed in accordance with this subsection may not be resubmitted for scoring until the next prioritization scoring process. Any funds resulting from a removal required under this subsection shall be expended by the Department in accordance with the provisions of Article 14B of Chapter 136 of the General Statutes.

**SECTION 34.7.(c)** This section is effective when it becomes law.

#### **INCREASE TRANSPARENCY OF HIGHWAY FUND CERTIFIED BUDGET**

**SECTION 34.8.(a)** Section 28.2 of S.L. 2011-145 is repealed.

**SECTION 34.8.(b)** G.S. 143C-6-11 is amended by adding a new subsection to read:

"(l) It is the intent of the General Assembly to (i) prevent the inclusion of duplicative fund codes in the Highway Fund certified budget and (ii) correctly align authorized positions and associated operating costs with the appropriate purposes and definitions as defined in G.S. 143C-1-1. To that end, the Office of State Budget and Management, in consultation with the Department of Transportation, the Office of the State Controller, and the Fiscal Research Division of the General Assembly, shall include, as an appendix to the Highway Fund certified budget, object detail using the North Carolina Accounting System Uniform Chart of Accounts prescribed by the Office of the State Controller to provide a more detailed accounting of the proposed budgets and receipts and actual expenditures and revenue collections. This requirement includes applying object detail at the four-digit level for all accounts to full-time and part-time positions, to operating expenditures and receipts, and to intrafund transfers. Additionally, work order positions shall be budgeted within existing fund codes."

**SECTION 34.8.(c)** This section becomes effective July 1, 2018, and applies beginning with the 2019-2020 Highway Fund certified budget.

#### **EXTEND MAP ACT MORATORIUM**

**SECTION 34.9.(a)** G.S. 136-44.50(h) reads as rewritten:

"(h) No new transportation corridor official map may be adopted pursuant to this section from July 1, 2016, to July 1, ~~2018-2019.~~"

**SECTION 34.9.(b)** Beginning September 1, 2018, and every 60 days thereafter until the last claim or cause of action is settled or adjudicated, the Department of Transportation shall submit to the chairs of the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division of the General Assembly a report of all claims and causes of action seeking compensation for damages arising from the Department's recordation of a transportation corridor map under Article 2E of Chapter 136 of the General Statutes. The report shall contain the following information:

- (1) Total number of claims and causes of action.
- (2) Total number of settled claims and causes of action.
- (3) Total cost of settled claims and causes of action.
- (4) Total cost of attorneys' fees incurred by contracted legal counsel.

#### **DOT REPORT/QUARTERLY COST ESCALATION REPORTS**

**SECTION 34.10.(a)** G.S. 136-18.05 is amended by adding a new subsection to read:

"(c) Quarterly Cost Escalation Report. – Within 30 days of the end of each quarter, the Department of Transportation shall submit to the chairs of the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division of the General Assembly a quarterly report containing summaries by month of a report for resurfacing projects and a report for contracts let centrally and by the highway divisions. Both reports shall contain all of the following information itemized by highway division:

- (1) Total number of projects.
- (2) Number of awarded projects.
- (3) Number of bidders.
- (4) Average number of bidders per project.
- (5) Number of single bids.
- (6) Number of contracts not awarded.
- (7) Total cost estimate for projects.
- (8) Total low bid amount.
- (9) Percentage above or below estimate."

**SECTION 34.10.(b)** The initial reports submitted under G.S. 136-18.05(c), as enacted by subsection (a) of this section, shall be submitted by October 31, 2018, and shall include information for each quarter beginning July 1, 2015.

#### **COMPREHENSIVE AGREEMENT CANCELLATION OR MODIFICATION**

**SECTION 34.11.(a)** The Governor, or the Governor's designee, shall report to the Joint Legislative Commission on Governmental Operations, the chairs of the House of Representatives Appropriations Committee on Transportation, the chairs of the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division of the General Assembly at least 60 days prior to the cancellation or modification of the Comprehensive Agreement, or any change in scope for the project covered by the Comprehensive Agreement. The report shall contain the following information: (i) whether the Comprehensive Agreement is being cancelled, modified, and if there are changes in project scope, (ii) if modified, what modifications are being made to the Comprehensive Agreement, (iii) if there are changes in project scope, what changes in project scope are being made, (iv) the reasons for the

cancellation, modification, or change in project scope, and (v) an estimate of damages and monetary penalties the State will be responsible for from the cancellation, modification, or change in project scope. For purposes of this section, "Comprehensive Agreement" means the Comprehensive Agreement for the I-77 HOT Lanes project in Mecklenburg and Iredell Counties dated as of June 26, 2014, including any amendments made to the Comprehensive Agreement.

**SECTION 34.11.(b)** If damages or other monetary penalties are determined to be owed by the State from the cancellation or modification of the Comprehensive Agreement, or a change in the scope of project covered by the Comprehensive Agreement, those damages or other monetary penalties shall not be paid by funds subject to the requirements of Article 14B of Chapter 136 of the General Statutes. The payment of any damages or other monetary penalties determined to be owed by the State from the cancellation or modification of the Comprehensive Agreement, or a change in the scope of the project covered by the Comprehensive Agreement, is subject to an express appropriation by the General Assembly.

#### **DOT PROPERTY SALE PROCEEDS TO BE DEPOSITED IN STATE HIGHWAY FUND**

**SECTION 34.12.(a)** G.S. 146-30(c) reads as rewritten:

"(c) The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources Commission, or acquired or purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture and Consumer Services shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, to be used for such specific capital improvement projects or other purposes as are provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Natural and Cultural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land owned by the State in or around the Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Health and Human Services to make capital improvements on or to property owned by the State in the Butner Reservation subject to approval by the Office of State Budget and Management, and may be used to build industrial access roads to industries located or to be located on the Butner Reservation, to construct new city streets in the Butner Reservation, extend water and sewer service on the Butner Reservation, repair storm drains on the Butner Reservation, and for other capital uses on the Reservation as determined by the

Secretary. Provided further, notwithstanding any other provision of this Subchapter, the proceeds derived from the lease dispositions of land or facilities owned or under the supervision and control of East Carolina University's Division of Health Sciences for the delivery of health care services shall be deposited in clinical accounts at East Carolina University to be used to improve access to patient care. Provided further, notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or facilities purchased with funds from the State Highway Fund shall be deposited into the State Highway Fund."

**SECTION 34.12.(b)** This section is effective when it becomes law and applies to sales made on or after that date.

## **PROJECT DELIVERY METHOD PILOT PROGRAM**

**SECTION 34.13.(a)** Definition. – For purposes of this section, the term "construction manager-general contractor" means a project delivery method that allows the use of a construction manager during the design process to provide input on the design. During the design phase, the construction manager provides advice, including constructability review, scheduling, pricing, and phasing, to assist in designing a more efficient and well-designed project. The construction manager may subsequently act as the general contractor and construct the project if the department and the construction manager-general contractor reach agreement on a guaranteed maximum price for construction.

**SECTION 34.13.(b)** Pilot Project. – Notwithstanding any provision of Chapter 136 of the General Statutes to the contrary, the Department of Transportation may establish and implement a pilot project to award contracts for up to five projects for the construction of transportation projects on a construction manager-general contractor basis. The Department may only award a contract under this section if (i) the cost of the project is determined by the Department to be less than one hundred million dollars (\$100,000,000), (ii) the Department determines that it is in the public interest to use the construction manager-general contractor basis for the project, (iii) the Department prequalifies the contractor that will be awarded the contract, (iv) the Department complies with the pre-award reporting requirement set forth in subsection (c) of this section, and (v) the Department has established and implemented guidelines as required under subsection (d) of this section.

**SECTION 34.13.(c)** Report. – Prior to the award of a contract under the authority set forth in subsection (b) of this section, the Department shall submit a pre-award report to the Joint Legislative Transportation Oversight Committee on the nature and scope of the project and the reasons using the construction manager-general contractor basis will best serve the public interest. Upon completion of a project awarded under subsection (b) of this section, the Department shall submit a post-completion report to the Joint Legislative Transportation Oversight Committee detailing the results of the project, including any cost and time efficiencies achieved as a result of using the construction manager-general contractor basis.

**SECTION 34.13.(d)** Guidelines. – The Department shall develop and implement guidelines for the awarding of contracts under subsection (b) of this section.

**SECTION 34.13.(e)** Effective Date. – This section is effective when it becomes law. This section expires upon submission of the post-completion report required under subsection (c) of this section for the final project completed under the authority set forth in subsection (b) of this section.

## **REPLACEMENT ROW FOR UTILITY RELOCATION**

**SECTION 34.14.** G.S. 136-19.5(c) reads as rewritten:

"(c) Whenever the Department of Transportation requires the relocation of utilities, including cable service as defined in G.S. 105-164.3, located in a right-of-way for which the utility owner contributed to the cost of acquisition, the Department of Transportation shall reimburse the utility owner for the cost of moving those utilities. The Department may, with the

agreement of the utility owner, acquire a replacement right-of-way and assign the easement rights of the replacement right-of-way to the utility owner."

## **UNANTICIPATED BRIDGE OR ROAD CLOSURE/WAIVER OF BIDDING REQUIREMENTS**

**SECTION 34.15.** G.S. 136-28.1(e) reads as rewritten:

"(e) The Department of Transportation may enter into contracts for construction, maintenance, or repair without complying with the bidding requirements of this section upon a determination of the Secretary of Transportation or the Secretary's designee that an emergency exists and that it is not feasible or not in the public interest for the Department of Transportation to comply with the bidding requirements. For purposes of this section, the term "emergency" includes any of the following that is unanticipated, results in detours or deters the free movement of goods and services, and requires an estimated expenditure of ten million dollars (\$10,000,000) or less in construction, maintenance, or repair costs:

- (1) A bridge closure.
- (2) A road closure.
- (3) A weight restriction."

## **DESIGNATION OF BRIDGES**

**SECTION 34.16.** Notwithstanding any provision of law to the contrary, the Department of Transportation shall designate the bridges described in the subdivisions below as follows:

- (1) The Millstone Road bridge over Interstate 73 and Interstate 74 and located off Exit 28 in the Town of Ellerbe in Richmond County as the "Colonel Jack F. Cardwell Bridge".
- (2) The bridge numbered 252 by the Department that is located in the City of Lowell in Gaston County as the "Sgt. Larry K. Morrow, Vietnam-MIA, 5-29-1972 Bridge".
- (3) The bridge on U.S. Highway 158 East that crosses part of the Interstate 74 Northern Beltway in Forsyth County as the "Officer Stephen Levi Amos II Bridge".
- (4) The bridge on N.C. Highway 18 that crosses the U.S. Highway 74 Bypass in the City of Shelby in Cleveland County as the "Officer Tim Brackeen Bridge".
- (5) The bridge on Pharr Mill Road that crosses North Carolina Highway 49 in the Town of Harrisburg in Cabarrus County as the "Joshua B. Earley Bridge".

## **DOT REPORT/FEDERAL BUILD GRANT SUBMISSIONS**

**SECTION 34.17.** The Department of Transportation shall report to the chairs of the House of Representatives Appropriations Committee on Transportation, the chairs of the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division of the General Assembly at least 15 days prior to submission of a grant application for funding through the United States Department of Transportation Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants program. The report shall contain project information, including a description and time line for completion, project cost and the amount of grant requested, and a brief overview of which federal criteria the project proposes to meet, including safety, economic competitiveness, quality of life, environmental protection, state of good repair, innovation, partnership, and additional nonfederal revenue for future transportation infrastructure investments.

## **ZONING OR PERMIT REQUEST/PROHIBIT CITY FROM REQUIRING WAIVER BY SCHOOL OF CERTAIN RIGHTS AND REQUIREMENTS**

**SECTION 34.18.(a)** G.S. 160A-307.1 reads as rewritten:

**"§ 160A-307.1. Limitation on city requirements for street improvements related to schools.**

A city may only require street improvements related to schools that are required for safe ingress and egress to the municipal street system and that are physically connected to a driveway on the school site. The required improvements shall not exceed those required pursuant to G.S. 136-18(29). G.S. 160A-307 shall not apply to schools. A city may only require street improvements related to schools as provided in G.S. 160A-372. The cost of any improvements to the municipal street system pursuant to this section shall be reimbursed by the city. Any agreement between a school and a city to make improvements to the municipal street system shall not include a requirement for acquisition of right-of-way by the school, unless the school is owned by an entity that has eminent domain power. Any right-of-way costs incurred by a school for required improvements pursuant to this section shall be reimbursed by the city. Notwithstanding any provision of this Chapter to the contrary, a city may not condition the approval of any zoning, rezoning, or permit request on the waiver or reduction of any provision of this section. The term "school," as used in this section, means any facility engaged in the educational instruction of children in any grade or combination of grades from kindergarten through the twelfth grade at which attendance satisfies the compulsory attendance law and includes charter schools authorized under G.S. 115C-218.5."

**SECTION 34.18.(b)** G.S. 160A-383(d) reads as rewritten:

"(d) Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school."

**SECTION 34.18.(c)** This section is effective when it becomes law and applies retroactively to August 1, 2017. Any ordinance, resolution, regulation, or policy in effect on or after August 1, 2017, that violates or is not consistent with the provisions of this section is null and void as of the effective date of this section.

**PILOT PROGRAM/DOT SALARY ADJUSTMENT & RETENTION FUNDS**

**SECTION 34.19.(a)** Subject to the approval of the Secretary of the Department of Transportation, employees of the Department of Transportation (Department) who voluntarily relinquish (i) annual longevity payments or any claim to longevity pay and (ii) any claim to career status or eligibility for career status are exempt from:

- (1) The classification and compensation rules established by the State Human Resources Commission pursuant to G.S. 126-4(1) through (4).
- (2) G.S. 126-4(5) only as it applies to hours and days of work, vacation, and sick leave.
- (3) G.S. 126-4(6) only as it applies to promotion and transfer.
- (4) G.S. 126-4(10) only as it applies to the prohibition of the establishment of incentive pay programs.
- (5) Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1.

**SECTION 34.19.(b)** Nothing in subsection (a) of this section shall be construed to abrogate career status under G.S. 126-1.1.

**SECTION 34.19.(c)** For the 2018-2019 fiscal year and the 2019-2020 fiscal year, the sum equal to two percent (2%) of the total Highway Fund and Highway Trust Fund appropriation for the applicable fiscal year for the payroll expenses of the Department may be used for the purposes of:

- (1) Salary adjustments within the Department to provide competitive salary rates and to address changes in labor market salary rates as documented through the Department's data collection and analysis according to accepted human resource professional practices and standards.
- (2) Reallocation of positions within the Department to higher-level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.
- (3) Recruitment and retention programs instituted at the Secretary's discretion.

**SECTION 34.19.(d)** Priority funding shall be given to recruitment, retention, salary range revisions, and reallocations affecting the job classifications and bands deemed by the Secretary to be most in need of immediate attention. The Department, as determined by the Department to be needed, may utilize market surveys and other relevant employment sector information available to the Office of State Human Resources.

**SECTION 34.19.(e)** The Department shall report to the Joint Legislative Transportation Oversight Committee and Fiscal Research Division of the General Assembly, beginning January 1, 2019, and the semiannually thereafter, regarding the actions taken pursuant to this section.

**SECTION 34.19.(f)** Notwithstanding G.S. 126-7.1 or any law to the contrary, the Secretary of the Department of Transportation may designate vacant positions as not being subject to the open recruitment requirements of G.S. 126-7.1(a) for the purpose of carrying out the recruitment flexibility granted to the Secretary under subdivision (3) of subsection (c) of this section. The Secretary shall notify the State Human Resources Commission within 30 days of invoking recruitment flexibility.

**SECTION 34.19.(g)** Compensation decisions made under this section are exempt from the classification and compensation rules and policies established by the State Human Resources Commission.

**SECTION 34.19.(h)** This section becomes effective July 1, 2018, and expires June 30, 2020.

#### **DOT/ATTRACTION LOGO SIGN**

**SECTION 34.20.** Notwithstanding any law to the contrary, the Department of Transportation shall install, in conformity with the Uniform Manual, an attraction facilities sign as authorized under G.S. 136-89.56 on U.S. Route 221 between 1,000 and 2,000 feet South of the intersection with U.S. Route 70 in McDowell County. Upon the request of the Historic Carson House, a nonprofit organization, and payment of any applicable fees, the Department shall install the Historic Carson House logo panel on the attraction facilities sign.

#### **REST AREA PILOT PROJECT/RICHMOND COUNTY**

**SECTION 34.21.(a)** Section 34.34 of S.L. 2017-57 reads as rewritten:

**"SECTION 34.34.(a)** Pilot Project. – The Department of Transportation shall develop and implement a pilot project to provide funding for operating a rest area on U.S. Highway 220 in Richmond County. From funds appropriated in this act to the Roadside Environmental Fund in the Highway Fund, the Department shall allocate the sum of one hundred thousand dollars (\$100,000) in nonrecurring funds for each fiscal year of the 2017-2019 fiscal biennium to the Town of Ellerbe for funding the rest area described in this subsection. The funds allocated under



this subsection shall not revert at the end of each fiscal year but shall remain available until expended in accordance with the purpose set forth in this subsection.

...  
"SECTION 34.34.(c) Report. – The Department shall provide a report on the results of the pilot project required under subsection (a) of this section to the Joint Legislative Transportation Oversight Committee by December 1, ~~2018~~, 2019. The report shall include (i) the average daily number of visitors to the rest area, (ii) the average monthly number of visitors to the rest area, (iii) the total number of visitors to the rest area, and (iv) the average annual costs to operate the rest area. The information required under this subsection shall be for the period from when the rest area begins operation to November 1, ~~2018~~, 2019."

SECTION 34.21.(b) This section becomes effective June 30, 2018.

#### **DMV/COMMERCIAL MOTORCOACH STUDY**

SECTION 34.22.(a) Commercial Motorcoach Study. – The Division of Motor Vehicles, in consultation with the Department of Public Safety and the North Carolina Motorcoach Association, shall study federal and State regulation of commercial motorcoaches. As part of the study, the Division of Motor Vehicles shall consider all of the following:

- (1) Federal regulation of commercial motorcoaches.
- (2) State regulations and requirements for commercial motorcoaches, including the effect of laws in Virginia, South Carolina, Georgia, Florida, Tennessee, Pennsylvania, Washington, D.C., and New York on North Carolina registered commercial motorcoaches traveling and doing business in those states.
- (3) Regulations and requirements for out-of-state commercial motorcoaches traveling and doing business in North Carolina.
- (4) The equity of regulations and requirements governing North Carolina registered commercial motorcoaches traveling and doing business in other states and jurisdictions and out-of-state registered commercial motorcoaches traveling and doing business in North Carolina.
- (5) Whether North Carolina may establish or enter into reciprocity agreements with other states and jurisdictions to exempt North Carolina registered commercial motorcoaches traveling and doing business in those other states and jurisdictions.
- (6) Whether any legislative changes are necessary to ensure North Carolina registered commercial motorcoaches are not at a competitive disadvantage with commercial motorcoaches registered in other states and jurisdictions.
- (7) Any other topic or issue the Division of Motor Vehicles determines to be relevant to this study.

SECTION 34.22.(b) Report. – By December 1, 2018, the Division of Motor Vehicles shall report its findings from the study required under subsection (a) of this section, including any legislative recommendations, to the chairs of the Joint Legislative Transportation Oversight Committee and the Joint Legislative Oversight Committee on Justice and Public Safety.

#### **DMV/HEARINGS UNIT BUDGET**

SECTION 34.23.(a) Revised Budget. – The Office of State Budget and Management, in consultation with the Division of Motor Vehicles, shall adjust the Hearing Unit's certified budget for the 2018-2019 fiscal year to correctly align total requirements and receipts to reflect the requirement set forth in Section 34.9 of S.L. 2014-100, as amended by Section 29.30A of S.L. 2015-241 and Section 34.32 of S.L. 2017-57, that all functions supporting the Hearing Unit's operating budget under Fund Code 1304 be fully receipt-supported from the fee proceeds collected by the Hearings Unit.

**SECTION 34.23.(b) Position Elimination.** – The Division of Motor Vehicles may eliminate vacant and filled positions to achieve the requirement set forth in subsection (a) of this section. If filled positions are eliminated under this subsection, the Division of Motor Vehicles shall eliminate the positions in accordance with G.S. 126-7.1. All positions identified by the Division of Motor Vehicles for elimination under this subsection shall be eliminated by no later than October 1, 2018.

**SECTION 34.23.(c) Position Elimination Report.** – By October 15, 2018, the Division of Motor Vehicles shall submit a report to the Joint Legislative Transportation Oversight Committee detailing the elimination of any positions under subsection (b) of this section.

**SECTION 34.23.(d)** G.S. 20-4.03 is amended by adding a new subsection to read:

**"(c) Report.** – Beginning October 1, 2018, and quarterly thereafter, the Division shall submit a report to the Fiscal Research Division of the General Assembly detailing all of the following for each month of the applicable quarter and for each type of administrative hearing:

- (1) The total number of administrative hearings.
- (2) The total amount of revenue collected.
- (3) The total number of fee waivers granted.
- (4) The counties where the administrative hearings were held.
- (5) The average amount of time required to conduct an administrative hearing, with the time required of hearing officers and the time required of administrative personnel listed separately."

**SECTION 34.23.(e) Requirement for Submission of First Hearings Report.** – Notwithstanding any provision of G.S. 20-4.03(c), as enacted by subsection (d) of this section, to the contrary, the report required under G.S. 20-4.03(c) for October 1, 2018, shall include all of the information required under G.S. 20-4.03(c) for the period from January 1, 2018, through October 1, 2018.

#### **VACATE DMV NEW BERN AVENUE PROPERTY/ISSUE RFP FOR LEASING SPACE OUTSIDE RALEIGH**

**SECTION 34.24.(a)** All Division of Motor Vehicles employees and contractors working at the Division of Motor Vehicles building located on New Bern Avenue in the City of Raleigh shall vacate the property by October 1, 2020.

**SECTION 34.24.(b)** By no later than August 1, 2018, the Department of Administration shall issue a Request for Proposal (RFP) seeking leased office space or spaces for the Division of Motor Vehicles employees and contractors currently working at the Division building located on New Bern Avenue in the City of Raleigh. The geographic scope of the RFP shall include Wake County and surrounding counties.

**SECTION 34.24.(c)** G.S. 20-40 reads as rewritten:

**"§ 20-40. Offices of Division.**

The Commissioner shall maintain an office in Raleigh, North Carolina, Wake County, North Carolina, or a surrounding county, and in such places in the State as he shall deem the Commissioner deems necessary to properly carry out the provisions of this Article."

#### **DMV/TRUCK DRIVER TRAINING STUDY**

**SECTION 34.25.(a)** Truck Driver Training Study. – The Division of Motor Vehicles, in consultation with the Highway Division of the Department of Transportation, the North Carolina Trucking Association, the North Carolina Community College System, interested private truck driving schools, and associations of industry partners, shall study the training and industry workforce need in North Carolina for drivers with a Commercial Driver's License (CDL). As part of the study, the Division of Motor Vehicles shall consider all of the following:

- (1) A statewide and regional needs assessment of industry demand for CDL drivers by drivers license class and endorsement and an assessment and

mapping of available public and private training programs and testing locations.

- (2) An assessment of existing CDL training programs across community colleges and private trucking schools, to include cost, average instructional hours, training curricula, and behind-the-wheel instruction time.
- (3) The costs, obstacles, and possible benefits to creating a statewide CDL training program with a focus on current geographical disparities in program availability.
- (4) The statewide and regional enrollment, completion rates, and waiting lists for the past three years of CDL training at community colleges and private truck driving schools.
- (5) A review of scholarships, grants, loans, or other financial assistance available to persons interested in obtaining a CDL.
- (6) A review of State law and regulations governing CDL licenses and CDL training and any recommendations or statutory adjustments to increase the number of CDL drivers in the State and to streamline and standardize existing training programs.
- (7) Fiscal estimate of the cost to meet any of the needs as identified in the report.
- (8) Any other topic or issue the Division of Motor Vehicles determines to be relevant to this study.

**SECTION 34.25.(b)** Report. – The Division of Motor Vehicles shall report its findings from the study required under subsection (a) of this section, including any legislative recommendations, to the chairs of the House of Representatives Appropriations Committee on Transportation and the chairs of the Senate Appropriations Committee on Department of Transportation by the convening of the 2019 Regular Session of the General Assembly.

## **CLARIFY OVERSIGHT AUTHORITY OVER AUTO APPRAISERS**

**SECTION 34.26.(a)** G.S. 20-279.2 reads as rewritten:

**"§ 20-279.2. ~~Commissioner~~Commissioners to administer Article; appeal to court.**

(a) ~~The~~Except for G.S. 20-279.21(d1), the Commissioner shall administer and enforce the provisions of this Article and may make rules and regulations necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the Commissioner under the provisions of this Article. The Commissioner of Insurance shall administer and enforce the provisions of G.S. 20-279.21(d1) and may make rules and regulations necessary for its administration.

(b) Any person aggrieved by an order or act of the Commissioner of Motor Vehicles requiring a suspension or revocation of ~~his~~the person's license under the provisions of this Article, or requiring the posting of security as provided in this Article, or requiring the furnishing of proof of financial responsibility, may file a petition in the superior court of the county in which the petitioner resides for a review, and the commencement of ~~such a~~the proceeding shall suspend the order or act of the Commissioner pending the final determination of the review. A copy of ~~such the~~the petition shall be served upon the Commissioner, and the Commissioner shall have 20 days after ~~such~~service in which to file answer. The appeal shall be heard in said county by the judge holding court in said county or by the resident judge. At the hearing upon the petition the judge shall sit without the intervention of a jury and shall receive ~~such any~~any evidence ~~as shall be~~ deemed by the judge to be relevant and proper. Except as otherwise provided in this section, upon the filing of the petition herein provided for, the procedure shall be the same as in civil actions.

The matter shall be heard de novo and the judge shall enter ~~his an~~an order affirming the act or order of the Commissioner, or modifying same, including the amount of bond or security to be given by the petitioner. If the court is of the opinion that the petitioner was probably not guilty of negligence or that the negligence of the other party was probably the sole proximate cause of

the collision, the judge shall reverse the act or order of the Commissioner. Either party may appeal from ~~such~~the order to the Supreme Court in the same manner as in other appeals from the superior court and the appeal shall have the effect of further staying the act or order of the Commissioner requiring a suspension or revocation of the petitioner's license.

No act, or order given or rendered in any proceeding hereunder shall be admitted or used in any other civil or criminal action."

**SECTION 34.26.(b)** G.S. 20-279.21 reads as rewritten:

**"§ 20-279.21. "Motor vehicle liability policy" defined.**

...

(d1) Such motor vehicle liability policy shall provide an alternative method of determining the amount of property damage to a motor vehicle when liability for coverage for the claim is not in dispute. For a claim for property damage to a motor vehicle against an insurer, the policy shall provide that if:

- (1) The claimant and the insurer fail to agree as to the difference in fair market value of the vehicle immediately before the accident and immediately after the accident; and
- (2) The difference in the claimant's and the insurer's estimate of the diminution in fair market value is greater than two thousand dollars (\$2,000) or twenty-five percent (25%) of the fair market retail value of the vehicle prior to the accident as determined by the latest edition of the National Automobile Dealers Association Pricing Guide Book or other publications approved by the Commissioner of Insurance, whichever is less, then on the written demand of either the claimant or the insurer, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days after the demand. The appraisers shall then appraise the loss. Should the appraisers fail to agree, they shall then select a competent and disinterested appraiser to serve as an umpire. If the appraisers cannot agree upon an umpire within 15 days, either the claimant or the insurer may request that a magistrate resident in the county where the insured motor vehicle is registered or the county where the accident occurred select the umpire. The appraisers shall then submit their differences to the umpire. The umpire then shall prepare a report determining the amount of the loss and shall file the report with the insurer and the claimant. The agreement of the two appraisers or the report of the umpire, when filed with the insurer and the claimant, shall determine the amount of the damages. In preparing the report, the umpire shall not award damages that are higher or lower than the determinations of the appraisers. In no event shall appraisers or the umpire make any determination as to liability for damages or as to whether the policy provides coverage for claims asserted. The claimant or the insurer shall have 15 days from the filing of the report to reject the report and notify the other party of such rejection. If the report is not rejected within 15 days from the filing of the report, the report shall be binding upon both the claimant and the insurer. Each appraiser shall be paid by the party selecting the appraiser, and the expenses of appraisal and umpire shall be paid by the parties equally. For purposes of this section, "appraiser" and "umpire" shall mean a person licensed as a motor vehicle damage appraiser under G.S. 58-33-26 and G.S. 58-33-30 and who as a part of his or her regular employment is in the business of advising relative to the nature and amount of motor vehicle damage and the fair market value of damaged and undamaged motor vehicles.

(o) An insurer that fails to comply with ~~subsection~~ subsection (d1) or (m) of this section is subject to a civil penalty under G.S. 58-2-70."

## **SPECIAL REGISTRATION PLATES/STATE AND NATIONAL MOTTOS**

**SECTION 34.27.(a)** G.S. 20-63 reads as rewritten:

**"§ 20-63. Registration plates furnished by Division; requirements; replacement of regular plates with First in Flight ~~plates~~ plates, First in Freedom ~~plates~~ plates, or National/State Mottos ~~plates~~ plates; surrender and reissuance; displaying; preservation and cleaning; alteration or concealment of numbers; commission contracts for issuance.**

...

(b) Every license plate must display the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted," unless the plate is a special registration plate authorized in G.S. 20-79.4.

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be, at the option of the owner, either (i) a "First in Flight" ~~plate~~ plate, (ii) a "First in Freedom" ~~plate~~ plate, or (iii) a "National/State Mottos" ~~plate~~ plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the "First in Flight" plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. A "First in Freedom" plate shall have the words "First in Freedom" printed at the top of the plate above all other letters and numerals. The background of the "First in Freedom" plate may include an image chosen by the Division that is representative of the Mecklenburg Declaration of 1775 or the Halifax Resolves of 1776. A "National/State Mottos" plate shall (i) be a white plate, (ii) have above all other letters and numerals the motto of the United States "In God We Trust" printed in gold lettering over a background containing the American flag, (iii) have the letters and numerals of the plate number in dark blue lettering, (iv) have below the plate number "North Carolina" printed in light blue bold Arial Black capitalized font, and (v) have at the bottom of the plate the State motto "To Be Rather Than To Seem" printed in dark blue lettering matching the North Carolina flag and italicized.

(b1) The following special registration plates do not have to be a "First in Flight" ~~plate~~ plate, "First in Freedom" ~~plate~~ plate, or "National/State Mottos" ~~plate~~ plate as provided in subsection (b) of this section. The design of the plates that are not "First in Flight" ~~plates~~ plates, "First in Freedom" ~~plates~~ plates, or "National/State Mottos" ~~plate~~ plate must be developed in accordance with G.S. 20-79.4(a3). For special plates authorized in G.S. 20-79.7 on or after July 1, 2013, the Division may not issue the plate on a background under this subsection unless it receives the required number of applications set forth in G.S. 20-79.3A(a).

...."

**SECTION 34.27.(b)** G.S. 20-79(c) reads as rewritten:

"(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" ~~plate~~ plate, a "First in Freedom" ~~plate~~ plate, or a "National/State Mottos" ~~plate~~ plate. A dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate. The symbol may vary depending upon the classification of dealer license plate issued. The Division must provide suitably reduced sized license plates for motorcycle dealers and manufacturers.

A dealer license plate is issued for a period of one year. The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A dealer license plate may be transferred from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval. When one of the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

- (1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.
- (2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
- (3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate."

**SECTION 34.27.(c)** G.S. 20-79.02(c) reads as rewritten:

"(c) Form and Duration. – An LD license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a ~~"First in Flight" or "First in Freedom" plate.~~ "First in Flight" plate, "First in Freedom" plate, or a "National/State Mottos" plate. An LD license plate must have a distinguishing symbol identifying the plate as an LD license plate. Subject to the limitations in this section, an LD license plate may continue in existence perpetually and may be transferred to other vehicles in the dealer's loaner fleet when the vehicle on which the LD license plate is displayed has been sold or leased to a third party or otherwise removed from the dealer's loaner fleet."

**SECTION 34.27.(d)** G.S. 20-79.2(c) reads as rewritten:

"(c) Form, Duration, and Transfer. – A transporter plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a ~~"First in Flight" plate or plate, a "First in Freedom" plate, plate, or a "National/State Mottos" plate.~~ A transporter plate shall have a distinguishing symbol identifying the plate as a transporter plate. The symbol may vary depending upon the classification of transporter plate issued. A transporter plate is issued for a period of one year. The Division shall vary the expiration dates of transporter registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division issues a transporter plate, it may issue a registration that expires at the end of any monthly interval. During the year for which it is issued, a business or dealer may transfer a transporter plate from one vehicle to another as long as the vehicle is driven only for a purpose authorized by subsection (a) of this section. The Division must rescind a transporter plate that is displayed on a motor vehicle driven for a purpose that is not authorized by subsection (a) of this section."

## **EXPRESS AUTHORIZATION FROM THE GENERAL ASSEMBLY REQUIRED TO PURCHASE AN AIRPLANE OR HELICOPTER**

**SECTION 34.28.** For the 2018-2019 fiscal year, the Department of Transportation shall not purchase an airplane or helicopter without express authorization by the General Assembly.

## **AIRPORT FUNDING/REPORTING & DEADLINE FOR USE**

**SECTION 34.29.(a)** Section 34.19(d) of S.L. 2017-57 reads as rewritten:

**"SECTION 34.19.(d) Permissible ~~Uses.~~ Uses; Reporting; Return of Funds.** – Each airport receiving funds under this section may use the funds allocated to it under this section to (i) fund improvements to the airport and (ii) pay debt service or related financing costs and expenses on

revenue bonds or notes issued by the airport. By August 31, 2018, each airport shall provide a report to the Department of Transportation on how it used or will use any funds allocated to it under this section for the 2017-2018 fiscal year. Beginning in the 2018-2019 fiscal year, the Department of Transportation shall not allocate funds to an airport under this section until that airport has provided a report as to how it will use the funds. No later than 45 days from the date the Department receives the report required under this subsection beginning in the 2018-2019 fiscal year, the Department shall allocate funds under this section to the compliant airport. An airport that receives funds under this section shall return the funds to the Department of Transportation if the funds are in the possession or control of the airport and not expended or made subject to an encumbrance by August 31 of the second year following the fiscal year in which the Department of Transportation makes the allocation. All funds returned to the Department of Transportation under this section, or retained by the Department of Transportation for failure of the airport to submit a report under this subsection, shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly."

**SECTION 34.29.(b)** Section 34.19(e) of S.L. 2017-57 reads as rewritten:

**"SECTION 34.19.(e) Limitation.** – Notwithstanding any provision of law to the contrary, it is the intention of the General Assembly that the ~~appropriation~~allocation of funds to the airports listed in this section, the enactment of this section, and the issuance of bonds or notes by the airports in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending an ~~appropriation~~allocation made to the airports at any time to decrease or eliminate the amount ~~appropriated~~allocated to the airports. A security interest shall not be granted in funds allocated under this section."

**SECTION 34.29.(c)** This section is effective when it becomes law.

## **DOT/STUDY PASSENGER RAIL STATION MAINTENANCE NEEDS**

**SECTION 34.30.** The Department of Transportation shall study the maintenance needs of rail stations for passenger trains supported by the Department of Transportation. The study shall identify (i) the owner of the rail station, (ii) the type of maintenance required by the rail station, (iii) the reason or reasons the identified maintenance needs have not been completed, (iv) the cost to complete the maintenance, and (v) the length of time required to complete the maintenance. Additionally, the Department shall include recommendations as to local, State, and federal funding sources that may be used to cover the costs of any identified maintenance needs. The Department shall submit the results of the study, including any recommended legislation, to the Joint Legislative Transportation Oversight Committee by December 1, 2018.

## **PART XXXV. SALARIES AND BENEFITS**

### **ELIGIBLE STATE-FUNDED EMPLOYEES AWARDED LEGISLATIVE SALARY INCREASES/EFFECTIVE JULY 1, 2018/RAISE MINIMUM ANNUAL STATE EMPLOYEE PAY TO \$31,200**

**SECTION 35.1.(a)** Except as provided by subsection (b) of this section, a person (i) whose salary is set by this part, pursuant to the North Carolina Human Resources Act, or as otherwise authorized in this act and (ii) who is employed in a State-funded position on June 30, 2018, is awarded a legislative salary increase as follows:

- (1) Effective July 1, 2018, in the amount of two percent (2%) of annual salary in the 2018-2019 fiscal year or a pay raise for full-time permanent employees up to an annual salary of thirty-one thousand two hundred dollars (\$31,200), whichever is greater.
- (2) As otherwise allowed or provided by law.

**SECTION 35.1.(b)** The following persons are not eligible to receive the legislative salary increases provided by subsection (a) of this section:

- (1) Teachers, principals, and assistant principals paid pursuant to a salary schedule or pay plan enacted in this act.
- (2) Employees of The University of North Carolina.
- (3) Local community college employees.
- (4) Members of the State Highway Patrol eligible to receive salary adjustments authorized by Section 35.25 of this act.
- (5) Employees of the Division of Adult Correction, Department of Public Safety, eligible to receive a greater increase under this part.

**SECTION 35.1.(c)** Permanent part-time employees shall receive the increase authorized by this section on a prorated and equitable basis.

**SECTION 35.1.(d)** No eligible State-funded employee shall be prohibited from receiving the full salary increase provided in this section solely because the employee's salary after applying the legislative increase is above the maximum of the salary range prescribed by the State Human Resources Commission.

## **GOVERNOR AND COUNCIL OF STATE**

**SECTION 35.2.(a)** Effective July 1, 2018, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred forty-four thousand three hundred ninety-nine dollars (\$144,399)~~ one hundred forty-seven thousand two hundred eighty-seven dollars (\$147,287) annually, payable monthly."

**SECTION 35.2.(b)** Effective July 1, 2018, the annual salaries for members of the Council of State, payable monthly, for the 2018-2019 fiscal year are set as follows:

| <u>Council of State</u>              | <u>Annual Salary</u> |
|--------------------------------------|----------------------|
| Lieutenant Governor                  | \$130,112            |
| Attorney General                     | 130,112              |
| Secretary of State                   | 130,112              |
| State Treasurer                      | 130,112              |
| State Auditor                        | 130,112              |
| Superintendent of Public Instruction | 130,112              |
| Agriculture Commissioner             | 130,112              |
| Insurance Commissioner               | 130,112              |
| Labor Commissioner                   | 130,112              |

## **CERTAIN EXECUTIVE BRANCH OFFICIALS**

**SECTION 35.3.** Effective July 1, 2018, the annual salaries, payable monthly, for the following executive branch officials for the 2018-2019 fiscal year are set as follows:

| <u>Executive Branch Officials</u>                         | <u>Annual Salary</u> |
|-----------------------------------------------------------|----------------------|
| Chairman, Alcoholic Beverage Control Commission           | \$116,837            |
| State Controller                                          | 162,691              |
| Commissioner of Banks                                     | 131,132              |
| Chair, Board of Review, Division of Employment Security   | 128,626              |
| Members, Board of Review, Division of Employment Security | 127,054              |
| Chairman, Parole Commission                               | 128,626              |
| Full-Time Members of the Parole Commission                | 118,927              |
| Chairman, Utilities Commission                            | 145,806              |



|                                                                      |         |
|----------------------------------------------------------------------|---------|
| Members of the Utilities Commission                                  | 131,132 |
| Executive Director, North Carolina<br>Agricultural Finance Authority | 113,780 |

## **JUDICIAL BRANCH**

**SECTION 35.4.(a)** Effective July 1, 2018, the annual salaries, payable monthly, for the following judicial branch officials for the 2018-2019 fiscal year are set as follows:

| <u>Judicial Branch Officials</u>               | <u>Annual Salary</u> |
|------------------------------------------------|----------------------|
| Chief Justice, Supreme Court                   | \$153,088            |
| Associate Justice, Supreme Court               | 149,115              |
| Chief Judge, Court of Appeals                  | 146,756              |
| Judge, Court of Appeals                        | 142,947              |
| Judge, Senior Regular Resident Superior Court  | 139,091              |
| Judge, Superior Court                          | 135,236              |
| Chief Judge, District Court                    | 122,900              |
| Judge, District Court                          | 119,044              |
| Chief Administrative Law Judge                 | 120,064              |
| District Attorney                              | 130,799              |
| Assistant Administrative Officer of the Courts | 125,938              |
| Public Defender                                | 130,779              |
| Director of Indigent Defense Services          | 134,788              |

**SECTION 35.4.(b)** 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, for the 2018-2019 fiscal year, do not exceed seventy-eight thousand six hundred fourteen dollars (\$78,614) and the minimum salary of any assistant district attorney or assistant public defender is at least forty-two thousand one hundred ninety-three dollars (\$42,193), effective July 1, 2018.

## **CLERKS OF SUPERIOR COURT**

**SECTION 35.5.** Effective July 1, 2018, 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:

| Population         | Annual Salary                 |
|--------------------|-------------------------------|
| Less than 100,000  | <del>\$ 89,188</del> \$90,972 |
| 100,000 to 149,999 | <del>99,834</del> 101,831     |
| 150,000 to 249,999 | <del>110,480</del> 112,690    |
| 250,000 and above  | <del>121,131</del> 123,554    |

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."

## **ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT**

**SECTION 35.6.** Effective July 1, 2018, 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>\$34,098</del> \$34,780 |
| Maximum                              | <del>59,963</del> 61,162     |
| Deputy Clerks                        | Annual Salary                |
| Minimum                              | <del>\$29,646</del> \$31,200 |
| Maximum                              | <del>47,092</del> 48,034."   |

## MAGISTRATES

**SECTION 35.7.** Effective July 1, 2018, G.S. 7A-171.1 reads as rewritten:

**"§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

- (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              |                              |
|------------|----------------------------|------------------------------|
|            | <u>Minimum</u>             | <u>Maximum</u>               |
| Entry Rate |                            | <del>\$37,862</del> \$38,620 |
| Step 1     | <del>39,519</del> \$40,309 | <del>40,658</del> \$41,471   |
| Step 2     | <del>42,448</del> \$43,297 | <del>43,673</del> \$44,546   |
| Step 3     | <del>45,548</del> \$46,459 | <del>46,865</del> \$47,802   |
| Step 4     | <del>49,263</del> \$50,248 | <del>50,690</del> \$51,704   |
| Step 5     | <del>53,739</del> \$54,814 | <del>55,298</del> \$56,404   |
| Step 6     | <del>58,754</del> \$59,929 | <del>60,461</del> \$61,670.  |

- (2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.
- (3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4.

(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 minimum and maximum 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:~~

|                                            | Minimum | Maximum  |
|--------------------------------------------|---------|----------|
| Less than 1 year of service                |         | \$30,099 |
| 1 or more but less than 3 years of service | 30,288  | 31,333   |
| 3 or more but less than 5 years of service | 32,773  | 33,818   |

~~Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).~~

- (2) ~~The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:~~

| Salary Level<br>on June 30, 1994            | Salary Level<br>on July 1, 1994 |
|---------------------------------------------|---------------------------------|
| 5 or more but less than 7 years of service  | Entry Rate                      |
| 7 or more but less than 9 years of service  | Step 1                          |
| 9 or more but less than 11 years of service | Step 2                          |
| 11 or more years of service                 | Step 3                          |

~~Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).~~

- (3) ~~The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).~~

- (4) ~~The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.~~

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the North Carolina Human Resources Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

## LEGISLATIVE EMPLOYEES

**SECTION 35.8.(a)** Effective July 1, 2018, the annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly in effect on June 30, 2018, shall be legislatively increased by two percent (2%).

**SECTION 35.8.(b)** Nothing in this act limits any of the provisions of G.S. 120-32.

## GENERAL ASSEMBLY PRINCIPAL CLERKS

**SECTION 35.9.** Effective July 1, 2018, 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 eight thousand nine hundred twenty-eight dollars (\$108,928), one hundred eleven one hundred seven dollars (\$111,107), 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."

#### **SERGEANTS-AT-ARMS AND READING CLERKS**

**SECTION 35.10.** Effective July 1, 2018, 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 ~~four hundred twenty-nine dollars (\$429.00)~~ four hundred thirty-eight dollars (\$438.00) 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."

#### **COMMUNITY COLLEGES**

**SECTION 35.11.(a)** Effective for the 2018-2019 fiscal year, the State Board of Community Colleges may provide community college personnel salary increases in accordance with policies adopted by the Board. Funds appropriated for these compensation increases by this act may be used for any one or more of the following purposes: (i) merit pay, (ii) across-the-board increases, (iii) recruitment bonuses, (iv) retention increases, and (v) any other compensation increase pursuant to those policies. The Board shall make a report on the use of these funds to the General Assembly by no later than March 1, 2019.

**SECTION 35.11.(b)** The minimum salaries for nine-month, full-time curriculum community college faculty for the 2018-2019 fiscal year are as follows:

|                                         | <u>Minimum</u>   |
|-----------------------------------------|------------------|
| <u>Salary</u>                           |                  |
| <u>Education Level</u>                  | <u>2018-2019</u> |
| Vocational Diploma/Certificate or Less  | \$37,581         |
| Associate Degree or Equivalent          | 38,103           |
| Bachelor's Degree                       | 40,371           |
| Master's Degree or Education Specialist | 42,382           |
| Doctoral Degree                         | 45,282           |

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

#### **UNIVERSITY OF NORTH CAROLINA SYSTEM**

**SECTION 35.12.(a)** For the 2018-2019 fiscal year, the Board of Governors of The University of North Carolina may provide EHRA and SHRA employees a salary increase pursuant to the policies adopted by the Board. Funds for EHRA and SHRA compensation increases may be used for any one or more of the following purposes: (i) merit pay, (ii) across the board increases, (iii) recruitment bonuses, (iv) retention increases, and (v) any other compensation increase pursuant to those policies. The Board shall make a report on the use of these funds to the General Assembly by no later than March 1, 2019.

**SECTION 35.12.(b)** After the award of the pay increase authorized in subsection (a) of this section, the annual salary of a permanent full-time University employee that is below the amount of thirty-one thousand two hundred dollars (\$31,200) shall be increased to that amount. A permanent part-time University employee shall receive a prorated portion of thirty-one thousand two hundred dollars (\$31,200).

## **STATE AGENCY TEACHERS**

**SECTION 35.13.** Employees of schools operated by the Department of Health and Human Services, the Department of Public Safety, the State Board of Education, and employees of the School of Science and Mathematics of The University of North Carolina who are paid on the Teacher Salary Schedule shall be paid as authorized by Section 8.1 of this act.

## **ALL STATE-SUPPORTED PERSONNEL**

**SECTION 35.14.(a)** Salaries and related benefits for positions that are funded:

- (1) 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.
- (2) Fully from sources other than the General Fund or Highway Fund shall be increased as provided by this act. The Director of the Budget may increase expenditures of receipts from these sources by the amount necessary to provide the legislative increase to receipt-supported personnel in the certified budget.

The Director of the Budget may increase expenditures of receipts from these sources in the certified budget by the amount necessary to provide the increases authorized by this part to receipt-supported personnel. Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

**SECTION 35.14.(b)** The Office of State Budget and Management shall allocate the Compensation Increase Reserve of fifteen million three hundred thousand dollars (\$15,300,000) appropriated in this act as needed to establish a minimum State employee annual salary of thirty-one thousand two hundred dollars (\$31,200). The State Human Resources Commission shall increase the minimum of all salary ranges in any compensation plan it maintains to at least thirty-one thousand two hundred dollars (\$31,200) annually. The minimum salary does not apply to State-funded local employees.

**SECTION 35.14.(c)** The legislative salary increases provided in this act for the 2018-2019 fiscal year do not apply to persons separated from service due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is prior to July 1, 2018. With respect to the legislative increases awarded in this part, payroll checks issued to employees after July 1 of each year that represent payment of services provided prior to July 1 of each year shall not be eligible for salary increases provided for in this act.

**SECTION 35.14.(d)** This section applies to all employees paid from State funds, whether or not subject to or exempt from the North Carolina Human Resources Act, including employees of public schools, community colleges, and The University of North Carolina.

## **MOST STATE EMPLOYEES**

**SECTION 35.15.** Unless otherwise expressly provided by this part, the annual salaries in effect for the following persons on June 30, 2018, shall be legislatively increased as provided by Section 35.1 of this act:

- (1) Permanent, full-time State officials and persons whose salaries are set in accordance with the State Human Resources Act.
- (2) Permanent, full-time State officials and persons in positions exempt from the State Human Resources Act.
- (3) Permanent, part-time State employees.
- (4) Temporary and permanent hourly State employees.

## **USE OF FUNDS APPROPRIATED FOR LEGISLATIVELY MANDATED INCREASES**

**SECTION 35.16.(a)** The appropriations set forth in Section 2.1 of this act include appropriations for legislatively mandated salary increases and employee benefits in amounts set forth in the Committee Report that accompanies this act. The Office of State Budget and Management shall ensure that those funds are used only for the purposes of legislatively mandated salary increases and employee benefits.

**SECTION 35.16.(b)** If the Director of the Budget determines that funds appropriated to a State agency for legislatively mandated salary increases and employee benefits exceed the amount required by that agency for those purposes, the Director may reallocate those funds to other State agencies that received insufficient funds for legislatively mandated salary increases and employee benefits.

**SECTION 35.16.(c)** Any funds appropriated for legislatively mandated salary and benefits increases in excess of the amounts required to implement the increases shall be credited to the Pay Plan Reserve.

**SECTION 35.16.(d)** No later than March 1, 2019, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the expenditure of funds for legislatively mandated salary increases and employee benefits. This report shall include at least the following information for each State agency for the 2018-2019 fiscal year:

- (1) The total amount of funds that the agency received for legislatively mandated salary increases and employee benefits.
- (2) The total amount of funds transferred from the agency to other State agencies pursuant to subsection (b) of this section. This section of the report shall identify the amounts transferred to each recipient State agency.
- (3) The total amount of funds used by the agency for legislatively mandated salary increases and employee benefits.
- (4) The amount of funds credited to the Pay Plan Reserve.

## **REQUIRE SUBMISSION OF PAY PLAN DESIGN**

**SECTION 35.17.** G.S. 143C-4-9(c) reads as rewritten:

"(c) Request for Allocation. – After January 1 of each fiscal year, an agency may request an allocation from the Pay Plan Reserve by ~~submitting proof~~ submitting:

- (1) A detailed description of the pay plan design, including the salary or salary range at each step within the pay plan and the criteria for movement between steps of the pay plan.
- (2) Proof to the Office of State Budget and Management (OSBM) that the agency has exhausted or is projected to exhaust funds appropriated for statutory or scheduled salary and benefit expenses.

The OSBM must certify the need for any allocation before disbursing funds from the reserve. The OSBM shall report to Fiscal Research Division on or before April 1 of each year on any disbursements made from the reserve and regarding projected recurring appropriations necessary to fully fund positions eligible for funding in the next fiscal year. Funds from the reserve may be allocated and reallocated only as expressly provided by this section."

## **STATUTORY AUTHORITY REGARDING CERTAIN LAW ENFORCEMENT OFFICER BENEFITS**

**SECTION 35.18.(a)** G.S. 143-166.13 reads as rewritten:

**"§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

...

(21) Sworn State Law-Enforcement Officers with the power of arrest, Department of Natural and Cultural Resources."

**SECTION 35.18.(b)** This section is effective when it becomes law.

## **COUNCIL OF STATE AGENCIES/EXEMPT EMPLOYEES**

**SECTION 35.19.** G.S. 126-5 is amended by adding a new subsection to read:

"(c14) Notwithstanding any provision of this Chapter to the contrary, each Council of State agency shall have the sole authority to set the salary of its exempt policymaking and exempt managerial positions within the minimum rates, and the maximum rates plus ten percent (10%), established by the State Human Resources Commission under G.S. 126-4(2)."

## **ADULT CORRECTIONS/ELIGIBILITY FOR SALARY ADJUSTMENTS**

**SECTION 35.20.** No State employee employed in the Department of Public Safety, Division of Adult Correction, who was eligible to receive a legislatively mandated across-the-board, merit, or other salary increase authorized for the 2015-2017 and 2017-2019 fiscal biennia shall be denied an increase based upon a prior infraction or a pending disciplinary action unless the employee has an active disciplinary action related to grossly inefficient job performance.

## **CORRECTIONAL OFFICERS/SALARY INCREASE**

**SECTION 35.21.(a)** Effective July 1, 2018, the annual salaries of Correctional Officers in the Department of Public Safety, Division of Adult Correction (Division), in effect on June 30, 2018, shall be legislatively increased by four percent (4%). Employees in the following positions are eligible to receive the increases provided by this section:

- (1) Correctional officers.
- (2) Custody supervisors.
- (3) Prison facility administrators.
- (4) Food service officers and managers.

The budgeted salaries of vacant positions in the categories listed above are eligible to receive the four percent (4%) increase and the budgeted salaries shall be adjusted accordingly.

**SECTION 35.21.(b)** The Division shall establish the following minimum salaries for Correctional Officer position classifications, effective July 1, 2018:

- (1) Correctional Officer I – \$33,130.
- (2) Correctional Officer II – \$34,220.
- (3) Correctional Officer III – \$36,598.

## **CORRECTIONAL OFFICERS/CUSTODY-BASED PAY DIFFERENTIAL**

**SECTION 35.22.** Whenever an employee is in a Correctional Officer position assigned to a lower custody level facility and the employee is required to staff a higher custody level facility for any period of time, the employee shall receive a pay differential applied to their base salary for the period of time the employee worked at the higher custody level facility, as follows:

- (1) For employees assigned to minimum custody facilities that are required to staff medium custody facilities, the pay differential is ten percent (10%).
- (2) For employees assigned to medium custody facilities that are required to staff close custody facilities, the pay differential is ten percent (10%).
- (3) For employees assigned to minimum custody facilities that are required to staff close custody facilities, the pay differential is twenty percent (20%).

## **DIVISION OF ADULT CORRECTIONS BUDGET REVIEW AND REALIGNMENT**

**SECTION 35.23.** In accordance with the State Budget Act, Chapter 143C of the General Statutes, the Department of Public Safety, in consultation with the Office of State Budget and Management, shall review and realign the Division of Adult Correction's budget as part of the certification of that budget for the 2018-2019 fiscal year, without adjusting its total requirements, based on actual and anticipated expenditures occurring in the 2017-2019 fiscal biennium in the following areas:

- (1) Personnel costs.
- (2) Overtime.
- (3) Temporary nurses.
- (4) Inmate medical, prescription drugs, and pharmacy supplies.

The Department shall report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division on the budget adjustments made pursuant to this section by November 1, 2018.

#### **STATE HUMAN RESOURCES ACT/RIF CLARIFICATION/UNC**

**SECTION 35.24.** G.S. 126-7.1 reads as rewritten:

**"§ 126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring; reorganization through reduction.**

...  
(b) No loss of funds shall be required as a precondition for a reduction in force. State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

...  
(j) A-Any department or office listed in G.S. 126-5(d)(1) or (2) and The University of North Carolina and its constituent institutions may reorganize and restructure its positions through a voluntary separation process, in accordance with a policy approved by the State Human Resources Commission and subject to funding and approval by the Office of State Budget and Management."

#### **STATE TROOPERS INCREASE/TRAINING LOAN REIMBURSEMENT REQUIREMENTS**

**SECTION 35.25.(a)** Of the funds appropriated to the Department of Public Safety for the 2018-2019 fiscal year, the sum of seven million two hundred thousand dollars (\$7,200,000) shall be allocated to establish a pay schedule for the State Highway Patrol that (i) increases the annual beginning trooper salary to forty-four thousand dollars (\$44,000) and (ii) sets a stepped progression from beginning trooper to top trooper pay of sixty-four thousand two hundred two dollars (\$64,202) over a period of six years by providing increases of six and one-half percent (6.5%) per year. These funds shall not be used to adjust the pay of other employees of the Highway Patrol. The pay schedule shall be adjusted to effectuate any future across-the-board legislative or other authorized salary increases. The State Human Resources Commission shall provide technical assistance to the Secretary of Public Safety upon request.

**SECTION 35.25.(b)** Effective July 1, 2018, G.S. 20-187.3 reads as rewritten:

**"§ 20-187.3. Quotas prohibited.**

(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. Members of the Highway Patrol shall be subject to salary classes, ranges and the salary schedule established by the Secretary of Public Safety and shall receive 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 Human Resources Commission, not to exceed the maximum of each applicable salary range.

(b) The Secretary of Public Safety, subject to the availability of funds as authorized by the Director of the Budget, may place a member of the State Highway Patrol in any step in the salary range for the class to which the member is assigned based on the member's rank so that no member is in a step lower than others of the same rank who have held that rank for less time than that member."

**SECTION 35.25.(c)** Article 4 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-185.1. Trooper training; reimbursement.**

(a) Trooper Training Reimbursement. – The Trooper Training Reimbursement Program (Program) is established. The purpose of the Program is to recruit, prepare, and support individuals to become and remain members of the Highway Patrol by providing forgivable loans to recipients to cover the cost of their training, which is set herein as tuition in the amount of thirty-six thousand dollars (\$36,000) per cadet.

The Secretary of Public Safety shall perform all of the administrative functions necessary to implement the Program, including rule making, disseminating information, implementing forgivable loan agreements, loan monitoring, loan cancelling through service and collection, determining the acceptability of service repayment agreements, enforcing the agreements, and all other functions necessary for the execution, payment, and enforcement of reimbursement agreements and promissory notes required under this section.

(b) Training Reimbursement Agreement. – Each forgivable loan authorized by this section shall be evidenced by execution of a reimbursement agreement and a note made payable to the State that may bear interest at a rate not to exceed ten percent (10%) per year, as set by the Secretary of Public Safety.

(c) Loan Forgiveness and Hardships. – The loan and any interest accrued on the loan shall be forgiven if the recipient serves a total of 36 months as a member of the Highway Patrol. The Secretary of Public Safety shall also forgive the loan if the Secretary finds that it is impossible for the recipient to serve as a member of the Highway Patrol due to death, health-related reasons, or other hardship.

(d) Loan Repayment Requirements. – A forgivable loan may be terminated upon the recipient's withdrawal from the training program or by the recipient's failure to meet the standards set for cadets. If a recipient separates from the Highway Patrol before 36 months of service following completion of the training program, then either:

- (1) In the case of a municipal law enforcement agency, a sheriff's office, or a company police agency certified under Chapter 74E of the General Statutes that hires the recipient away during the 36-month period, that hiring entity is liable to the State for the tuition cost of the recipient's training. No hiring entity shall make any payment arrangement that circumvents any portion of this subsection; or
- (2) The recipient is liable to the State for the tuition cost, less one thousand dollars (\$1,000) of the debt on the note for each month the recipient served as a member of the Highway Patrol, except as otherwise authorized by this section."

**SECTION 35.25.(d)** G.S. 17C-6(a) is amended by adding a new subdivision to read:  
"(18) Monitor compliance with G.S. 20-185.1(d)."

**SECTION 35.25.(e)** G.S. 17E-4(a) is amended by adding a new subdivision to read:  
"(14) Monitor compliance with G.S. 20-185.1(d)."

**SECTION 35.25.(f)** G.S. 74E-4 is amended by adding a new subdivision to read:

"(10) To monitor compliance with G.S. 20-185.1(d)."

**SECTION 35.25.(g)** Effective for taxable years beginning on or after January 1, 2018, G.S. 105-153.5(b) reads as rewritten:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

(13) The loan amount forgiven pursuant to the Trooper Training Reimbursement Program established in G.S. 20-185.1."

**SECTION 35.25.(h)** By January 1, 2021, and annually thereafter, the Secretary shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the following:

- (1) Forgivable loans awarded, including demographic information regarding recipients.
- (2) Retention and repayment rates.
- (3) Program outcomes, including the turnover rate for forgivable loan recipients."

### **SPECIAL ANNUAL LEAVE BONUS**

**SECTION 35.26.(a)** Any person who is (i) a full-time permanent employee of the State or a community college institution on July 1, 2018, and (ii) eligible to earn annual leave shall have a one-time additional five days of annual leave credited on July 1, 2018.

**SECTION 35.26.(b)** Except as provided by subsection (c) of this section, the additional leave shall be accounted for separately with the leave provided by Section 28.3A of S.L. 2002-126, by Section 30.12B(a) of S.L. 2003-284, by Section 29.14A of S.L. 2005-276, by Section 35.10A of S.L. 2014-100, and by Section 35.18A of S.L. 2017-57 and shall remain available during the length of the employee's employment, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward. Part-time permanent employees shall receive a pro rata amount of the five days awarded by this section.

**SECTION 35.26.(c)** The additional leave awarded under this section has no cash value and is not eligible for cash in. If not used prior to the time of separation or retirement, the bonus leave cannot be paid out and is lost.

**SECTION 35.26.(d)** Notwithstanding any provision of G.S. 126-8 to the contrary, any vacation leave remaining on December 31 of each year in excess of 30 days shall be reduced by the number of days awarded in this section that were actually used by the employee during the year such that the calculation of vacation leave days that would convert to sick leave shall reflect a deduction of those days of special annual leave awarded in this section that were used by the employee during the year.

### **SALARY RELATED CONTRIBUTIONS**

**SECTION 35.27.** Section 35.19(c) of S.L. 2017-57 reads as rewritten:

"**SECTION 35.19.(c)** Effective July 1, 2018, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2018-2019 fiscal year for teachers and State employees, State law enforcement officers (LEOs), the University and Community Colleges Optional Retirement Programs (ORPs), the Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System (LRS) are as set forth below:

|            | <b>Teachers<br/>and State<br/>Employees</b> | <b>State<br/>LEOs</b>    | <b>ORPs</b> | <b>CJRS</b>              | <b>LRS</b>               |
|------------|---------------------------------------------|--------------------------|-------------|--------------------------|--------------------------|
| Retirement | <del>11.87%</del> 12.29%                    | <del>11.87%</del> 12.29% | 6.84%       | <del>33.26%</del> 33.86% | <del>20.04%</del> 22.40% |
| Disability | 0.14%                                       | 0.14%                    | 0.14%       | 0.00%                    | 0.00%                    |

|                |       |       |       |       |       |
|----------------|-------|-------|-------|-------|-------|
| Death          | 0.16% | 0.16% | 0.00% | 0.00% | 0.00% |
| Retiree Health | 6.27% | 6.27% | 6.27% | 6.27% | 6.27% |
| NC 401(k)      | 0.00% | 5.00% | 0.00% | 0.00% | 0.00% |

Total Contribution

Rate ~~18.44%~~ 18.86% ~~23.44%~~ 23.86% 13.25% ~~39.53%~~ 40.13% ~~26.31%~~ 28.67%

The rate for teachers and State employees and State law enforcement officers includes one one-hundredth percent (0.01%) for the Qualified Excess Benefit Arrangement."

**PROVIDE ONE-TIME COST-OF-LIVING SUPPLEMENT FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

**SECTION 35.28.(a)** G.S. 135-5 is amended by adding a new subsection to read:

"(www) On or before October 31, 2018, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2018, and whose retirement commenced on or before September 1, 2018. The payment shall be one percent (1%) of the beneficiary's annual retirement allowance payable as of September 1, 2018, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments."

**SECTION 35.28.(b)** G.S. 135-65 is amended by adding a new subsection to read:

"(hh) On or before October 31, 2018, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2018, and whose retirement commenced on or before September 1, 2018. The payment shall be one percent (1%) of the beneficiary's annual retirement allowance payable as of September 1, 2018, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments."

**SECTION 35.28.(c)** G.S. 120-4.22A is amended by adding a new subsection to read:

"(bb) In accordance with subsection (a) of this section, on or before October 31, 2018, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2018, and whose retirement commenced on or before September 1, 2018. The payment shall be one percent (1%) of the beneficiary's annual retirement allowance payable as of September 1, 2018, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments."

**SECTION 35.28.(d)** Notwithstanding any other provision of law to the contrary, in order to administer the one-time cost-of-living supplement for retirees provided for in subsections (a), (b), and (c) of this section, the Retirement Systems Division of the Department of State Treasurer may increase receipts from the retirement assets of the corresponding retirement system or pay costs associated with the administration of the payment directly from the retirement assets.

**INCREASE AND EXPAND PUBLIC SAFETY DEATH BENEFIT**

**SECTION 35.29.(a)** Article 12A of Chapter 143 of the General Statutes reads as rewritten:

"Article 12A.

~~"Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Public Safety Employees' Death Benefits Act.~~

**"§ 143-166.1. Purpose.**

In consideration of hazardous public service rendered to the people of this State, there is hereby provided a system of benefits for dependents of law-enforcement officers, ~~firemen, firefighters,~~ rescue squad ~~workers-workers,~~ and senior Civil Air Patrol members killed in the discharge of their official ~~duties-duties,~~ and for dependents of noncustodial employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety killed by an individual or individuals in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

**"§ 143-166.2. Definitions.**

(a) ~~The term "dependent child" shall mean any-~~ The following definitions apply in this Article:

- (1) Covered person. – This term shall apply to all of the following individuals:
  - a. Firefighters.
  - b. Law enforcement officers.
  - c. Noncustodial employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
  - d. Rescue squad workers.
  - e. Senior Civil Air Patrol members.
- (2) Custodial employee. – An employee of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is a detention officer or a correctional officer or who otherwise has direct care and control over individuals in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (3) Dependent child. – Any unmarried child of the deceased officer, firefighter, rescue squad worker or senior member of the Civil Air Patrol-covered person, whether natural, adopted, posthumously born or whether a child born out of wedlock as entitled to inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon and receiving his or her chief support from said officer or firefighter or rescue squad worker or senior member of the Civil Air Patrol-the covered person at the time of his-the covered person's death; provided, however, that if a dependent child is entitled to receive benefits at the time of the officer's or firefighter's or rescue squad worker's or senior Civil Air Patrol member's-covered person's death as hereinafter provided, he-the child shall continue to be eligible to receive such benefits regardless of his or her age thereafter; and further provided that thereafter. This term also includes any child over 18 years of age who is physically or mentally incapable of earning a living and any living. Any child over 18 years of age who was enrolled as a full-time student at the time of the officer's, the firefighter's, the rescue squad worker's or the senior Civil Air Patrol member's covered person's death shall-shall, so long as he-the child remains a full-time student as defined in the Social Security Act-Act, be regarded as a dependent child and eligible to receive benefits under the provisions of this Article.
- ~~(b)~~(4) The term "dependent parent" shall mean the-Dependent parent. – The parent of the deceased officer, firefighter, rescue squad worker or senior member of the Civil Air Patrol-covered person, whether natural or adoptive, who was dependent upon and receiving his or her total and entire support from the officer, firefighter, rescue squad worker or senior member of the Civil Air Patrol-covered person at the time of the injury which-that resulted in his-that covered person's death.

- (5) Firefighter. – This term shall apply to all of the following individuals:
- a. Firefighters as defined in G.S. 58-84-5.
  - b. Eligible firefighters as defined in G.S. 58-86-2, notwithstanding any age requirements set out in Article 86 of Chapter 58 of the General Statutes.
  - c. Full-time, permanent part-time, and temporary employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services during the time they are actively engaged in firefighting activities or emergency response activities pursuant to G.S. 166A-19.77.
  - d. Full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in firefighting activities and during the time they are training firefighters.
  - e. County fire marshals when engaged in the performance of their county duties.
  - f. All otherwise eligible individuals who, while actively engaged as firefighters, are acting in the capacity of a fire instructor outside their own department or squad.
- (e)(6) ~~The term "killed in the line of duty" shall apply to~~ Killed in the line of duty. – This term shall apply to all of the following deaths:
- a. The death of any law-enforcement officer, firefighter, or rescue squad worker who is killed or dies as a result of bodily injuries sustained or ~~of~~ extreme exercise or extreme activity experienced in the course and scope of his or her official duties while in the discharge of his or her official duty or duties.
  - b. ~~When applied to~~ The death of a senior member of the Civil Air Patrol as defined in this Article, "killed in the line of duty" shall mean any such senior member of the North Carolina Wing Civil Air Patrol member who is killed or dies as a result of bodily injuries sustained or ~~of~~ extreme exercise or extreme activity experienced in the course and scope of his or her official duties while engaged in a State requested and approved mission pursuant to Article 13 of Chapter 143B of the General Statutes. For purposes of this Article, when a
  - c. The death of a noncustodial employee who, while performing his or her official duties, is killed in a manner reasonably determined by the Industrial Commission to be directly caused by an individual or individuals in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
  - d. When the death of a law enforcement officer, firefighter, rescue squad worker, or senior Civil Air Patrol member ~~dies~~ occurs as the direct and proximate result of a myocardial infarction suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the law enforcement officer, firefighter, rescue squad worker, or senior Civil Air Patrol member is presumed to have been killed in the line of duty. For the purposes of this Article, when
  - e. When the death of a firefighter ~~dies~~ occurs as a direct and proximate result of any of the following cancers that are occupationally related to firefighting, that firefighter is presumed to have been killed in the line of duty:
    - (1) Mesothelioma.

- (2)2. Testicular cancer.
- (3)3. Intestinal cancer.
- (4)4. Esophageal cancer.
- (d)(7) The term "law enforcement officer", "officer", or "firefighter" shall mean a sheriff Law enforcement officer or officer. – This term shall apply to all of the following individuals:
  - a. Sheriffs and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina ~~Carolina~~, or any county or municipality thereof, whether paid or ~~unpaid; and all full time unpaid.~~
  - b. Full-time custodial employees and probation and parole officers of the Division of Adult Correction and Juvenile Justice of the Department of Public ~~Safety; and all full time Safety.~~
  - c. Full-time institutional and full-time, permanent part-time, and temporary detention employees of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public ~~Safety and full time, Safety.~~
  - d. Full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid.

~~The term "firemen" shall mean both firefighter or firemen as defined in G.S. 58-84.5(3a), or "eligible firemen" as defined in Article 86 of Chapter 58 of the General Statutes, notwithstanding any age requirements set out in that Article, and all full time, permanent part time and temporary employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services during the time they are actively engaged in firefighting activities; or engaged in emergency response activities pursuant to G.S. 166A-19.77; and shall mean all full time employees of the North Carolina Department of Insurance during the time they are actively engaged in firefighting activities, during the time they are training firefighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated; and shall mean all otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor outside their own department or squad.~~

~~The term "rescue squad worker" shall mean a person who is~~

- (8) Noncustodial employee. – An employee of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is not a custodial employee.
- (9) Official duties. – All duties to which an individual is assigned as part of the individual's job function. This term shall also include those duties performed by an individual while (i) en route to, engaged in, or returning from training; (ii) in the course of responding to, engaged in, or returning from a call by the department of which the individual is a member; or (iii) in the course of responding to, engaged in, or returning from a call for assistance from any department or organization within the State of North Carolina or within a service area contiguous to the borders of the State of North Carolina when served or aided by a department from within the State of North Carolina. While within the State of North Carolina, any covered person who renders service or assistance, of his or her own volition, at the scene of an emergency, is performing his or her official duties when both of the following apply:
  - a. Reasonably apparent circumstances require prompt decisions and actions to protect persons and property.

- b. The necessity of immediate action is so reasonably apparent that any delay in acting would seriously worsen the property damage or endanger any individual's life.
- (10) Rescue squad worker. – This term shall apply to all of the following individuals:
- a. Individuals who are dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, ~~this person~~ these individuals must belong to an organized rescue squad ~~which~~ that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and ~~the person~~ must have attended a minimum of 36 hours of training in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about January 31 of each year, and this roster must be certified to by the secretary of said association.
  - b. ~~In addition, the term "rescue squad worker" shall mean a member~~ Members of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 31 of each year.
  - c. County emergency services coordinators when engaged in the performance of their county duties.
  - d. Full-time employees of the North Carolina Department of Insurance during the time they are training rescue squad workers and during the time they are engaged in activities as members of the State Emergency Response Team when the State Emergency Response Team has been activated.
  - e. All otherwise eligible individuals who, while actively engaged as rescue squad workers, are acting in the capacity of a rescue instructor outside their own department or squad.

~~The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-1031. The term "firefighter" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties.~~

- (11) Senior Civil Air Patrol members. – Senior members of the North Carolina Wing-Civil Air Patrol who are 18 years of age or older and currently certified pursuant to G.S. 143B-1031.

- (e)(12) The term "spouse" shall mean the Spouse. – The wife or husband of the deceased officer, firefighter, rescue squad worker or senior Civil Air Patrol member covered person who survives him or her and who was residing with such officer, firefighter, rescue squad worker, or senior Civil Air Patrol member the covered person at the time of and during the six months next preceding the date of injury to such officer, firefighter, rescue squad worker or senior Civil Air Patrol member which the covered person that resulted in his or her death and who also resided with such officer, firefighter, rescue squad worker or senior Civil Air Patrol member the covered person from that

date of injury up to and at the time of his or her death and provided, however, ~~the part of this section requiring the spouse to have been residing with the deceased officer, firefighter, rescue squad worker or senior Civil Air Patrol member for six months next preceding the date of the injury which resulted in his death~~ the six-month residency requirement shall not apply where the marriage occurred during this six-month period or where the officer, firefighter, rescue squad worker or senior Civil Air Patrol member covered person was absent during this six-month period due to service in the Armed Forces of the United States.

(f) ~~The term "official duties" means those duties performed while en route to, engaged in, or returning from training, or in the course of responding to, engaged in or returning from a call by the department of which he is a member, or from a call for assistance from any department or such organization within the State of North Carolina or within a service area contiguous to the borders of the State of North Carolina, when served or aided by a department from within the State of North Carolina. While within the State of North Carolina, any eligible person, as defined in this section or in G.S. 58-86-25, who renders service or assistance, of his own volition, at the scene of an emergency, is performing his official duties when:~~

- ~~(1) Reasonably apparent circumstances require prompt decisions and actions to protect persons and property; and~~
- ~~(2) The necessity of immediate action is so reasonably apparent that any delay in acting would seriously worsen the property damage or endanger any person's life.~~

**"§ 143-166.3. Payments; determination.**

(a) ~~When any law enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member shall be covered person is killed in the line of duty, the Industrial Commission shall award a death benefit in the amount of one hundred thousand dollars (\$100,000) to be paid in the amounts set forth in subsection (b) to one of the following:~~

- ~~(1) The spouse of such officer, fireman, rescue squad worker or senior Civil Air Patrol member~~ the covered person if there be is a surviving spouse; or spouse.
- ~~(2) If there be is no spouse qualifying under the provisions of this Article, surviving spouse, then payments shall be made to any surviving dependent child of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if the covered person. If there be is more than one surviving dependent child, then said the payment shall be made to and equally divided among all surviving dependent children; or children.~~
- ~~(3) If there be is no surviving spouse and no surviving dependent child or children qualifying under the provisions of this Article, children, then payments shall be made to the any surviving dependent parent of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if the covered person. If there be is more than one surviving dependent parent parent, then said the payments shall be made to and equally divided between the surviving dependent parents of said officer, fireman, rescue squad worker or senior Civil Air Patrol member the covered person.~~
- ~~(4) If there is no surviving spouse, surviving dependent child, or surviving parent, then the payment shall be made to the estate of the deceased covered person.~~

(b) ~~Payment shall be made to the person or persons qualifying therefor under subsection (a) in the following amounts:~~

- ~~(1) At the time of the death of an officer, firefighter, rescue squad worker or senior Civil Air Patrol member, fifty thousand dollars (\$50,000) shall be paid to the person or persons entitled thereto.~~



- (3) ~~In the event there is no person qualifying under subsection (a) of this section, fifty thousand dollars (\$50,000) shall be paid to the estate of the deceased officer, firefighter, rescue squad worker or senior Civil Air Patrol member at the time of death.~~

...

**"§ 143-166.7. Applicability of Article.**

The provisions of this Article shall apply and be in full force and effect with respect to any law-enforcement officer, ~~fireman, firefighter,~~ rescue squad worker or senior Civil Air Patrol member killed in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with respect to full-time, permanent part-time and temporary employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services killed in the line of duty on or after July 1, 1975. The provisions of this Article shall apply to county fire marshals and emergency services coordinators killed in the line of duty on and after July 1, 1988. The provisions of this Article shall apply to noncustodial employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who are killed in the line of duty on and after April 1, 2017."

**SECTION 35.29.(b)** G.S. 15A-405(b)(2) reads as rewritten:

"(2) Entitled to the same benefits as a "law-enforcement officer" as that term is defined in ~~G.S. 143-166.2(d) (Law Enforcement Officers', Firemen's and Rescue Squad Workers' Death Benefit Act);~~G.S. 143-166.2, the Public Safety Employees' Death Benefit Act; and"

**SECTION 35.29.(c)** G.S. 58-86-2(9a) reads as rewritten:

"(9a) "Killed in the line of duty" has the same meaning as in ~~G.S. 143-166.2(c);~~G.S. 143-166.2."

**SECTION 35.29.(d)** This section becomes effective retroactively to April 1, 2017, and shall apply to qualifying deaths occurring on or after that date.

**PART XXXVI. CAPITAL APPROPRIATIONS**

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 36.1.** Section 36.2(a) of S.L. 2017-57 reads as rewritten:

**"SECTION 36.2.(a)** There is appropriated from the General Fund for the 2017-2019 fiscal biennium the following amounts for capital improvements:

| <b>Capital Improvements – General Fund</b>                                              | <b>2017-2018</b> | <b>2018-2019</b> |
|-----------------------------------------------------------------------------------------|------------------|------------------|
| Department of <del>Environment and Natural Resources</del> <u>Environmental Quality</u> |                  |                  |
| Water Resources Development                                                             | \$15,648,000     | –                |
| Department of Public Safety                                                             |                  |                  |
| Greenville Office Building & Garage                                                     | 2,000,000        | \$1,917,993      |
| National Guard – Joint Forces HQ Helipad                                                | 1,000,000        | –                |
| Youth Development Center in Rockingham County                                           | 13,200,000       | –                |
| Stonewall Jackson Youth Development Center fence                                        | 200,000          | –                |
| National Guard – DuPont Forest– Joint Training Center                                   | 100,000          | –                |

Department of Natural and Cultural Resources

|                                                                                    |                     |                                                  |
|------------------------------------------------------------------------------------|---------------------|--------------------------------------------------|
| Fort Fisher Museum and Visitor Center                                              | 5,000,000           | —                                                |
| <u>Aquarium at Fort Fisher – Roof Repair</u>                                       | =                   | <u>100,000</u>                                   |
| <u>NC Transportation Museum – Repairs &amp; Renovations</u>                        | =                   | <u>150,000</u>                                   |
| Fayetteville State University<br>Health & Wellness Facility                        | 5,500,000           | —                                                |
| Department of Agriculture and<br>Consumer Services<br>Emergency Programs Warehouse | 500,000             | —                                                |
| Cleveland Community College<br>Center for Advanced Manufacturing                   | 5,000,000           | —                                                |
| Brunswick Community College<br>Gym renovations                                     | 60,000              | —                                                |
| Stanly Community College<br>Culinary Arts facility                                 | 500,000             | —                                                |
| University of North Carolina-Chapel Hill<br>New Business School building           | 1,000,000           | —                                                |
| <b>TOTAL CAPITAL IMPROVEMENTS –<br/>GENERAL FUND</b>                               | <b>\$49,708,000</b> | <b><del>\$1,917,993</del><u>\$2,167,993</u>"</b> |

#### **CAPITAL APPROPRIATIONS/PROJECT RESERVE**

**SECTION 36.2.(a)** Notwithstanding G.S. 143C-8-10, there is appropriated from the Project Reserve Account, established pursuant to G.S. 143C-8-10, for the 2017-2018 fiscal year, the following amounts for capital improvements:

| <b>Capital Improvements – Project Reserve</b>                                                   | <b>2017-2018</b> |
|-------------------------------------------------------------------------------------------------|------------------|
| Department of Environmental Quality<br>Water Resources Development Projects                     | \$14,056,000     |
| Department of Public Safety<br>National Guard<br>Burke and Wilkes Co. Readiness Center projects | 14,423,000       |
| SBI Building #16 renovation                                                                     | 7,245,000        |
| Samarcand Vocational Building renovation                                                        | 1,250,000        |
| Youth Development Center in Rockingham County                                                   | 7,186,100        |
| Tarheel Challenge Academy building                                                              | 500,000          |
| Department of Natural and Cultural Resources<br>Fort Fisher Museum and Visitor Center           | 7,500,000        |
| Nature Resource Center Dinosaur project                                                         | 1,800,000        |
| NC Zoo- Asia/Australia project                                                                  | 2,500,000        |
| NC Museum of History expansion planning                                                         | 6,500,000        |
| NC Zoo- renovation and rehabilitation                                                           | 4,500,000        |

|                                                 |            |
|-------------------------------------------------|------------|
| Department of Agriculture and Consumer Services |            |
| Consolidated Laboratory project                 | 13,000,000 |
| Forestry Service-                               |            |
| HQ Building-Duplin planning                     | 750,000    |
| NC School of Science and Mathematics-Morganton  |            |
| Construction of Campus Facilities               | 15,000,000 |
| University of North Carolina at Pembroke        |            |
| Business School project                         | 6,000,000  |
| North Carolina Central University               |            |
| Business School project                         | 8,600,000  |
| Western Carolina University                     |            |
| Steam Plant Replacement                         | 16,500,000 |
| University of North Carolina at Wilmington      |            |
| Planning funds for library                      | 5,500,000  |
| University of North Carolina Board of Governors |            |
| UNC Board of Governors Planning Task Force      | 3,000,000  |
| University of North Carolina at Asheville       |            |
| Owen Hall and Carmichael Hall renovations       | 2,770,000  |
| Cleveland Community College                     |            |
| Regional Advanced Manufacturing Center          | 4,000,000  |
| Department of Justice                           |            |
| Eastern Justice Academy Dormitory               | 3,598,820  |
| State Crime Lab renovation                      | 4,022,150  |
| General Assembly                                |            |
| Legislative Services Office                     |            |
| Develop State Government Facilities Master Plan | 5,000,000  |

**TOTAL CAPITAL IMPROVEMENTS –  
PROJECT RESERVE FUND**

**\$155,201,070**

**SECTION 36.2.(b)** Notwithstanding G.S. 143C-3-3(b), the University of North Carolina at Wilmington may use the funds appropriated to it in subsection (a) of this section for planning for a library.

**SECTION 36.2.(c)** The Office of State Budget and Management shall ensure that the six million dollars (\$6,000,000) appropriated in subsection (a) of this section for the University of North Carolina at Pembroke for the Business School project are disbursed to the University of North Carolina at Pembroke prior to November 1, 2018, to ensure continued availability of matching funds for the project.

**SECTION 36.2.(d)** This section becomes effective June 30, 2018.

**WATER RESOURCES DEVELOPMENT PROJECTS**

**SECTION 36.3.(a)** The Department of Environmental Quality shall allocate funds for water resources development projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources development projects and funds carried forward from previous fiscal years, or appropriated in other acts, in accordance with subsection (b) of this section. These funds will provide a State match for an estimated fifty-seven million seven hundred eighty-eight thousand dollars (\$57,788,000) in federal funds.

| <b>Name of Project</b>                                                  | <b>2018-2019</b>    |
|-------------------------------------------------------------------------|---------------------|
| (1) Princeville Flood Damage Reduction (Pre-Const./Design)              | —                   |
| (2) Carolina Beach CSDR                                                 | —                   |
| (3) Kure Beach CSRM                                                     | \$2,007,000         |
| (4) Planning Assistance to Communities                                  | 13,000              |
| (5) Bogue Banks CSRM (Pre-Const./Design)                                | 187,000             |
| (6) Wilmington Harbor DA Maintenance                                    | 2,429,000           |
| (7) Surf City/North Topsail CSRM (Pre-Const./Design)                    | —                   |
| (8) West Onslow CSRM (Pre-Const./Design)                                | —                   |
| (9) Neuse River – Goldsboro Section 1135 CAP                            | 308,000             |
| (10) Concord Streams – Ecosystem Restoration, Section 206 CAP           | —                   |
| (11) Manteo Old House Channel – Design Completion, Section 204 CAP      | —                   |
| (12) Lumberton Flood Damage Reduction                                   | 125,000             |
| (13) NRCS EQIP                                                          | —                   |
| (14) B. Everette Jordan Reservoir Water Supply                          | —                   |
| (15) Masonboro Island Sand Mitigation                                   | 6,500,000           |
| (16) State-Local Projects                                               | —                   |
| (17) Brunswick Town/Ft. Anderson Cape Fear Stream Restoration (Phase 2) | 487,000             |
| (18) North Topsail Shoreline Protection – Phase 2                       | —                   |
| (19) Lindsey Bridge Dam Repair & Stream Restoration                     | 2,000,000           |
| (20) Morehead City Maintenance                                          | —                   |
| (21) Eastern NC Storm Debris Removal                                    | —                   |
| (22) Kunz Farm Park Riverwalk                                           | —                   |
| (23) Wrightsville Beach CSDR                                            | —                   |
| (24) New River Storm Damage Reduction                                   | —                   |
| (25) Cape Fear Lock and Dam #2 and #3 Fish Ramp                         | —                   |
| (26) Town of Rutherfordton Stream Restoration                           | —                   |
| (27) Ararat River Greenway/Stream Restoration                           | —                   |
| (28) Ocean Isle Coastal Storm Damage Restoration                        | —                   |
| <b>TOTALS</b>                                                           | <b>\$14,056,000</b> |

**SECTION 36.3.(b)** It is the intent of the General Assembly that funds carried forward from previous fiscal years or appropriated in other acts be used to supplement the fourteen million fifty-six thousand dollars (\$14,056,000) appropriated for water resources development projects in Section 36.2 of this act. Therefore, the following funds carried forward from previous fiscal years or appropriated in other acts shall be used for the following projects:

| <b>Name of Project</b>               | <b>Amount Carried Forward</b> |
|--------------------------------------|-------------------------------|
| (1) Wilmington Harbor DA Maintenance | \$763,000                     |
| (2) Morehead City Maintenance        | 1,500,000                     |

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
| (3) Princeville Flood Damage Reduction                          | 431,000   |
| (4) Carolina Beach Coastal Storm Damage Reduction               | 1,836,000 |
| (5) Kure Beach Coastal Storm Risk Management                    | 448,000   |
| (6) Planning Assistance to Communities                          | 25,000    |
| (7) Bogue Banks Coastal Storm Risk Management                   | 15,000    |
| (8) Surf City/North Topsail Beach Coastal Storm Risk Management | 255,000   |
| (9) West Onslow Coast Storm Risk Management                     | 220,000   |
| (10) Neuse River Goldsboro Section 1135 CAP                     | 25,000    |
| (11) NRCS EQIP                                                  | 3,857,000 |
| (12) State-Local Projects                                       | 2,873,000 |
| (13) Eastern NC Storm Debris Removal                            | 1,500,000 |
| (14) Concord Streams, Section 206 CAP                           | 1,023,000 |
| (15) Manteo Old House Channel, Section 204 CAP                  | 2,219,000 |
| (16) North Topsail Beach Shoreline Protection, Phase 2          | 1,500,000 |
| (17) B. Everette Jordan Reservoir Water Supply                  | 148,000   |
| (18) Kunz Farm Park Riverwalk                                   | 250,000   |
| (19) Wrightsville Beach Coastal Storm Damage Reduction          | 2,215,000 |
| (20) New River Storm Damage Reduction                           | 2,000,000 |
| (21) Cape Fear Lock and Dam #2 and #3 Fish Ramp                 | 840,000   |
| (22) Town of Rutherfordton Stream Restoration                   | 500,000   |
| (23) Ararat River Greenway/Stream Restoration                   | 500,000   |
| (24) Ocean Isle Coastal Storm Damage Restoration                | 65,000    |

**TOTALS**

**\$25,008,000**

**SECTION 36.3.(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 2017-2019 fiscal biennium 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 2018-2019 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 2017-2019 fiscal biennium.

**SECTION 36.3.(d)** The Department shall submit semiannual reports on the use of these funds to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Office of State Budget and Management on or before March 1 and September 1. 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 the 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 36.3.(e)** Notwithstanding any other provision of law to the contrary, there shall be no match required for the Lindsey Bridge Dam Repair and Stream Restoration project.

#### **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

**SECTION 36.4.** Section 36.4(a) of S.L. 2017-57 reads as rewritten:

**"SECTION 36.4.(a)** The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate ~~department~~ department, and hereby appropriates the following amounts accordingly:

| Name of Project                                         | Amount of Non-General Fund<br>Funding Authorized |              |
|---------------------------------------------------------|--------------------------------------------------|--------------|
|                                                         | FY 2017-2018                                     | FY 2018-2019 |
| Department of Natural and Cultural Resources            |                                                  |              |
| Museum of Art- New Park and<br>Pavilion Building        | 915,300                                          | —            |
| Wildlife Resources Commission                           |                                                  |              |
| Land Acquisition                                        | 7,000,000                                        | 3,000,000    |
| Infrastructure Repair/Renovation                        | 1,500,000                                        | —            |
| Setzer Hatchery Building Replacement                    | 750,000                                          | —            |
| Boating Access                                          | 900,000                                          | 900,000      |
| Setzer Hatchery Raceways Replacement                    | 4,500,000                                        | —            |
| Outer Banks Education Center Air Handlers               | —                                                | 300,000      |
| Burnsville Depot                                        | 500,000                                          | —            |
| Butner Lab & Storage Building                           | 500,000                                          | —            |
| Bolivia Depot                                           | 750,000                                          | —            |
| New Shooting Ranges                                     | 1,000,000                                        | 1,000,000    |
| Department of Public Safety                             |                                                  |              |
| Nash Correctional Institution                           |                                                  |              |
| Field Ministry Program Facility                         | 3,800,000                                        | —            |
| Chase Laundry Air Handling Units                        |                                                  |              |
| Replacement                                             | —                                                | 950,000      |
| Chase Laundry Roof Replacement                          | —                                                | 742,000      |
| Security Cameras and Systems                            | —                                                | 400,000      |
| Department of Agriculture and Consumer Services         |                                                  |              |
| State Fair Restroom, Maintenance Bldg.,<br>& Greenhouse | —                                                | 5,000,000    |
| State Fair/Hunt Horse Complex Infrastructure            | —                                                | 3,000,000    |
| State Farmers Market Retail Building                    | —                                                | 1,000,000    |
| State Farmers Market Site Improvements                  | —                                                | 2,500,000    |
| WNC Agricultural Center Restroom Building               | —                                                | 1,000,000    |
| WNC Farmers Market Wholesale Building                   | —                                                | 3,000,000    |
| Forest Service R2, D3 Picnic Shelter &<br>Pole Shed     | —                                                | 100,000      |
| Forest Service R2, D5 Equipment Shed                    | —                                                | 100,000      |
| Forest Service R3, D12 Education Pavilion               | —                                                | 1,500,000    |
| Horticultural Crops Research Station                    |                                                  |              |
| Sweet Potato Research & Drying Bldgs.                   | —                                                | 300,000      |
| Caswell Research Farm Equipment Storage                 |                                                  |              |

|                                                                     |   |                |
|---------------------------------------------------------------------|---|----------------|
| <u>Shelters</u>                                                     | = | <u>200,000</u> |
| <u>Mountain Research Station Storage Building</u>                   | = | <u>50,000</u>  |
| <u>Piedmont Research Station Produce Safety &amp; Storage Bldg.</u> | = | <u>125,000</u> |
| <u>Umstead Research Farm Livestock Shelters</u>                     | = | <u>200,000</u> |
| <u>Butner Food Distribution Office</u>                              | = | <u>100,000</u> |

**TOTAL AMOUNT OF NON-GENERAL  
FUND CAPITAL PROJECTS**

**AUTHORIZED** **\$22,115,300** **~~\$5,200,000~~** **\$25,467,000**

"**SECTION 36.4.(b)** From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of seventy-five thousand dollars (\$75,000) for the 2017-2018 fiscal year and the sum of seventy-five thousand dollars (\$75,000) for the 2018-2019 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.

"**SECTION 36.4.(c)** Notwithstanding G.S. 146-15, G.S. 146-30, and any other provision of law to the contrary, the proceeds received as a result of the reallocation of property between the Department of Agriculture and Consumer Services and the Department of Military and Veterans Affairs for the construction of a nursing facility shall be retained by the Department of Agriculture and Consumer Services and are hereby appropriated to the Department of Agriculture and Consumer Services to be used for improvements at the State Fairgrounds."

**REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

**SECTION 36.5.(a)** Of the funds in the Reserve for Repairs and Renovations for the 2018-2019 fiscal year, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- (1) One-half of the funds shall be allocated to the Board of Governors of The University of North Carolina.
- (2) One-half of the funds 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(d). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

**SECTION 36.5.(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 each fiscal year 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 36.5.(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 each fiscal year by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

**SECTION 36.5.(d)** In making campus allocations of funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, the Board of Governors shall negatively weight the availability of non-State resources and carryforward funds available for repair and renovations and shall include information about the manner in which this subsection was complied within any report submitted pursuant to G.S. 143C-4-3(d).

**SECTION 36.5.(e)** Section 36.5(e) of S.L. 2017-57, as amended by Section 9.1 of S.L. 2017-197, reads as rewritten:

"**SECTION 36.5.(e)** Notwithstanding G.S. 143C-4-3, of the funds allocated from the Reserve for Repairs and Renovations for the 2017-2018 fiscal year, the following sums shall be allocated for the following projects:

- ...
- (7) Two million two hundred thousand dollars (\$2,200,000) shall be allocated to the Department of Public Safety to renovate the ~~Swannanoa~~ former North Piedmont Correctional Center for Women to allow for portions to be used for a female Confinement Response to Violation (CRV) facility.

...."

## **UNC BOARD OF GOVERNORS PLANNING TASK FORCE**

**SECTION 36.6.(a)** There is created the UNC Board of Governors Planning Task Force. The Task Force shall consist of four current Board members appointed by the Board of Governors, one of whom shall be designated as chair. These appointments shall be made no later than August 1, 2018.

**SECTION 36.6.(b)** The Task Force shall conduct a systemwide analysis of the capital needs of the campuses of each constituent institution in relation to the Science Technology Engineering and Mathematics (STEM) subject area, taking into account the strengths, weaknesses, opportunities, and needs of each constituent institution, and any regional similarities and differences. The Task Force shall also consider the impact of any relevant programmatic planning elements being currently utilized that could be implemented as a best-practice among other similar programmatic areas to encourage systemwide efficiencies. In particular, the Task Force shall consider the capital needs relating to the Brody School of Medicine at East Carolina University, the UNC Applied Physical Sciences and Institute for Convergent Science in Chapel



Hill, and other STEM projects to determine areas where capital funds may be used more efficiently and effectively. The Task Force shall use the information gathered pursuant to this subsection to compile a UNC System Plan.

**SECTION 36.6.(c)** The three million dollars (\$3,000,000) appropriated to the Board of Governors of The University of North Carolina in Section 36.2 of this act shall be used by the Task Force in conducting the analysis described in subsection (b) of this section. On or before April 1, 2019, the Task Force shall submit a report containing the UNC System Plan and any legislative recommendations to the Joint Legislative Capital Improvements Oversight Committee and the Fiscal Research Division.

## MISCELLANEOUS CAPITAL ITEMS

**SECTION 36.7.(a)** Subdivision (2) of Section 1(f) of S.L. 2015-280, as amended by Section 37.9 of S.L. 2016-94 and Section 9.3 of S.L. 2017-197, reads as rewritten:

"(2) Special Allocation Provisions. – In determining the use of the proceeds of public improvement bonds and notes, including premium thereon, if any, set forth in subdivision (1) of this subsection, the following special allocation provisions apply:

...

g. The proceeds of public improvement bonds and notes, including premium, if any, for the North Carolina State Parks, as provided in this subdivision, may be allocated to the capital cost of another State Park project, provided that all of the following conditions are met:

1. The Park project to which the original allocation was made has been completed.
2. The Park project to which funds are allocated under this sub-subdivision has experienced a cost overrun for which additional funds are required.
3. The Office of State Budget and Management shall report any reallocations made under this sub-subdivision to the Joint Legislative Oversight Committee on Capital Improvements."

**SECTION 36.7.(b)** Section 36.11(c) of S.L. 2013-360, as amended by Section 36.8(b) of S.L. 2014-100, reads as rewritten:

"**SECTION 36.11.(c)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Adjutant General of the National Guard may adjust the allocations among projects as needed. However, State funds shall not be allocated to a project in excess of the maximum amount of State funds authorized to be allocated to the project under subsection (a) of this section. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2013-2015 fiscal biennium, 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) Future project feasibility studies.
- (2) Survey, testing, and permitting.
- (3) Planning and execution for reversion of facilities no longer in use.
- (4) Armory and facilities projects approved by the Congress of the United States that are not listed in subsection (a) of this section and that require State-matching funds.
- (5) Repair, renovation, and expansion of an existing armory."

**SECTION 36.7.(c)** G.S. 143C-1-1(d)(5) reads as rewritten:

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

...

- (5) Capital improvement. – A term that includes real property acquisition, new construction or rehabilitation of existing facilities, and repairs and ~~renovations~~ renovations over one hundred thousand dollars (\$100,000) in value."

## **STATE CAPITAL AND INFRASTRUCTURE FUND CHANGES**

**SECTION 36.8.(a)** G.S. 143C-4-3.1(d) reads as rewritten:

"(d) Transfer of Funds to the Fund. – Each fiscal year, the Office of State Controller shall transfer to the Fund the estimated amounts required pursuant to subsection (c) of this section. ~~Upon calculation of the actual net State tax revenue collections that are deposited in the General Fund, the Office of State Controller shall adjust the amount of the transfer to the Fund to achieve an amount equivalent to four percent (4%) of collections.~~ Each fiscal year, the Office of State Controller shall transfer to the Fund one-fourth of the General Fund unreserved fund balance, as determined on a cash basis, at the end of the fiscal year."

**SECTION 36.8.(b)** This section becomes effective July 1, 2019.

## **RICHMOND COMMUNITY COLLEGE BOND USE**

**SECTION 36.9.(a)** Notwithstanding any other provision of law to the contrary, the Board of Trustees of Richmond Community College (College) may expend State funds appropriated for capital improvements, including Connect NC bond proceeds to be used for projects at the College, for the construction and renovation of educational facilities owned by and located on property owned by the City of Rockingham, including for construction of a facility to house the College's Business and Information Technology departments, the Small Business Center, and the Customized Training department. Any facility constructed or renovated with funds used pursuant to this section shall be leased to the Board of Trustees of the College for the College's sole use. Upon payment by the City of Rockingham on all loan agreements, including construction agreements and United States Department of Agriculture agreements, the City of Rockingham shall transfer title to the property to the Board of Trustees of the College. If the lease is terminated through no fault of the College, a prorated amount of the building cost supported by State funds, amortized over the lease period, shall be returned to the College.

**SECTION 36.9.(b)** If the funds described in subsection (a) of this section are derived from Connect NC bond proceeds, then the proceeds shall be expended on the cost of capital facilities that are to be used by the College to carry out its community college purposes. The lease shall contain adequate provision to assure that the capital facilities so provided will be used for community college purposes.

**SECTION 36.9.(c)** The Board of Trustees of the College may contract for the construction and renovation of educational facilities owned by and located on property owned by the City of Rockingham, including for construction of a facility to house the College's Business and Information Technology departments, the Small Business Center, and the Customized Training department, without being subject to the provisions of G.S. 143-341.

**SECTION 36.9.(d)** This section is effective the date this act becomes law and applies only to capital improvement projects with construction contracts executed prior to July 1, 2022.

## **PART XXXVII. DEPARTMENT OF INFORMATION TECHNOLOGY**

### **GROWING RURAL ECONOMIES WITH ACCESS TO TECHNOLOGY (GREAT) PROGRAM**

**SECTION 37.1.(a)** The General Assembly finds that broadband service is an essential element to ensure economic opportunity in a twenty-first century global economy. Recognizing that the availability of terrestrially deployed broadband at connection speeds exceeding 10 megabits per second (Mbps) download and one Mbps upload (10:1) is vital for

enabling economic opportunity in our State, particularly in rural areas, the General Assembly hereby establishes the Growing Rural Economies with Access to Technology (GREAT) program to facilitate the deployment of broadband to unserved areas of the State. The purpose of this program is to encourage the deployment of broadband at the highest possible speeds throughout as much of the inhabitable geographic area of the State that is practical and feasible by the year 2030. The General Assembly believes that expanding access to currently unserved areas will have multiple benefits, including recruitment of new businesses and industries, strengthening e-commerce, growth of the home-based workforce, expanding educational opportunity, greater utilization of telehealth, increased energy efficiency by enabling the use of energy-saving smart devices, among many others.

The GREAT program is designed to significantly expedite the terrestrial deployment of broadband by encouraging partnerships and competition between private broadband providers and cooperatives to provide citizens with improved choices and greater value for broadband service and by reducing costs via allowing for the lease of State- or local government-owned properties or facilities for the purpose of locating or collocating broadband infrastructure.

The Federal Communications Commission current minimum level of broadband service speed for its Connect America Fund is 10:1 Mbps, and the Commission utilizes a benchmark of 25:3 to assess progress in broadband deployment for advanced telecommunications capability over time. It is the position of the General Assembly to not only have broadband service extended to areas where it presently does not exist but also to foster speeds exceeding 10:1 to help assure that as much of the inhabitable area of the State as possible is well-positioned with broadband service for the future. Therefore, the General Assembly encourages the deployment of speeds of 25:3 Mbps or greater.

**SECTION 37.1.(b)** Part 6 of Article 15 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.**

(a) As used in this section, the following definitions apply:

- (1) Agriculture. – Activities defined in G.S. 106-581.1.
- (2) Broadband service. – For the purposes of this section, terrestrially deployed Internet access service with transmission speeds of at least 10 megabits per second (Mbps) download and at least one megabit per second upload (10:1).
- (3) Coastal Plain Region. – The portion of the State lying east of the eastern boundaries of Franklin, Lee, Moore, Wake, and Warren Counties.
- (4) Cooperative. – An electric membership corporation, organized pursuant to Article 2 of Chapter 117 of the General Statutes, or a telephone membership corporation, organized pursuant to Article 4 of Chapter 117 of the General Statutes.
- (5) Eligible economically distressed county. – A county designated as a development tier one area, as defined in G.S. 143B-473.08.
- (6) Eligible project. – An eligible project is a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served. Eligible projects do not include middle mile, backhaul, and other similar projects not directed at broadband service to end users.
- (7) Eligible recipient. – Eligible grant recipients are private providers of broadband services, including cooperatively organized entities, or any partnerships formed between cooperatively organized entities, private providers, or any combination thereof, on or after January 1, 2018.
- (8) Household. – A house, apartment, single room, or other group of rooms, if occupied or intended for occupancy as separate living quarters, and where the

occupants do not live with any other persons in the structure and there is direct access from the outside or through a common hall.

- (9) Infrastructure costs. – Costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, equipment, fiber, construction, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.
- (10) Mountain Region. – The portion of the State lying west of and including Alleghany, Burke, Caldwell, Rutherford, and Wilkes Counties.
- (11) Office. – The Broadband Infrastructure Office in the Department of Information Technology.
- (12) Piedmont Region. – The portion of the State lying west of and including Franklin, Lee, Moore, Richmond, Wake, and Warren Counties, to the eastern boundaries of Alleghany, Burke, Caldwell, Rutherford, and Wilkes Counties.
- (13) Secretary. – The Secretary of the Department of Information Technology.
- (14) Unserved area. – A designated geographic area that is presently without access to broadband service, as defined in this section, offered by a wireline or fixed wireless provider. Areas where a private provider has been designated to receive funds through other State or federally funded programs designed specifically for broadband deployment shall be considered served if such funding is intended to result in construction of broadband in the area within 18 months.

(b) The Growing Rural Economies with Access to Technology Fund is established as a special revenue fund in the Department of Information Technology. The Secretary may award grants from the Growing Rural Economies with Access to Technology Fund to eligible recipients for eligible projects. The funds shall be used by the recipient to pay for infrastructure costs associated with an eligible project. State funds appropriated to this Fund shall be considered an information technology project within the meaning of G.S. 143C-1-2.

(c) Project areas comprised of census blocks, or portions thereof, within which a broadband provider is receiving State or federal matching funds to deploy technologically neutral scalable broadband service within the next 18 months are ineligible for the GREAT program. It is essential for the Office to know the location of census blocks, or portions thereof, comprising these areas so it can determine project eligibility. A private provider receiving State or federal matching funds to deploy broadband service within such an area shall, within 60 days of the effective date of this section, submit only a listing of the census blocks, or portions thereof, comprising each of its federally funded project areas meeting this requirement and nothing more to the Office. In future program years, the cutoff date for submitting this census block data shall be May 15. This will enable the office to update maps and advise applicants as to the unserved areas of the State that are eligible for consideration in that program year. The Office shall only utilize this data to update maps of census blocks to reflect these census blocks, or portions thereof, as being served. Failure on the part of a provider to submit the listing of census blocks by the cutoff date shall result in those areas being eligible for inclusion under this program during the upcoming program year. The Office shall use the census block data provided only for mapping of unserved areas. Information provided to the Office pursuant to this subsection is not a public record, as that term is defined in G.S. 132-1.

(d) Applications for grants will be submitted at times designated by the Secretary and will include, at a minimum, the following information:

- (1) An attestation to the Office that the proposed project area is eligible.
- (2) The identity of the applicant and its qualifications and experience with deployment of broadband.
- (3) The total cost and duration of the project.

- (4) The amount to be funded by the applicant.
- (5) An illustration or description of the area to be served and the number of homes, businesses, community anchor points, agricultural operations, or agricultural processing facilities that will have access to broadband as a result of the project.
- (6) An assessment of the current level of broadband access in the proposed deployment area and the current level of service provided at the point from which broadband deployment will be made.
- (7) The proposed construction time line.
- (8) A description of the services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps, provided that any applicant proposing a data cap below 150 Gigabytes of usage per month shall provide justification to the satisfaction of the Office that the proposed cap is in the public interest and consistent with industry standards.
- (9) Any other information or supplementary documentation requested by the Office.
- (10) A plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs.
- (11) For the proposed area to be served, the infrastructure cost per household for the project.
- (12) Evidence of support for the project from citizens, local government, businesses, and institutions in the community.
- (13) The proposed advertised speed to be marketed to end users.
- (14) An explanation of the scalability of the broadband infrastructure to be deployed for higher broadband speeds in the future.

(e) Applications shall be made publicly available by posting on the Web site of the Department of Information Technology for a period of at least 30 days prior to award. During the 30-day period, any interested party may submit comments to the Secretary concerning any pending application. A provider of broadband services may submit a protest of any application on the grounds the proposed project covers an area that is not an eligible area under this section. Protests shall be submitted in writing, accompanied by all relevant supporting documentation, and shall be considered by the Office in connection with the review of the application. Protests based upon actual current connection speed in a proposed project area shall not be considered. For applications with filed protests, the Secretary shall issue a written decision to the protesting party at least 15 days prior to the approval of that application.

(f) The Office may consult with the Department of Commerce to determine if a broadband project proposed under this section will benefit a potential economic development project relevant to the proposed area outlined in the broadband project.

(g) Applications shall be scored based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service with additional points awarded to criteria that exceed minimum levels. The Office shall score project applications in accordance with the following:

- (1) Partnership. – Projects involving partnership or affiliation by a private provider with a nonprofit or not-for-profit, or a for-profit subsidiary of either that is required to enable certain partnership activities, or any combination thereof, shall be given five points in their application score where it is documented to the satisfaction of the Office that the partnership or affiliation will facilitate deployment and reduce cost per housing unit by utilizing the

resources, facilities, and infrastructure of the partner or where the nonprofit or not-for-profit partner provides only financial support.

- (2) Unserved households. – The Office shall give additional points to projects based upon the estimated number of unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that will be located in counties with estimated unserved households as follows:

| <b><u>Unserved Households</u></b> | <b><u>Points Given</u></b> |
|-----------------------------------|----------------------------|
| <u>700 or less</u>                | <u>1</u>                   |
| <u>700-1999</u>                   | <u>2</u>                   |
| <u>2000 and over</u>              | <u>3</u>                   |

- (3) Households to be served. – The Office shall give additional points to projects that will provide broadband service to unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that will serve unserved households within the project area as follows:

| <b><u>Households To Be Served</u></b> | <b><u>Points Given</u></b> |
|---------------------------------------|----------------------------|
| <u>Under 150</u>                      | <u>1</u>                   |
| <u>150-249</u>                        | <u>2</u>                   |
| <u>250 and up</u>                     | <u>3</u>                   |

- (4) Unserved businesses. – The Office shall give additional points to projects that will provide broadband service to unserved businesses located within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that serve unserved businesses within the project area as follows:

- a. Projects proposing to serve between 1 and 4 businesses shall receive 1 point.
- b. Projects proposing to serve between 5 and 10 businesses shall receive 2 points.
- c. Projects proposing to serve either (i) more than 10 businesses or (ii) an agricultural operation, agricultural processing facility, or a business with 31 or more full-time employees shall receive 3 points.

- (5) Cost per household. – The Office shall give additional points to projects that minimize the infrastructure cost of the proposed project per household, based upon information available to the Office. Points shall be given to projects based upon the estimated cost per household as follows:

| <b><u>Est. Cost per Household</u></b> | <b><u>Partnership Using Infrastructure</u></b> | <b><u>Private Provider Only</u></b> |
|---------------------------------------|------------------------------------------------|-------------------------------------|
| <u>Up to \$1,700</u>                  | <u>4</u>                                       | <u>9</u>                            |
| <u>\$1,701-2,200</u>                  | <u>3</u>                                       | <u>8</u>                            |

- b. For projects located in the Mountain Region:

| <b><u>Est. Cost per Household</u></b> | <b><u>Partnership Using Infrastructure</u></b> | <b><u>Private Provider Only</u></b> |
|---------------------------------------|------------------------------------------------|-------------------------------------|
| <u>Up to \$2,500</u>                  | <u>4</u>                                       | <u>9</u>                            |
| <u>\$2,501-3,300</u>                  | <u>3</u>                                       | <u>8</u>                            |

- (6) Base speed multiplier. – Projects that will provide minimum download and minimum upload speeds shall have the aggregate points given under

subdivisions (1) through (5) of this subsection multiplied by a factor at the level indicated in the table below:

**Minimum Download:**

**Minimum Upload**

**Score Multiplier**

10:1 Mbps.

0.95

25:3 Mbps. or greater

1.35

(h) The Office shall score applications based upon the metrics provided in subsection (g) of this section. In awarding grants based upon the scoring metrics, the Office shall also award an additional point to projects where a county has a Community Broadband Planning Playbook that meets the guidelines established by the Office.

(i) Applications receiving the highest score shall receive priority status for the awarding of grants pursuant this section. Applicants awarded grants pursuant to this section shall enter into an agreement with the Office. The agreement shall contain all of the elements outlined in subsection (d) of this section and any other provisions the Office may require. The agreement shall contain a provision governing the time line and minimum requirements and thresholds for disbursement of grant funds measured by the progress of the project. Grant funds shall be disbursed only upon verification by the Office that the terms of the agreement have been fulfilled according to the progress milestones contained in the agreement. At project completion, the grant recipient shall certify and provide to the Office evidence consistent with Federal Communications Commission attestation that the proposed minimum upstream and minimum downstream broadband speeds identified in the application guidelines, and for which a base speed multiplier was awarded pursuant to subdivision (6) of subsection (g) of this section, are available throughout the project area prior to any end user connections. A single grant award shall not exceed two million dollars (\$2,000,000). No more than one grant may be awarded per fiscal year for a project in any one eligible economically distressed county.

(j) Grant recipients are required to provide matching funds based upon the application scoring pursuant to this section in the following minimum amounts:

**Score**

**Matching Requirement**

7.0 points or less

55%

Greater than 7.0, but less than 14.0 points

50%

Greater than 14.0, but less than 21.0 points

45%

21.0 points or greater

35%

Up to fifty percent (50%) of matching funds paid by the grant recipient may be comprised of third-party funding and other grant programs. Universal Service Fund, Connect America Fund, or other grants awarded for broadband expansion through a separate State or federal program shall not be used for the required matching funds.

(k) The Office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds identified in the project application for the duration of the five-year service agreement. At least annually, a grant recipient shall provide to the Office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement. For the duration of the agreement, grant recipients shall disclose any changes to data caps for the project area that differ from the data caps listed in the grant application to the Office.

(l) A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement. Grant recipients that fail to provide the minimum advertised connection speed for which a reduction in matching funds was applied shall forfeit that amount. A grant recipient that forfeits amounts disbursed under this section is liable for the amount disbursed plus interest at the rate established under G.S. 105-241.21, computed from the date of the disbursement. The number of subscribers that

subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this subsection.

(m) The Office of Broadband Infrastructure in the Department of Information Technology shall be the designated agency for receipt and disbursement of federal grant funds intended for the State for broadband expansion and shall seek available federal grant funds for that purpose. All federal grant funds received for the purpose of broadband expansion shall be disbursed in accordance with this section.

(n) Grant recipients shall submit to the Office an annual report for each funded project for the duration of the agreement. The report shall include a summary of the items contained in the grant agreement and level of attainment for each and shall also include (i) the number of households, businesses, agriculture operations, and community anchor points that have broadband access as a result of the project; (ii) the percentage of end users in the project area who have access to broadband service and actually subscribe to the broadband service; and (iii) the average monthly subscription cost for broadband service in the project area.

(o) The Department of Information Technology shall submit an annual report to the Joint Legislative Oversight Committee for Information Technology and the Fiscal Research Division on or before September 1. The report shall contain at least all of the following:

- (1) The number of grant projects applied for and the number of grant agreements entered into.
- (2) A time line for each grant agreement and the number of households, businesses, agriculture operations, and community anchor points expected to benefit from each agreement.
- (3) The amount of matching funds required for each agreement and the total amount of investment.
- (4) A summary of areas receiving grants that are now being provided broadband service and the advertised broadband speeds for those areas.
- (5) Any breaches of agreements, grant fund forfeitures, or subsequent reductions or refunds of matching funds.
- (6) Any recommendations for the grant program, including better sources and methods for improving outcomes and accountability."

**SECTION 37.1.(c)** G.S. 160A-272 reads as rewritten:

**"§ 160A-272. Lease or rental of property.**

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided in subsection (b1) of this section) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(a1) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 30 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice as required by subsection (a1) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less.

(b1) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) Notwithstanding subsection (b1) of this section, the council may approve a lease without treating that lease as a sale of property for any of the following reasons:



- (1) For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.
- (2) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years.
- (3) For the operation and use of components of a wired or wireless network, for a term up to 25 years; provided, however, that the lease is entered into with a private broadband provider or a cooperative in connection with a grant agreement pursuant to G.S. 143B-1373 and is for a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served.

(d) Notwithstanding subsection (a) of this section, any lease by a city of any duration for components of a wired or wireless network shall be entered into on a competitively neutral and nondiscriminatory basis and made available to similarly situated providers on comparable terms and conditions and shall not be used to subsidize the provision of competitive service."

**SECTION 37.1.(d)** G.S. 160A-272.1 reads as rewritten:

**"§ 160A-272.1. Lease of utility or enterprise property.**

Subject to this Article and G.S. 160A-321, a city-owned utility or public service enterprise, or part thereof, may be leased."

**SECTION 37.1.(e)** G.S. 160A-321 reads as rewritten:

**"§ 160A-321. Sale, lease, or discontinuance of city-owned enterprise.**

(a) A city is authorized to sell or lease as lessor any public enterprise that it may own upon any terms and conditions that the council may deem best. However, except as to transfers to another governmental entity pursuant to G.S. 160A-274 or as provided in subsection (b) of this section, a city-owned public enterprise shall not be sold, leased to another, or discontinued unless the proposal to sell, lease, or discontinue is first submitted to a vote of the people and approved by a majority of those who vote thereon. Voter approval shall not be required for the sale, lease, or discontinuance of airports, off-street parking systems and facilities, or solid waste collection and disposal systems.

(b) For the sale, lease, or discontinuance of water treatment systems, water distribution systems, or wastewater collection and treatment systems, a city may, but is not required to, submit to its voters the question of whether such sale, lease, or discontinuance shall be undertaken. The referendum is to be conducted pursuant to the general and local laws applicable to special elections in such city."

**SECTION 37.1.(f)** G.S. 146-29.2 reads as rewritten:

**"§ 146-29.2. Lease or interest in real property for communication purposes.**

(a) The following definitions apply in this section:

...

(1a) Applicable codes. – The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with amendments to those codes enacted to address imminent threats of destruction of property or injury to persons.

(1b) Broadband. – Internet access service with transmission speeds that are equal to or greater than the requirements for basic broadband tier 1 service as defined by the Federal Communications Commission for broadband data gathering and reporting, regardless of the technology or medium used to provide the service.

...

(3) Collocation. – The placement or installation of wireless or broadband facilities on existing structures, including electrical transmission towers, water towers,

buildings, and other structures capable of structurally supporting the attachment of wireless or broadband facilities in compliance with applicable ~~building and line safety~~ codes.

- (4) Equipment. – Antennas, transmitters, receivers, cables, wires, transformers, power supplies, electric and communication lines necessary for the provision of television broadcast signals, radio wave signals, wireless data or wireless telecommunication ~~services~~ services, or broadband to a discrete geographic area, and all other apparatuses and appurtenances, including shelters, cabinets, buildings, platforms, and ice bridges used to house or otherwise protect equipment.

...

- (6) Provider. – Any person that is engaged in the transmission, reception, or dissemination of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communications service, or the provisioning of wireless infrastructure. The term also includes any person engaged in the provision of broadband.

...

(b1) The State shall allow the collocation, installation, and operation of equipment by a broadband provider on any existing structure owned by the State and shall lease real property, or grant an easement or license with an interest in real property, for the purposes of construction and placement of broadband infrastructure on State land. A disposition entered into pursuant to this subsection is voidable by the Governor and Council of State for specific reasons or causes that shall be cited.

(c) ~~If otherwise feasible and determined by the Department of Administration to be in the best interest of the State:~~

- (1) New towers constructed on State land shall be designed for collocation. ~~This requirement shall not apply to towers constructed on State land by the State or any of its agencies or by a "public entity" as that term is defined in G.S. 146-29.1(b).~~
- (2) ~~The State shall encourage the collocation of equipment on existing towers and buildings owned by the State.~~
- (3) The State shall sublease for collocation purposes space on any tower or ground area leased by the State, if allowed under the terms of the lease.
- (4) ~~The State shall, to the extent practicable,~~ shall adopt standard terms and conditions for applications to lease, easements, or other conveyances of an interest in real property for communication ~~purposes~~ purposes and the deployment of broadband.

...."

**SECTION 37.1.(g)** G.S. 146-30 is amended by adding a new subsection to read:

"(b3) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands or structures for the collocation, installation, or operation of equipment by a broadband provider on an existing structure owned by the State in accordance with G.S. 146-29.2. The agency that owns the land or structure subject to the lease, rental, or easement may retain an amount not to exceed four percent (4%) of the amount of the lease, rental, or easement. All net proceeds of those dispositions, after the amount retained by the agency, shall be deposited in the Growing Rural Economies with Access to Technology Fund established pursuant to subsection (b) of G.S. 143B-1373."

**SECTION 37.1.(h)** G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

...

(24) The Department of Information Technology in the written decision from a protest petition under G.S. 143B-1373."

**SECTION 37.1.(i)** Subsections (f), (g), and (i) of this section are effective when it becomes law, and the Department of Administration shall adopt temporary rules consistent with this section no later than January 1, 2019, and shall adopt permanent rules no later than July 1, 2019. The remainder of this section becomes effective July 1, 2018.

## **CYBERSECURITY REGIONAL TRAINING CENTER**

**SECTION 37.2.(a)** The Department of Information Technology shall partner with Montreat College to establish a Cybersecurity Regional Training Center (CRTC) in Black Mountain. The Department shall assist in the development of the CRTC and its mission to increase cyber hygiene for State and local government employees and the private sector, enhance the skillset of cybersecurity professionals, and allow for collaboration of public and private entities, industry, and academia to develop new technology, tactics, techniques, and procedures in cybersecurity.

**SECTION 37.2.(b)** Of the funds appropriated to the Department of Information Technology for the 2017-2019 fiscal biennium, the sum of two million dollars (\$2,000,000) from the Information Technology Reserve Fund balance shall be used to assist Montreat College in establishing the CRTC pursuant to this section.

## **IT INTERNAL SERVICE FUND/RATES CHANGES**

**SECTION 37.3.** Section 37.5 of S.L. 2017-57 is amended by adding a new subsection to read:

"SECTION 37.5.(a1) For the purposes of calculating the rate cap provided in subsection (a) of this section, the rates approved by the Office of State Budget and Management during the 2017-2019 fiscal biennium to support the Information Technology Internal Service Fund shall not include personnel costs from consolidated State agencies.

...."

## **911 CHANGES**

**SECTION 37.4.(a)** G.S. 143B-1403(a) reads as rewritten:

**"§ 143B-1403. Service charge for 911 service.**

(a) Charge Imposed. – A monthly 911 service charge is imposed on each active communications service connection that provides access to the 911 system through a voice communications service. The service charge for service other than prepaid wireless telecommunications service is seventy cents (70¢) or a lower amount set by the 911 Board under subsection (d) of this section. The service charge is payable by the subscriber to the provider of the voice communications service. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service. If a subscriber is capable of making more than one simultaneous outbound 911 call through its communications service connections, then the total number of 911 service charges billed to the subscriber shall be (i) for CMRS providers, an amount equal to the number of CMRS connections and (ii) for all other communications service providers, an amount equal to the total number of simultaneous outbound 911 calls the subscriber can make using the North Carolina telephone numbers or trunks billed to their account."

**SECTION 37.4.(b)** For any services for which a bill is rendered prior to 180 days following the effective date of this section, no subscriber or communications service provider shall be liable to any person or entity for billing or remitting a different number of 911 service charges than is required by Part 10 of Article 15 of Chapter 143B of the General Statutes.

**DEPARTMENT OF REVENUE/INFORMATION TECHNOLOGY TRANSITION TO  
DEPARTMENT OF INFORMATION TECHNOLOGY**

**SECTION 37.5.(a)** G.S. 105-259 reads as rewritten:

**"§ 105-259. Secrecy required of officials; penalty for violation.**

...

(b1) Information Security. – The Secretary shall, consistent with the requirements of this section to maintain secrecy of tax information, determine when, how, and under what conditions the disclosure of tax information authorized by subsection (b) of this section shall be made. The Secretary shall be solely responsible for determining whether information security protections for systems or services that store, process, or transmit State or federal tax information are adequate, and the Secretary is not required to use any systems or services determined to be inadequate.

...."

**SECTION 37.5.(b)** G.S. 143B-1325(c) reads as rewritten:

"(c) Participating Agencies. – The State CIO shall prepare detailed plans to transition each of the participating agencies. As the transition plans are completed, the following participating agencies shall transfer information technology personnel, operations, projects, assets, and appropriate funding to the Department of Information Technology:

- (1) Department of Natural and Cultural Resources.
- (2) Department of Health and Human Services.
- ~~(3) Department of Revenue.~~
- (4) Department of Environmental Quality.
- (5) Department of Transportation.
- (6) Department of Administration.
- (7) Department of Commerce.
- (8) Governor's Office.
- (9) Office of State Budget and Management.
- (10) Office of State Human Resources.
- (11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.
- (12) Department of Military and Veterans Affairs.
- (13) Department of Public Safety, with the exception of the following:
  - a. State Bureau of Investigation.
  - b. State Highway Patrol.
  - c. Division of Emergency Management.

The State CIO shall ensure that agencies' operations are not adversely impacted during the transition."

**SECTION 37.5.(c)** G.S. 143B-1325(d) reads as rewritten:

"(d) Report on Transition Planning. – The Community College System Office, the Department of Public Instruction, ~~the Department of Revenue,~~ and the Bipartisan State Board of Elections and Ethics Enforcement shall work with the State CIO to plan their transition to the Department. The information technology transfer and consolidation from the Department of Revenue to the Department ~~may shall~~ not take place until the Secretary of the Department of Revenue determines that the system and data security of the Department meets the heightened security standards required by the federal government for purposes of sharing taxpayer information. By October 1, 2018, these agencies, in conjunction with the State CIO, shall report

to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on their respective transition plans."

**SECTION 37.5.(d)** Subsection (c) of this section becomes effective July 1, 2018. The remainder of this section is effective when it becomes law.

## **PART XXXVIII. FINANCE PROVISIONS**

### **IRC UPDATE**

**SECTION 38.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of January 1, 2017, February 9, 2018, including any provisions enacted as of that date that become effective either before or after that date."

**SECTION 38.1.(b)** G.S. 105-130.5 reads as rewritten:

**"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

...

(26) The amount of gain that would be included for federal income tax purposes without regard to section 1400Z-2(b) of the Code. The adjustment made in this subsection does not result in a difference in basis of the affected assets for State and federal income tax purposes. The purpose of this subdivision is to decouple from the deferral of gains reinvested into an Opportunity Fund available under federal law.

(27) The amount of gain that would be included in the taxpayer's federal taxable income but for the step-up in basis under section 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from the exclusion of gains from the sale or exchange of an investment in an Opportunity Fund available under federal law.

(28) The amount deducted under section 250 of the Code.

(29) The amount deducted under section 965(c) of the Code.

(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(3b) Any amount included in federal taxable income under ~~section 78 or section 951~~ section 78, 951, 951A, or 965 of the Code, net of related expenses.

...

(29) The amount of gain included in the taxpayer's federal taxable income under section 1400Z-2(a) of the Code to the extent the same income was included in the taxpayer's federal taxable income in a prior taxable year under subdivision (a)(26) of this section. The purpose of this subdivision is to prevent double taxation of income the taxpayer was previously required to include in the calculation of State net income.

...."

**SECTION 38.1.(c)** G.S. 105-153.5 reads as rewritten:

**"§ 105-153.5. Modifications to adjusted gross income.**

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection ~~that the taxpayer claimed under the Code. subsection.~~ The deduction amounts are as follows:

...

- (2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code:

...

- b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable years 2014, 2015, ~~and 2016~~, 2016, and 2017, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars (\$20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year.

...

(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must ~~add~~ make the following adjustments to the taxpayer's adjusted gross income ~~any of the following items that are not included in the taxpayer's adjusted gross income:~~

- (1) For taxable years 2014, 2015, ~~and 2016~~, 2016, and 2017, the taxpayer must add the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law. If the taxpayer is insolvent, as defined in section 108(d)(3) of the Code, then the addition required under this subdivision is limited to the amount of discharge of qualified principal residence indebtedness excluded from adjusted gross income under section 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness that would have been excluded under section 108(a)(1)(B) of the Code.
- (2) For taxable year 2014, 2015, ~~and 2016~~, 2016, and 2017, the taxpayer must add the amount of the taxpayer's deduction for qualified tuition and related expenses under section 222 of the Code. The purpose of this subdivision is to decouple from the above-the-line deduction available under federal tax law.
- (3) For taxable years beginning on or after 2014, the taxpayer must add the amount excluded from the taxpayer's gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law.

- (4) For taxable years prior to 2014, the taxpayer must add the amount excluded from the taxpayer's gross income for amounts received by a wrongfully incarcerated individual under section 139F of the Code for which the taxpayer took a deduction under former G.S. 105-134.6(b)(14). The purpose of this subdivision is to prevent a double benefit where federal tax law provides an income exclusion for income for which the State previously provided a deduction.
- (5) The taxpayer must add the amount of gain that would be included for federal income tax purposes without regard to section 1400Z-2(b) of the Code. The adjustment made in this subsection does not result in a difference in basis of the affected assets for State and federal income tax purposes. The purpose of this subdivision is to decouple from the deferral of gains reinvested into an Opportunity Fund available under federal law.
- (6) The taxpayer may deduct the amount of gain included in the taxpayer's adjusted gross income under section 1400Z-2(a) of the Code to the extent the same income was included in the taxpayer's adjusted gross income in a prior taxable year under subdivision (5) of this subsection. The purpose of this subdivision is to prevent double taxation of income the taxpayer was previously required to include in the calculation of North Carolina taxable income.
- (7) The taxpayer must add the amount of gain that would be included in the taxpayer's adjusted gross income but for the step-up in basis under section 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from the exclusion of gains from the sale or exchange of an investment in an Opportunity Fund available under federal law.

...."

**SECTION 38.1.(d)** G.S. 105-163.1(13) reads as rewritten:

**"§ 105-163.1. Definitions.**

The following definitions apply in this Article:

...

- (13) Wages. – The term has the same meaning as in section 3401 of the ~~Code~~ except it does not include the amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.~~Code."~~

**SECTION 38.1.(e)** G.S. 105-130.5(a)(17) is repealed.

**SECTION 38.1.(f)** G.S. 105-153.5(c)(4) is repealed.

**SECTION 38.1.(g)** G.S. 105-153.8(a) reads as rewritten:

"(a) Who Must File. – The following individuals must file with the Secretary an income tax return under affirmation:

- (1) Every resident ~~required to file an income tax return who~~ has gross income under the Code that exceeds the standard deduction amount provided in G.S. 105-153.5(a)(1).
- (2) Every nonresident individual who meets all of the following requirements:
  - a. Receives during the taxable year gross income that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

- b. ~~Is required to file an income tax return for the taxable year under the Code.~~Has gross income under the Code that exceeds the applicable standard deduction amount provided in G.S. 105-153.5(a)(1).
- (3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return."

**SECTION 38.1.(h)** G.S. 105-153.5(c)(7) reads as rewritten:

"(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

- ...
- (7) The amount deducted in a prior taxable year to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for ~~the qualified higher education expenses of the designated beneficiary,~~beneficiary as permitted under section 529 of the Code, unless the withdrawal ~~was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.~~meets at least one of the following conditions:
  - a. The withdrawal was not subject to the additional tax imposed by section 529(c)(6) of the Code.
  - b. The withdrawal was rolled over to an ABLE account as defined in G.S. 147-86.70(b)."

**SECTION 38.1.(i)** G.S. 116-209.25 reads as rewritten:

**"§ 116-209.25. Parental Savings Trust Fund.**

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the ~~postsecondary~~ education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents and other interested parties to save funds to meet the costs of ~~the postsecondary~~ education expenses of eligible ~~students.~~students in accordance with section 529 of the Code. For purposes of this section, the term "Code" has the same meaning as defined in G.S. 105-228.90.

...."

**SECTION 38.1.(j)** Subsections (e), (f), and (h) of this section are effective for taxable years beginning on or after January 1, 2018. The remainder of this section is effective when it becomes law.

## BUSINESS TAX CHANGES

**SECTION 38.2.(a)** G.S. 105-114(b)(2) reads as rewritten:

- "(2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company or a partnership that elects to be taxed as a corporation under the Code, but does not otherwise include a limited liability ~~company.~~company or a partnership."

**SECTION 38.2.(b)** G.S. 105-122(b) reads as rewritten:



"(b) Determination of Net Worth. – A corporation taxed under this section shall determine the total amount of its net worth on the basis of the books and records of the corporation as of the close of its income year. The net worth of a corporation is its total assets without regard to the deduction for accumulated depreciation, depletion, or amortization less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the corporation's taxable year. If the corporation does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax purposes ~~so long as the method fairly reflects the corporation's net worth for purposes of the tax levied by this section.~~ purposes. A corporation's net worth is subject to the following adjustments:

(1) A deduction for accumulated depreciation, depletion, and amortization as determined in accordance with the method used for federal tax purposes.

...  
(1b) Assets for which a deduction is allowed under subdivision (1) of this subsection are valued in accordance with the method used in computing depreciation, depletion, and amortization for federal income tax purposes.

...  
~~(3) A corporation may deduct the cost of treasury stock.~~

....  
**SECTION 38.2.(c)** G.S. 105-130.4(l) reads as rewritten:

- "(l) (1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales shall be treated as having been made in this State.
- (2) Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State shall constitute delivery to the purchaser in this State.
- (3) Other sales are in this State ~~if~~ if any of the following occur:
- a. The receipts are from real or tangible personal property located in this ~~State; or~~ State, and includes receipts from incidental services sold as part of, or in connection with, the sale of tangible personal property in this State.
  - b. The receipts are from intangible property ~~and are received from sources to the extent the intangible property is used within this State;~~ or State.
  - c. The receipts are from services and the income-producing activities are in this State. For the purposes of this subdivision, an "income-producing activity" means an activity directly performed by the taxpayer or its agents for the ultimate purpose of generating the sale of the service. Receipts from income-producing activities performed within and without this State are attributed to this State in

proportion to the income-producing activities performed in this State to total income-producing activities performed everywhere that generate the sale of service."

**SECTION 38.2.(d)** G.S. 105-130.5(a) reads as rewritten:

**"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

(a) The following additions to federal taxable income shall be made in determining State net income:

...

(10) The total amounts allowed under this Chapter during the taxable year as a credit against the taxpayer's income tax. ~~This subdivision does not apply to a credit allowed under G.S. 105-130.47.~~ A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this Chapter the apportionment factor used by it in determining the amount of its apportioned income.

...

(20) ~~The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.~~

...."

**SECTION 38.2.(e)** G.S. 105-228.3 is amended by adding a new subdivision to read:

"(1b) Foreign captive insurance company. – A captive insurance company as defined in G.S. 58-10-340(9), except that such company is not formed or licensed under the laws of this State but is formed and licensed under the laws of any jurisdiction within the United States other than this State."

**SECTION 38.2.(f)** G.S. 105-228.4A reads as rewritten:

**"§ 105-228.4A. Tax on captive insurance companies.**

(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this section applies only to the branch business of the company. Two or more captive insurance companies under common ownership and control are taxed under this section as a single captive insurance company. The tax levied in this section does not apply to a foreign captive insurance company.

(b) Other Taxes. – A captive insurance company that is subject to the tax levied by this section ~~is and a foreign captive insurance company are~~ not subject to any of the following:

- (1) Franchise taxes imposed by Article 3 of this Chapter.
- (2) Income taxes imposed by Article 4 of this ~~Chapter~~ Chapter, subject to the provisions of G.S. 105-130.5A.
- (3) Local privilege taxes or local taxes computed on the basis of gross premiums.
- (4) The insurance regulatory charge imposed by G.S. 58-6-25.

...."

**SECTION 38.2.(g)** G.S. 105-228.5(g) reads as rewritten:

**"(g) Exemptions. – This section does not apply to any of the following:**

- (1) A farmers' mutual assessment fire insurance companies or to company.
- (2) A fraternal orders or societies that do order or society that does not operate for a profit and ~~do~~ does not issue policies on any person except members. ~~This section does not apply to a~~
- (3) A captive insurance company taxed under G.S. 105-228.4A.
- (4) A foreign captive insurance company that is licensed in and taxed on its gross premiums in a jurisdiction within the United States other than this State."

**SECTION 38.2.(h)** Section 4 of S.L. 2017-151 is reenacted.

**SECTION 38.2.(i)** G.S. 105-130.11(b) reads as rewritten:

"(b) Unrelated Business Income. – Except as provided in this subsection, an organization described in subdivision (a)(1), (3), (4), (5), (6), (7), (8), or (9) of this section and any organization exempt from federal income tax under the Code is subject to the tax provided in G.S. 105-130.3 on its unrelated business taxable income, as defined in section 512 of the Code, adjusted as provided in G.S. 105-130.5. The tax does not apply, however, to net income derived from any of the following:

- (1) Research performed by a college, university, or hospital.
- (2) Research performed for the United States or its instrumentality or for a state or its political subdivision.
- (3) Research performed by an organization operated primarily to carry on fundamental research, the results of which are freely available to the general public.
- (4) Amounts paid or incurred by an organization that is exempt from federal income tax under section 501(c)(3) of the Code for a parking facility that would otherwise be included as unrelated business income under section 512(a)(7) of the Code."

**SECTION 38.2.(j)** Subsections (a) and (b) of this section are effective beginning on or after January 1, 2019, and apply to the calculation of franchise tax reported on the 2018 and later corporate income tax return. Subsection (h) of this section is effective when it becomes law and applies to taxable years beginning on or after July 1, 2018. Subsection (i) of this section is effective for taxable years beginning on or after January 1, 2018. The remainder of this section is effective when it becomes law.

**FEDERAL DETERMINATIONS AND AMENDED RETURNS**

**SECTION 38.3.(a)** G.S. 105-130.20 reads as rewritten:

**"§ 105-130.20. Federal ~~corrections, determinations and amended returns.~~**

(a) Federal Determination. – If a taxpayer's federal taxable income or a federal tax credit that is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, and the change or correction affects the amount of State tax payable is corrected or otherwise determined by the federal government, payable, the taxpayer must, must file an income tax return reflecting each change or correction from a federal determination within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined taxable income, each change or correction. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by reason of the determination.~~ A federal determination has the same meaning as defined in G.S. 105-228.90.

(b) Amended Return. – The following applies to an amended return filed by a taxpayer with the Commissioner of Internal Revenue:

- (1) If the amended return contains an adjustment that would increase the amount of State tax payable under this Part, then notwithstanding the provisions of G.S. 105-241.8(a), the taxpayer must file within six months thereafter an amended return with the Secretary.
- (2) If the amended return contains an adjustment that would decrease the amount of State tax payable under this Part, the taxpayer may file an amended return with the Secretary within the provisions of G.S. 105-241.6.

(c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

**SECTION 38.3.(b)** G.S. 105-159 reads as rewritten:

**"§ 105-159. Federal ~~corrections,~~determinations and amended returns.**

(a) Federal Determination. – If a taxpayer's adjusted gross income, filing status, personal exemptions, standard deduction, itemized deductions, or federal tax credit that are changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or competent authority, and the change or correction affects the amount of State tax payable is corrected or otherwise determined by the federal government, payable, the taxpayer must, must file an income tax return reflecting each change or correction from a federal determination within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined adjusted gross income or federal tax credit that affects the amount of State tax payable, each change or correction. The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination.~~A federal determination has the same meaning as defined in G.S. 105-228.90.

(b) Amended Return. – The following applies to an amended return filed by a taxpayer with the Commissioner of Internal Revenue:

- (1) If the amended return contains an adjustment that would increase the amount of State tax payable under this Part, then notwithstanding the provisions of G.S. 105-241.8(a), the taxpayer must file within six months thereafter an amended return with the Secretary.
- (2) If the amended return contains an adjustment that would decrease the amount of State tax payable under this Part, the taxpayer may file an amended return with the Secretary within the provisions of G.S. 105-241.6.

(c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

**SECTION 38.3.(c)** G.S. 105-160.8 reads as rewritten:

**"§ 105-160.8. Federal ~~corrections,~~determinations.**

For purposes of this Part, the provisions of G.S. 105-159 ~~requiring an individual to report the correction or determination of taxable income by the federal government~~ apply to fiduciaries required to file returns for estates and trusts."

**SECTION 38.3.(d)** G.S. 105-163.6A reads as rewritten:

**"§ 105-163.6A. Federal ~~corrections,~~determinations.**

If the amount of taxes an employer is required to withhold and pay under the Code is ~~corrected or otherwise determined by the federal government, the employer must, within six months after being notified of the correction or final determination by the federal government, file a return with the Secretary reflecting the corrected or determined amount.~~ The Secretary must propose an assessment for any additional tax due from the employer as provided in Article 9 of this Chapter. ~~If there has been an overpayment of the tax, the Secretary must either refund the overpayment to the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S. 105-163.10. An employer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination.~~ changed or corrected, the provisions of G.S. 105-159 apply to employers, pension payers, and every other payer required to withhold taxes under this Article. Failure of an employer to comply with this section does not, however, affect an individual's right to a credit under G.S. 105-163.10."

**SECTION 38.3.(e)** G.S. 105-241.8(b) reads as rewritten:

"(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

...

- (1a) Federal amended return. – If a taxpayer files a return as a result of filing a federal amended return and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is three years after the date the federal amended return was filed with the Commissioner of Internal Revenue.

...."

**SECTION 38.3.(f)** G.S. 105-241.10 reads as rewritten:

**"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. ~~A federal determination is a correction or final determination by the federal government of the amount of a federal tax due.~~ A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. A federal determination has the same meaning as defined in G.S. 105-228.90. The limitations are:

- (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.
- (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

**SECTION 38.3.(g)** G.S. 105-228.90(b) is amended by adding a new subdivision to read:

- "(3a) Federal determination. – A change or correction of the amount of a federal tax due arising from an audit by the Commissioner of Internal Revenue."

**SECTION 38.3.(h)** This section is effective when it becomes law and applies to federal amended returns filed on or after that date.

**AUTOMATIC EXTENSION OF TIME TO FILE TAX RETURNS**

**SECTION 38.4.(a)** G.S. 105-263 reads as rewritten:

**"§ 105-263. Timely filing of mailed documents and requests for extensions.**

(a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a return with the Secretary. ~~To obtain an extension of time for filing a return, Except as provided in subsection (c) of this section, a person must comply with any application requirement set by the Secretary. Secretary to obtain an extension of time for filing a return.~~ An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a return extends the time for paying the tax expected to be due with the return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the return to the date the tax is paid.

(c) Automatic Extension. – A person who is granted an automatic extension to file a federal income tax return, including a return of partnership income, is granted an automatic extension to file the corresponding State income tax return and franchise tax return. The person must certify on the State tax return that the person was granted a federal extension."

**SECTION 38.4.(b)** This section becomes effective for taxable years beginning on or after January 1, 2019.

## **SALES AND USE TAX CHANGES**

**SECTION 38.5.(a)** G.S. 105-164.3(20b) reads as rewritten:

### **"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...  
(20b) Mixed transaction contract. – A contract that includes both a real property contract for a capital improvement and a repair, maintenance, and installation service for real property that is not related to the capital improvement."

**SECTION 38.5.(b)** G.S. 105-164.3, as amended by subsection (a) of this section, reads as rewritten:

### **"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...  
(2c) Capital improvement. – One or more of the following:  
...  
e. Painting or wallpapering of real property, except where painting or wallpapering is incidental to the repair, maintenance, and installation ~~service~~services.

...  
k. ~~Addition~~ An addition or alteration to real property that is permanently affixed or installed to real property and is not an activity listed in subdivision (33l) of this section as a ~~repair, maintenance, and installation service~~services.

...  
(11d) Freestanding appliance. – A machine commonly thought of as an appliance operated by gas or electric current. Examples include ~~installation of a~~ dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave, and range, regardless of whether the range is slide-in or drop-in.

...  
(20b) Mixed transaction contract. – A contract that includes both a real property contract for a capital improvement and a ~~repair, maintenance, and installation service~~services for real property that ~~is~~are not related to the capital improvement.

...  
(24) Net taxable sales. – The gross sales or gross receipts of the business of a retailer or another person taxed under this Article after deducting exempt sales and nontaxable sales.

...  
(33c) Qualifying datacenter. – A datacenter that satisfies each of the following conditions:  
a. The datacenter certifies that it satisfies or will satisfy the wage standard for the development tier area or zone in which the datacenter is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the

county in which the datacenter is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the datacenter is located.

- b. The Secretary of Commerce has made a written determination that at least seventy-five million dollars (\$75,000,000) in private funds has been or will be invested by one or more owners, users, or tenants of the datacenter within five years of the date the owner, user, or tenant of the datacenter makes its first real or tangible property investment in the datacenter on or after January 1, 2012. Investments in real or tangible property in the datacenter made prior to January 1, 2012, may not be included in the investment required by this subdivision.
- c. The datacenter certifies that it provides or will provide health insurance for all of its full-time ~~employees~~ employees as long as the datacenter operates. The datacenter provides health insurance if it pays or will pay at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

...

- (33i) Remodeling. – A transaction comprised of multiple services performed by one or more persons to restore, improve, alter, or update real property that may otherwise be subject to tax as repair, maintenance, and installation services if separately performed. The term includes a transaction where the internal structure or design of one or more rooms or areas within a room or building are substantially changed. The term does not include a single service that is included in repair, maintenance, and installation ~~service~~ services. The term does not include a transaction where the true purpose is a repair, maintenance, and installation ~~service~~ services no matter that another service included in repair, maintenance, and installation ~~service~~ services is performed that is incidental to the true purpose of the transaction; examples include repair of sheetrock that includes applying paint, replacement of cabinets that includes installation of caulk or molding, and the installation of hardwood floors that includes installation of shoe molding.

...

- (33l) Repair, maintenance, and installation services. – The term includes the activities listed in this subdivision and applies to tangible personal property, motor vehicle, digital property, and real property. The term does not include services used to fulfill a real property contract taxed in accordance with G.S. 105-164.4H:

...

- d. To install, apply, connect, adjust, or set into position tangible personal ~~property, digital property, or a motor vehicle~~ property or digital property. The term includes floor refinishing and the installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item. The replacement of more than one of a like-kind item, such as replacing one or more windows, is ~~a single~~

repair, maintenance, and installation ~~service-services~~. The term does not include an installation defined as a capital improvement under subdivision (2c)d. of this ~~section-section~~ and substantiated as a capital improvement under G.S. 105-164.4H(a1).

- e. To inspect or monitor property or install, apply, or connect tangible personal property or digital property on a motor vehicle, but does not include security or similar monitoring services for real ~~property-vehicle~~ or adjust a motor vehicle.

...

- (36) Sale or selling. – The transfer for consideration of title, license to use or consume, or possession of tangible personal property or digital property or the performance for consideration of a service. The transfer or performance may be conditional or in any manner or by any means. The term ~~includes-applies~~ to the following:

- a. Fabrication of tangible personal property for consumers by persons engaged in business who furnish either directly or indirectly the materials used in the fabrication work.
- b. Furnishing or preparing tangible personal property consumed on the premises of the person furnishing or preparing the property or consumed at the place at which the property is furnished or prepared.
- c. A transaction in which the possession of the property is transferred but the seller retains title or security for the payment of the consideration.
- d. A lease or rental.
- e. Transfer of a digital code.
- f. An accommodation.
- g. A service contract.
- h. Any other item subject to tax under this Article.

- (37) Sales price. – The total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

- a. The term includes all of the following:

...

- 7. Credit for trade-in. The amount of any credit for trade-in is not a reduction of the sales price.

- 8. ~~Discounts~~ The amount of any discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:

- I. Presentation by the consumer of a coupon or other documentation.
- II. Identification of the consumer as a member of a group eligible for a discount.
- III. The invoice the retailer gives the consumer.

- b. The term does not include any of the following:

...

- (38b) Service contract. – A contract where the obligor under the contract agrees to maintain, monitor, inspect, repair, or provide another service included in the definition of repair, maintenance, and installation ~~service-services~~ to digital property, tangible personal property, or real property for a period of time or some other defined measure. The term does not include a single service



included in repair, maintenance, or installation service, services, but does include a contract where the obligor may provide a service included in the definition of repair, maintenance, and installation services as a condition of the contract. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair agreement, or a similar agreement or contract.

...  
(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~May 11, 2017~~ May 3, 2018.

...  
(49) Use. – The exercise of any right, power, or dominion whatsoever over tangible personal property, digital property, or a service by the purchaser of the property or service. The term includes withdrawal from storage, distribution, installation, affixation to real or personal property, and exhaustion or consumption of the property or service by the owner or purchaser. The term does not include the following:

- a. ~~A a sale of property~~ tangible personal property, digital property, or a service in the regular course of business.
- b. ~~A purchaser's use of tangible personal property or digital property in any of the circumstances that would exclude the storage of the property from the definition of "storage" in subdivision (44) of this section.~~

...."

**SECTION 38.5.(c)** G.S. 105-164.4(a) reads as rewritten:

**"§ 105-164.4. Tax imposed on retailers and certain facilitators.**

(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

(1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section. A sale of a freestanding appliance is a retail sale of tangible personal property. This subdivision applies to the sales price of or gross receipts derived from repair, maintenance, and installation services to tangible personal property. This subdivision does not apply to repair, maintenance, and installation services for real property; these services are taxable under subdivision (16) of this subsection.

(1a) The general rate applies to the sales price of each of the following items sold at retail, including all accessories attached to the item when it is delivered to the ~~purchaser~~ purchaser, and to the sales price of or the gross receipts derived from repair, maintenance, and installation services for each of the following items. The items taxable under this subdivision are as follows:

- a. A manufactured home.
- b. A modular home. The sale of a modular home to a modular homebuilder is considered a retail sale, no matter that the modular home may be used to fulfill a real property contract. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home

manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.

- c. An aircraft. The maximum tax is two thousand five hundred dollars (\$2,500) per article. The maximum tax does not apply to the sales price of or gross receipts derived from repair, maintenance, and installation services, but the use tax exemption in G.S. 105-164.27A(a3) may apply to these services.
- d. A qualified jet engine.
- (1b) The rate of three percent (3%) applies to the sales price of each boat sold at retail, including all accessories attached to the boat when it is delivered to the purchaser. The maximum tax is one thousand five hundred dollars (\$1,500) per article. The maximum tax does not apply to the sales price of or gross receipts derived from the sales price of or gross receipts derived from repair, maintenance, and installation services, but the use tax exemption in G.S. 105-164.27A(a3) may apply to these services.
- ...
- (6b) The general rate applies to the sales price of digital property that is sold at retail and that is listed in this subdivision, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. This subdivision applies to the sales price of or gross receipts derived from repair, maintenance, and installation services to digital property. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:
  - ...
- (16) The general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services for real property and generally includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser's property. A mixed transaction contract and a real property contract are taxed in accordance with G.S. 105-164.4H."

**SECTION 38.5.(d)** G.S. 105-164.4B reads as rewritten:

**"§ 105-164.4B. Sourcing principles.**

(a) General Principles. – The following principles apply in determining where to source the sale of a ~~product~~ product for the seller's purpose and do not alter the application of the tax imposed under G.S. 105-164.6. Except as otherwise provided in this section, a service is sourced where the purchaser can potentially first make use of the service. These principles apply regardless of the nature of the product, except as otherwise noted in this section:

...

(i) Computer Software Renewal. – The gross receipts derived from the renewal of a service contract for prewritten software is generally sourced pursuant to subdivision (a) of this section. However, sourcing the renewal to an address where the purchaser received the underlying prewritten software does not constitute bad faith provided the seller has not received information from the purchaser that indicates a change in the location of the underlying software."

**SECTION 38.5.(e)** G.S. 105-164.4G(e) reads as rewritten:

"(e) Exceptions. – The tax imposed by this section does not apply to the following:

- (1) An amount paid solely for the right to ~~participate-participate~~, other than to be a spectator, in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.

- (2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.
- (3) A political contribution.
- (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.
- (5) An amount paid solely for transportation.
- (6) An amount paid for the right to participate, other than to be a spectator, in the following activities:
  - a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining, or other similar activities.
  - b. Instruction classes related to the items included in sub-subdivision a. of this subdivision.
  - c. Riding on a carriage, boat, train, plane, horse, chairlift, or other similar rides.
  - d. Amusement rides, including a waterslide."

**SECTION 38.5.(f)** G.S. 105-164.4I reads as rewritten:

**"§ 105-164.4I. Service contracts.**

- ...
- (e) ~~Exceptions.—The tax imposed by this section does not apply to any of the following:~~
    - (1) ~~A security or similar monitoring contract for real property.~~
    - (2) ~~A contract to provide a certified operator for a wastewater system.~~
- ...."

**SECTION 38.5.(g)** G.S. 105-164.6(b) reads as rewritten:

"(b) Liability. – The tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. If the property purchased becomes a part of real property in the State, the real property contractor, the retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable for the tax, except as provided in ~~G.S. 105-164.4H(a)~~G.S. 105-164.4H(a1) regarding receipt of an affidavit of capital improvement. The liability of a real property contractor, a retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

**SECTION 38.5.(h)** Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.11B. Recover sales tax paid.**

A retailer who pays sales and use tax on property or services and subsequently resells the property or services at retail, without the property or service being used by the retailer, may recover the sales or use tax originally paid to a seller as provided in this section. A retailer entitled to recover tax under this section may reduce taxable receipts by the taxable amount of the purchase price of the property or services resold for the period in which the retail sale occurs. A recovery of tax allowed under this section is not an overpayment of tax and, where such recovery is taken, a refund of the tax originally paid should not be requested pursuant to the authority under G.S. 105-164.11. Any amount for tax recovered under this section in excess of tax due for a reporting period under this Article is not subject to refund. Any tax recovered under this section may be carried forward to a subsequent reporting period and taken as an adjustment to taxable receipts. The records of the retailer must clearly reflect and support the adjustment to taxable receipts for the period in which the adjustment is made."

**SECTION 38.5.(i)** G.S. 105-164.11(b) reads as rewritten:

"(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers seeking a refund of over-collected sales or use taxes from the seller are the customer refund procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or

directive on the law issued by the Secretary. Where a person recovers tax under G.S. 105-164.11B, a refund or credit under this section is not allowed by the Secretary."

**SECTION 38.5.(j)** G.S. 105-164.13 reads as rewritten:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

- ...
- (5e) Sales of mill machinery or mill machinery parts or accessories to any of the ~~following persons listed in this subdivision.~~ For purposes of this subdivision, the term "accessories" does not include electricity. The persons are:
    - a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises or (ii) a production company.
    - b. A contractor or subcontractor if the purchase is for use in the performance of a contract with a manufacturing industry or plant.
    - c. A subcontractor if the purchase is for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.
  - ...
  - (9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies sold to any of the following:
    - a. The holder of a standard commercial fishing license issued under G.S. 113-168.2 for principal use in commercial fishing operations.
    - b. The holder of a shellfish license issued under G.S. 113-169.2 for principal use in commercial shellfishing operations.
    - c. The operator of a for-hire ~~boat, vessel,~~ as defined in G.S. 113-174, for principal use in the commercial use of the boat.
  - ...
  - (13) All of the ~~following drugs, drugs listed in this subdivision,~~ including their packaging materials and any instructions or information about the drugs included in the package with ~~them; them.~~ This subdivision does not apply to pet food or feed for animals. The drugs exempt under this subdivision are as follows:
    - a. Drugs required by federal law to be dispensed only on prescription.
    - b. Over-the-counter drugs sold on prescription. This sub-subdivision does not apply to purchases of over-the-counter drugs by hospitals and other medical facilities for use and treatment of patients.
    - c. Insulin.
  - ...
  - (15) Accounts of purchasers, representing taxable sales, on which the tax imposed by this Article has been paid, that are found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross sales. In the case of a municipality that sells electricity, the account may be deducted if it meets all the conditions for charge-off that would apply if the municipality were subject to income tax. Any accounts deducted pursuant to this subdivision must be added to gross sales if afterwards collected. For purposes of this exemption, a worthless account of a purchaser is a "bad debt" as allowed under section 166 of the Code. The

amount calculated pursuant to section 166 of the Code must be adjusted to exclude financing charges or interest, sales or use taxes charged on the sales price, uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.

...

(61a) The sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

a. ~~An A service and a service contract for an item exempt from tax under this Article.~~ Article, except as otherwise provided in this subdivision. Property and services used to fulfill a service or service contract exempt under this sub-subdivision are exempt from tax under this Article. This exemption does not apply to water for a pool, fish tank, or similar aquatic feature or to a motor vehicle, except as provided under subdivision (62a) of this ~~section~~ section and fees under sub-subdivision b. of this subdivision.

...

p. A security or similar monitoring contract for real property. The exemption provided in this subdivision does not apply to charges for repair, maintenance, and installation services to repair security, alarm, and other similar monitoring systems for real property.

q. A contract to provide a certified operator for a wastewater system.

...

(70) Gross receipts derived from a rental of an accommodation are exempt as provided in G.S. 105-164.4F."

**SECTION 38.5.(k)** G.S. 105-164.13E reads as rewritten:

**"§ 105-164.13E. Exemption for farmers.**

(a) Exemption. – A qualifying farmer is a person who has an annual income from farming operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has an average annual income from farming operations for the three preceding taxable years of ten thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, and a livestock farmer, a farmer of crops, ~~and~~ a farmer of an aquatic species, as defined in ~~G.S. 106-758.~~ G.S. 106-758, and a person who boards horses. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming operations, whichever comes first.

~~The following tangible personal property, digital property, and services are exempt from sales and use tax if~~ Except as otherwise provided in this section, the items exempt under this section must be purchased by a qualifying farmer and for use used by the farmer in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or animals. The following tangible personal property and services that may be exempt from sales and use tax under this section are as follows:

...

(c1) Services for Farmer. – A qualifying item listed in subdivision (6) of subsection (a) of this section purchased to fulfill a service for a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A person that purchases one of the items allowed an exemption under this subsection must provide an exemption certificate to the retailer that includes the name of the purchaser and an exemption number issued to the purchaser by the Department pursuant to G.S. 105-164.28A. A person that purchases an item exempt from tax pursuant to this subsection must maintain records to substantiate that an item is used to provide a service for a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate.

...."

**SECTION 38.5.(l)** G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the taxable items listed in subdivision (1) of this subsection. For purposes of this subdivision, the term "taxable" is based on the imposition of tax on the items and services in the State.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period. Airplane miles are not in this State if the airplane does not depart or land in this State.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period. The denominator of the mileage ratio is the number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

**SECTION 38.5.(m)** G.S. 105-164.15A(b) reads as rewritten:

"(b) Combined General Rate Items. – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is administered as follows:

...."

**SECTION 38.5.(n)** G.S. 105-164.19 reads as rewritten:

**"§ 105-164.19. Extension of time for making returns and payment.**

The Secretary for good cause may extend the time for filing any return under the provisions of this Article and may grant additional time within which to file the return ~~as he may deem proper, but the time for filing any return shall not be extended for more than 30 days after the regular due date of the return. If the time for filing a return is extended, interest accrues at the rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the date of payment and pay the tax due pursuant to G.S. 105-263(b).~~"

**SECTION 38.5.(o)** G.S. 105-164.27A(a) reads as rewritten:

"(a) General. – A general direct pay permit authorizes its holder to purchase certain tangible personal property, digital property, or service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A general direct pay permit may not be used for purposes identified in subsections (a1), (a2), (a3), or (b) of this section. A person who purchases an item under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use or the service is received. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on sales of ~~electricity~~ electricity, piped natural gas, video programming, spirituous liquor, or the gross receipts derived from rentals of accommodations.

A person who purchases an item for storage, use, or consumption in this State whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a general direct pay permit:

- (1) The place of business where the item will be stored, used, or consumed in the State is not known at the time of the purchase and a different tax consequence applies depending on where the item is ~~used~~ used in the State.
- (2) The manner in which the item will be stored, used, or consumed in the State is not known at the time of the purchase and one or more of the potential uses is taxable but others are not ~~taxable~~ taxable in the State."

**SECTION 38.5.(p)** G.S. 105-164.32 reads as rewritten:

**"§ 105-164.32. Incorrect returns; estimate.**

If a retailer, a wholesale ~~merchant~~ merchant, a facilitator, or a consumer fails to file a return and pay the tax due under this Article or files a grossly incorrect or false or fraudulent return, the Secretary must estimate the tax due and assess the retailer, the wholesale merchant, the facilitator, or the consumer based on the estimate."

**SECTION 38.5.(q)** G.S. 105-244.3(a) reads as rewritten:

"(a) Grace Period. – The Department shall take no action to assess any tax due for a filing period beginning on or after March 1, 2016, and ending ~~before~~ prior to January 1, 2018, 2019, if one or more of the conditions of this subsection apply and the retailer did not receive specific written advice from the Secretary for the transactions at issue for the laws in effect for the applicable periods. Except as otherwise provided, this subsection also applies to use tax liability imposed on a purchaser under G.S. 105-164.6. The conditions are as follows:

- (1) A retailer failed to charge sales tax due on separately stated installation charges that are part of the sales price of tangible personal property or digital property sold at retail.
- (2) A person failed to properly classify themselves as a retailer in retail trade for the period beginning March 1, 2016, and ending December 31, 2016, and did not charge sales tax on all retail transactions but rather treated some transactions as real property contracts in error for sales and use tax purposes. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.

- (3) A person treated a transaction as a real property contract in error and did not collect sales tax on the transaction as a retail sale. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.
- (4) A person failed to collect sales tax on the sales price of a service contract for one or more components, systems, or accessories for a motor vehicle on or after March 1, 2016, and prior to January 1, 2017, where the contract was sold by a motor vehicle dealer, a motor vehicle service agreement company, or a motor vehicle dealer on behalf of a motor vehicle service agreement company.
- (5) A person failed to collect sales tax on the retail sale of a service contract for tangible personal property that becomes a part of or is affixed to real property.
- (6) A person failed to collect sales tax on the retail sale of a service contract for a pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and prior to January 1, ~~2018, 2019~~, provided the person paid tax on any purchases used to fulfill the service contract.
- (7) A person failed to collect sales tax on the sales price of or the gross receipts derived from the retail sale of a home warranty on or after January 1, 2017, and prior to January 1, ~~2018, 2019~~, provided the warranty includes coverage for real property.
- (8) A person failed to collect sales tax on the taxable portion of a mixed service contract for repair, maintenance, and installation services that exceeds ten percent (10%) for a transaction prior to January 1, 2017; on or after January 1, 2017, and prior to January 1, 2019. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a mixed contract.
- (8a) A person failed to collect sales tax on the taxable portion of a mixed transaction contract that exceeds twenty-five percent (25%) for a transaction on or after January 1, 2017, and prior to January 1, 2019. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a mixed transaction contract.
- (8b) A person failed to collect sales tax on the taxable portion of a bundled transaction that included a contract for two more services, one of which was subject to tax and one of which was not subject to tax, for a transaction on or after March 1, 2016, and prior to January 1, 2017.
- (9) A person treats a transaction as a real property contract for remodeling instead of the retail sale of repair, maintenance, and installation services sold at retail prior to January 1, ~~2018, 2019~~. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill the transaction.
- (10) A person failed to collect sales tax on repair, maintenance, and installation services for tangible personal property, motor vehicles, and digital property."

**SECTION 38.5.(r)** G.S. 105-187.52(c) reads as rewritten:

"(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under ~~G.S. 105-164.4(b)(4); G.S. 105-164.13(61a)a."~~

**SECTION 38.5.(s)** G.S. 105-164.4H(a1) reads as rewritten:

"(a1) Substantiation. – Generally, services to real property are retail sales of or the gross receipts derived ~~from, from~~ repair, maintenance, and installation services and subject to tax in accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject to tax as a real property contract in accordance with subsection (a) of this section, subject to tax as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not subject to tax. A person may substantiate that a transaction is a real property contract or a mixed



transaction by records that establish the transaction is a real property contract or by receipt of an affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud or other egregious activities, establishes that the subcontractor or other person receiving the affidavit should treat the transaction as a capital improvement, and the transaction is subject to tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital improvement is liable for any additional tax due on the transaction, in excess of tax paid on related purchases under subsection (a) of this section, if it is determined that the transaction is not a capital improvement but rather the transaction is subject to tax as a retail sale. A person who receives an affidavit of capital improvement from another person, absent fraud or other egregious activities, is not liable for any additional tax on the gross receipts from the transaction if it is determined that the transaction is not a capital improvement.

The Secretary may establish guidelines for transactions where an affidavit of capital improvement is not required, but rather a person may establish by records that such transactions are subject to tax in accordance with subsection (a) of this section."

**SECTION 38.5.(t)** G.S. 105-164.22 reads as rewritten:

**"§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to keep records.**

Retailers, wholesale merchants, and consumers must keep records that establish their tax liability under this Article. The Secretary or a person designated by the Secretary may inspect these records at any reasonable time during the day.

A retailer's records must include records of the retailer's gross income, gross sales, net taxable sales, and all items purchased for resale. Failure of a retailer to keep records that establish that a sale is exempt under this Article subjects the retailer to liability for tax on the sale.

A wholesale merchant's records must include a bill of sale for each customer that contains the name and address of the purchaser, the date of the purchase, the item purchased, and the price at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep these records for the sale of an item subjects the wholesale merchant to liability for tax at the rate that applies to the retail sale of the item.

A consumer's records must include an invoice or other statement of the purchase price of an item the consumer purchased from inside or outside the State. Failure of the consumer to keep these records subjects the consumer to liability for tax on the purchase price of the item, as determined by the Secretary."

**SECTION 38.5.(u)** G.S. 105-164.4G(f) reads as rewritten:

"(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of the following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article:

- (1) The portion of a membership charge that is deductible as a charitable contribution under section 170 of the ~~Code~~ Code or that is described in section 170(l)(2) of the Code.
- (2) A donation that is deductible as a charitable contribution under section 170 of the ~~Code~~ Code or that is described in section 170(l)(2) of the Code.

...."

**SECTION 38.5.(v)** G.S. 105-164.7 reads as rewritten:

**"§ 105-164.7. Retailer or facilitator to collect sales tax from purchaser as trustee for State.**

The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable item or service and borne by the purchaser instead of by the retailer. A retailer must collect the tax due on an item or service when ~~the item is sold~~ at retail. The requirements of this section apply to facilitators liable for tax under this Article. The tax is a debt from the purchaser to the retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A retailer is considered to act as a trustee on behalf of the State when it collects tax from the purchaser ~~of on a taxable item sale~~ on a taxable item sale. The tax must be stated and charged separately on the invoices

or other documents of the retailer given to the purchaser at the time of the sale except for either of the following:

- (1) Vending machine sales.
- (2) Where a retailer displays a statement indicating the sales price includes the tax."

**SECTION 38.5.(w)** G.S. 105-471 reads as rewritten:

**"§ 105-471. Retailer to collect sales tax.**

Every ~~retailer whose place of business is~~ person liable for tax in a taxing county shall on and after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided by this Article. A ~~retailer person~~ is required to collect a local use tax on a transaction if a local sales tax does not apply to the transaction in accordance with G.S. 105-164.8(c).

The tax to be collected under this Article shall be collected as a part of the sales price of an item or transaction subject to tax in accordance with G.S. 105-467. The tax shall be stated and charged separately from the sales price or purchase price and shall be shown separately on the ~~retailer's sales record~~ record, except as provided in G.S. 105-164.7, and shall be paid by the purchaser to the ~~retailer person liable for the tax~~ as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by a taxing county shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the ~~retailer person liable for the tax.~~ The Secretary of Revenue shall ~~design, print and furnish to all retailers in a taxing county in which he shall collect and administer the tax~~ design the necessary forms for filing returns and instructions to insure the full collection from ~~retailers, a person liable for this tax,~~ and the Secretary may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose."

**SECTION 38.5.(x)** G.S. 105-164.3, as amended by subsections (a) and (b) of this section, reads as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

- ...
- (30b) Property management contract. – A written contract to manage one or more of the activities listed in this subdivision that are related to real property used for business, educational, commercial, or income-producing purposes. The activity may include the lease or rental of the property on behalf of the owner, other than the lease or rental of an accommodation taxable under G.S. 105-164.4(a)(3). The term does not include a contract for repair, maintenance, and installation services for real property. The activities that may be performed under a property management contract are as follows:
- a. Hiring and supervising employees for the property.
  - b. Providing a person to manage the property.
  - c. Receiving and applying revenues received from tenants of the property.
  - d. Arranging for services from third parties in order to comply with the landlord's obligations under a lease or rental agreement or to comply with facility-related needs of the property's occupants. The activity may include supplemental repair, maintenance, and installation services to complement taxable services provided by third-party vendors if no additional fee is imposed under the contract for that supplemental service.
  - e. Incurring and paying expenses derived from the operation of the real property.
  - f. Handling administrative affairs for the real property.

~~(30b)~~(30d) Prosthetic device. – A replacement, corrective, or supporting device worn on or in the body that meets one of the conditions of this subdivision. The term includes repair and replacement parts for the device.

- a. Artificially replaces a missing portion of the body.
- b. Prevents or corrects a physical deformity or malfunction.
- c. Supports a weak or deformed portion of the body.

...."

**SECTION 38.5.(y)** G.S. 105-164.13(61a), as amended by subsection (j) of this section, reads as rewritten:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(61a) The sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

...

r. A property management contract."

**SECTION 38.5.(z)** The Revenue Laws Study Committee must review the amendments to G.S. 105-164.3 and G.S. 105-164.13 made by subsections (x) and (y) of this section and recommend to the 2019 Regular Session of the 2019 General Assembly any changes necessary to make the law concise, intelligible, easy to administer, and equitable.

**SECTION 38.5.(aa)** Except as otherwise provided, this section is effective when it becomes law.

Subsection (a) of this section is effective retroactively to January 1, 2017. If the amendment to G.S. 105-164.3(20b), as enacted by subsection (a) of this section, increases sales and use tax liability, then it is effective when this section becomes law.

Subsection (g) of this section is effective retroactively to January 1, 2017, and applies to sales and purchases made on or after that date.

Subsection (k) of this section is effective retroactively to July 1, 2014. A person who paid sales and use tax for a return period ending prior to the date this section becomes law on an item exempt from sales and use tax pursuant to G.S. 105-164.13E, as amended by subsection (k) of this section, may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by subsection (k) of this section. A request for a refund must be made on or before October 1, 2018. Notwithstanding G.S. 105-241.6, a request for a refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

Subsections (x) and (y) of this section become effective January 1, 2020.

## EXCISE TAX CHANGES

**SECTION 38.6.(a)** G.S. 105-113.9(2) reads as rewritten:

"(2) The sale of cigarettes to a nonresident ~~wholesaler or retailer registered through the Secretary-purchaser~~ who has no place of business in North Carolina and who purchases the cigarettes for the purposes of resale not within this State and where the cigarettes are delivered to the purchaser at the business location

in North Carolina of the distributor who is also licensed as a distributor under the laws of the state of the nonresident purchaser."

**SECTION 38.6.(b)** G.S. 105-113.36 reads as rewritten:

**"§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

A wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of ten dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other than cigarettes."

**SECTION 38.6.(c)** Part 5 of Article 2C of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-113.83A. Registration and discontinuance requirements; penalties.**

(a) Registration Required. – A person who holds a wine shipper permit issued under G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter 18B of the General Statutes must register with the Secretary:

- (1) Unfortified winery.
- (2) Fortified winery.
- (3) Brewery.
- (4) Distillery.
- (5) Wine importer.
- (6) Wine wholesaler.
- (7) Malt beverages importer.
- (8) Malt beverages wholesaler.
- (9) Nonresident malt beverage vendor.
- (10) Nonresident wine vendor.
- (11) Wine Producer.

(b) Registration Form. – Registration must be in a form required by the Secretary and include all information requested. If a permittee fails to register, the Secretary must notify the ABC Commission of the violation.

(c) Discontinuance of Authorized Activities. – A permittee required to be registered, who changes ownership or stops engaging in the activities authorized by an issued ABC permit, must notify the Secretary in writing of the change. The permittee is responsible for maintaining a bond or irrevocable letter of credit as required by G.S. 105-113.86 and submitting all returns and the payment of all taxes for which the permittee is liable under this Article while the issued ABC permit is active.

(d) Penalty. – The Secretary must notify the ABC Commission when a permittee required to register is not eligible to hold an ABC permit for failure to satisfy G.S. 18B-900(a)(8). Upon notification, the ABC Commission must impose any penalty permitted under G.S. 18B-104."

**SECTION 38.6.(d)** G.S. 105-113.86(b) reads as rewritten:

**"(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond ~~shall~~ must be conditioned on compliance with this Article, ~~shall be payable to the State,~~ ~~shall be State~~ in a form acceptable to the Secretary, and ~~shall be secured by a corporate surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State.~~ surety."**

**SECTION 38.6.(e)** G.S. 105-259(b)(50) reads as rewritten:

**"(50) To provide public access to a list containing the ~~name~~ name, physical address, and account number of entities licensed under Article 2A of this Chapter to aid in the administration of the tobacco products tax."**

**SECTION 38.6.(f)** G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016, the motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is one hundred percent (100%) plus or minus the sum of the following:

- (1) The percentage change in population for the applicable calendar year, as estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).
- (2) The annual percentage change in the Consumer Price Index for All Urban Consumers, multiplied by twenty-five percent (25%). For purposes of this subdivision, "Consumer Price Index for All Urban Consumers" means the United States city average for energy index contained in the detailed report released in the October prior to the applicable calendar year by the Bureau of Labor Statistics of the United States Department of ~~Labor~~. Labor, or data determined by the Secretary to be equivalent."

**SECTION 38.6.(g)** Section 2(b) of S.L. 2016-23 reads as rewritten:

**"SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~sixteen cents (16¢)~~ eighteen cents (18¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

**SECTION 38.6.(h)** Effective July 1, 2018, Section 2(b) of S.L. 2016-23, as rewritten by subsection (g) of this section, reads as rewritten:

**"SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~ twenty cents (20¢) per gallon.

The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

**SECTION 38.6.(i)** Effective July 1, 2019, Section 2(b) of S.L. 2016-23, as rewritten by subsection (h) of this section, reads as rewritten:

**"SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty cents (20¢)~~twenty-two cents (22¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

**SECTION 38.6.(j)** Effective July 1, 2020, Section 2(b) of S.L. 2016-23, as rewritten by subsection (i) of this section, reads as rewritten:

**"SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment

is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~ twenty-four cents (24¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

**SECTION 38.6.(k)** Effective July 1, 2021, Section 2(b) of S.L. 2016-23, as rewritten by subsection (j) of this section, reads as rewritten:

**"SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-four cents (24¢)~~ twenty-six cents (26¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

**SECTION 38.6.(l)** Effective July 1, 2022, Section 2(b) of S.L. 2016-23, as rewritten by subsection (k) of this section, reads as rewritten:

**"SECTION 2.(b)** An establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel excise tax rate for an establishment to which permits may be issued pursuant to G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~ twenty-eight cents (28¢) per gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate imposed by this section with the rate levied by the State of South Carolina on motor fuels and may recommend a change in the rate imposed by this section to an amount no greater than the rate then in effect for the State of South Carolina. An establishment designated as a special class of property by this section may obtain monthly refunds on the difference between the motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section. The Department shall calculate for each calendar year the difference between the motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an establishment classified by this section in the absence of this classification and the motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the classification. The difference in taxes, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the Department as deferred taxes. The deferred taxes for the preceding three calendar years are due and payable on the day this subsection becomes ineffective due to the occurrence of a disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this subsection does not exceed the tax value of the property. A disqualifying event occurs when the title to the real property underlying the establishment is transferred to a new owner. A lien for deferred taxes is extinguished when the amount required by this subsection is paid."

**SECTION 38.6.(m)** Subsection (c) of this section becomes effective July 1, 2018, and permittees must register in accordance with subsection (c) of this section on or before December 1, 2018. Except as otherwise provided, the remainder of this section is effective when it becomes law.

## **MODIFIED RISK TOBACCO PRODUCT TAX REDUCTION**

**SECTION 38.7.(a)** Part 1 of Article 2A of Chapter 105 of the General Statutes is amended by adding a new section to read:

### **"§ 105-113.4E. Modified risk tobacco products.**

(a) Definition. – The term "modified risk tobacco product" means a tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

(b) Tax Rate Reduction. – The tax imposed under this Article is reduced by the following:

- (1) Fifty percent (50%) for a modified risk tobacco product issued a risk modification order by the United States Food and Drug Administration under 21 U.S.C. § 387k(g)(1).
- (2) Twenty-five percent (25%) for a modified risk tobacco product issued an exposure modification order by the United States Food and Drug Administration under 21 U.S.C. § 387k(g)(2).

(c) Substantiation. – Generally, tobacco products are subject to the tax imposed under this Article, unless a taxpayer substantiates that a product qualifies as a modified risk tobacco product and is subject to a reduced rate of tax in accordance with subsection (b) of this section. A taxpayer may substantiate that a product qualifies as a modified risk tobacco product by providing the Department a copy of the order issued by the United States Food and Drug Administration verifying the product as a modified risk tobacco product. Once the taxpayer provides the order to the Department, the Department must reduce the tax due as required under



subsection (b) of this section effective on the first day of the next calendar month. If the order indicating a product qualifies as a modified risk tobacco product is renewed, the order renewing the product must be provided to the Department within 14 days of receipt.

If the product no longer qualifies as a modified risk tobacco product, the rate reduction under subsection (b) of this section is forfeited. A product no longer qualifies when the order qualifying the product as a modified risk tobacco product expires and is not renewed or the order is withdrawn by the United States Food and Drug Administration. The taxpayer must provide notice of such expiration or withdrawal to the Department within 14 days of receipt. Upon determination by the Department that the product no longer qualifies as a modified risk tobacco product, the Department must determine if the taxpayer paid a reduced rate after the order expired or was withdrawn. If the taxpayer did avoid taxes, the taxpayer is liable for all past taxes avoided as a result of the product no longer qualifying plus interest at the rate established under G.S. 105-241.21, computed from the date the taxes would have been due if the rate reduction had not been allowed. The past taxes and interest are due 30 days after the date the rate reduction is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

**SECTION 38.7.(b)** This section is effective when it becomes law.

## **ALLOW CITIES TO USE REVENUES FOR PUBLIC EDUCATION**

**SECTION 38.8.(a)** G.S. 160A-209(c) is amended by adding a new subdivision to read:

"(26b) Public Education. – To supplement funding for elementary and secondary public education."

**SECTION 38.8.(b)** Chapter 160A of the General Statutes is amended by adding a new Article to read:

"Article 30.

"Public Education.

### **"§ 160A-690. Funding for public education.**

(a) Authority. – A city may use property tax revenues authorized under G.S. 160A-209(c)(26b) and other unrestricted revenues to supplement funding for elementary and secondary public education that benefits the residents of the city. Cities may direct or restrict the use of funds appropriated for specific purposes, functions, projects, programs, or objects, as provided in this section.

(b) Purposes. – A city may appropriate funds under this section as follows:

- (1) For a public school located inside the city limits, for current operating expenses or for other specific uses directed by the city. Funds appropriated by cities in accordance with this subdivision may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for public schools and may be used for payments on loans made to public schools for facilities, equipment, or operations. However, municipal appropriations shall not be used to obtain any other interest in real property or mobile classroom units. Every contract or lease into which a public school enters involving a municipal appropriation pursuant to this section shall include the following sentence: "No indebtedness of any kind incurred or obligation created by the public school shall constitute an indebtedness or obligation of the city, and no indebtedness or obligation of the public school shall involve or be secured by the faith, credit, or taxing power of the city."
- (2) For a public school located outside the city limits, on a per pupil basis for students attending that school who are residents of the city for current operating expenses or other specific uses directed by the city.

(c) Procedure. – If a public school is under the control of a local board of education, the appropriation for that school shall be made to the local board of education of the local school administrative unit.

(d) For the purposes of this section, "public school" means:

- (1) A school under the control of a local board of education.
- (2) An innovative school operated under Article 7A of Chapter 115C of the General Statutes.
- (3) A laboratory school under the control of a constituent institution of The University of North Carolina.
- (4) A charter school created under Article 14A of Chapter 115C of the General Statutes.
- (5) A regional school created under Part 10 of Article 16 of Chapter 115C of the General Statutes."

**SECTION 38.8.(c)** G.S. 115C-75.10(d) reads as rewritten:

"(d) The ISD may seek, manage, and expend federal money and grants, State funding, municipal funding, and other funding with the same authority as a local school administrative unit, including decisions related to allocation of State funds among innovative schools, and shall be considered a local school administrative unit for all federal funding purposes."

**SECTION 38.8.(d)** G.S. 115C-218.105 is amended by adding a new subsection to read:

"(f) Charter schools may request appropriations directly from cities, as authorized by G.S. 160A-690."

**SECTION 38.8.(e)** G.S. 115C-238.70 is amended by adding a new subsection to read;

"(d) A regional school may request appropriations directly from a city, as authorized by G.S. 160A-690."

**SECTION 38.8.(f)** G.S. 115C-426(c) reads as rewritten:

"(c) The uniform budget format shall require the following funds:

- (1) The State Public School Fund.
- (2) The local current expense fund.
- (3) The capital outlay fund.

In addition, other funds may be used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, municipal appropriations made directly to local school administrative units under G.S. 160A-690, and funds received for prekindergarten programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation included as a part of the local current expense fund.

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

**SECTION 38.8.(g)** G.S. 115C-429 is amended by adding a new subsection to read:

"(e) A local board of education may request appropriations directly from a city, as authorized by G.S. 160A-690."

**SECTION 38.8.(h)** G.S. 116-239.11 is amended by adding a new subsection to read:

"(g) A laboratory school may request appropriations directly from a city, as authorized by G.S. 160A-690."

**SECTION 38.8.(i)** This section becomes effective July 1, 2018, and applies to revenues derived from taxes levied on or after that date.

## **WAIVE CERTAIN PROPERTY TAX PENALTIES AND INTEREST**

**SECTION 38.9.(a)** G.S. 105-395.1 reads as rewritten:

**"§ 105-395.1. Applicable date when due date falls on ~~weekend or holiday~~.weekend, holiday, or closure date.**

When the last day for doing an act required or permitted by this Subchapter falls on a ~~Saturday, Sunday, or holiday~~, day listed in this section, the act is considered to be done within the prescribed time limit if it is done on the next business day. This section applies to the following days:

- (1) A Saturday or Sunday.
- (2) A holiday.
- (3) A day for which all of the following conditions are met in the taxing entity:
  - a. The tax office is closed.
  - b. The taxpayer certifies in writing that the United States Postal Service did not provide service to the taxpayer's address.
  - c. A disaster declaration is declared pursuant to G.S. 166A-19.21 or G.S. 166A-19.22."

**SECTION 38.9.(b)** This section is effective for taxes imposed for taxable years beginning on or after July 1, 2018.

## **OTHER TAX CHANGES**

**SECTION 38.10.(a)** G.S. 105-230(b) reads as rewritten:

"(b) Any act performed or attempted to be performed during the period of suspension is invalid and of no effect, unless the Secretary of State reinstates the corporation or limited liability company pursuant to G.S. 105-232. However, a suspended entity's state tax filing obligations and the payment of its tax liability is not affected by the suspension, nor does a suspension affect the liability of a responsible person under G.S. 105-242.2, whether the obligation or liability is enforced in the context of a civil or criminal proceeding or otherwise."

**SECTION 38.10.(b)** G.S. 105-242.2(a)(1) reads as rewritten:

"(1) Business entity. – A corporation, a limited liability company, or a ~~partnership~~. partnership, regardless of whether the entity is suspended under G.S. 105-230 or is dissolved under Article 14 of Chapter 55 of the General Statutes or under Article 6 of Chapter 57D of the General Statutes."

**SECTION 38.10.(c)** G.S. 105-237.1(a)(6) reads as rewritten:

"(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(10) through (a)(15), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision ~~expires for~~ applies to assessments ~~issued after~~ for any tax due for a reporting period ending prior to July 1, 2020."

**SECTION 38.10.(d)** G.S. 105-282.1(a) reads as rewritten:

**"§ 105-282.1. Applications for property tax exemption or exclusion; annual review of property exempted or excluded from property tax.**

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

- ...
- (2) Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.

- ...
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), (41), ~~or (45)~~ (45), (46), (47), (48), or (49) or under G.S. 131A-21.

...."

**SECTION 38.10.(e)** G.S. 153A-155(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing county.

The taxing county shall design and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. A retailer who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the retailer for State sales and use tax."

**SECTION 38.10.(f)** G.S. 160A-215(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable

accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing city.

The taxing city shall design and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the retailer for State sales and use tax."

**SECTION 38.10.(g)** G.S. 130A-247 reads as rewritten:

**"§ 130A-247. Definitions.**

The following definitions shall apply throughout this Part:

....

- (5a) "Bed and breakfast home" means a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:
  - a. Does not serve food or drink to the general public for pay.
  - b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
  - c. Includes the price of breakfast in the room rate. The price of additional meals served ~~may be added to the room rate~~ shall be listed as a separate charge on the overnight guest's bill at the conclusion of the overnight guest's stay.
  - d. Is the permanent residence of the owner or the manager of the business.
- (6) "Bed and breakfast inn" means a business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period of less than one week, and that meets all of the following requirements:
  - a. Does not serve food or drink to the general public for pay.
  - b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business.
  - c. Includes the price of breakfast in the room rate. The price of additional meals served ~~may be added to the room rate at the conclusion of the overnight guest's stay~~ shall be listed as a separate charge on the overnight guest's bill at the conclusion of the overnight guest's stay.
  - d. Is the permanent residence of the owner or the manager of the business.

...."

**SECTION 38.10.(h)** A municipality that is holding sales and use tax revenue distributed to it that is restricted for water and sewage capital outlay purposes, as required under G.S. 105-487(b) and G.S. 105-504, repealed effective August 14, 1998, under S.L. 1998-98, may use the restricted revenue as follows:

- (1) A municipality that does not own or operate a water or sewer system may use part or all of the restricted sales and use tax revenue for any lawful purpose upon adoption of a resolution. A municipality that adopts a resolution releasing the sales and use tax revenue from the repealed restriction pursuant

to this subdivision must provide written notice to the Secretary of the Local Government Commission that the funds are unrestricted within 30 days of the adoption of the resolution.

- (2) A municipality that owns or operates a water or sewer system must use the revenue for its restricted purpose. The municipality may petition the Local Government Commission to waive part or all of the restriction, as allowed under G.S. 105-487(c).

**SECTION 38.10.(i)** G.S. 105-320(b) is repealed.

**SECTION 38.10.(j)** G.S. 105-129.39 reads as rewritten:

**"§ 105-129.39. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2015. For qualified rehabilitation expenditures and rehabilitation expenses incurred prior to January 1, 2015, this Article expires for property not placed in service by January 1, 2023."

**SECTION 38.10.(k)** G.S. 105-129.110 reads as rewritten:

**"§ 105-129.110. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2020. For qualified rehabilitation expenditures and rehabilitation expenses incurred prior to January 1, 2020, this Article expires for property not placed in service by January 1, 2028."

**SECTION 38.10.(l)** G.S. 105-160.3(b) reads as rewritten:

"(b) The tax credits allowed under G.S. 105-153.9 ~~and G.S. 105-153.10~~ may not be claimed by an estate or trust."

**SECTION 38.10.(m)** G.S. 115C-595(c) is repealed.

**SECTION 38.10.(n)** G.S. 105-163.7 reads as rewritten:

**"§ 105-163.7. Statement to employees; information to Secretary.**

...  
(b) ~~Report-Informational Return~~ to Secretary. – Every employer shall annually file an ~~annual report-informational return~~ with the Secretary that contains the information given on each of the employer's written statements to an employee. The Secretary may require additional information to be included on the ~~report-informational return~~, provided the Secretary has given a minimum of 90 days' notice of the additional information required. The ~~annual report informational return~~ is due on or before January 31 of the succeeding year and must be filed in an electronic format as prescribed by the Secretary. ~~The Secretary may, upon a showing of good cause, waive the electronic submission requirement. The report-~~If the employer terminates its business or permanently ceases paying wages during the calendar year, the informational return must be filed within 30 days of the last payment of remuneration. The informational return required by this subsection is in lieu of the report required by G.S. 105-154.

...  
(d) Deduction Disallowance. – The Secretary may request a person who fails to timely file statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements by that date, and, in addition to any applicable penalty under G.S. 105-236, the amounts claimed on the payer's income tax return as deductions for salaries and wages or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements."

**SECTION 38.10.(o)** G.S. 105-251.2 reads as rewritten:

**"§ 105-251.2. Compliance ~~information requests-~~informational returns.**

(a) Occupational Licensing Board. – An occupational licensing board must give information to the Secretary when the Secretary requests the information. The Secretary may not request the information more than one time per calendar year. The Secretary may request the

board to provide on a return, a report, or otherwise, a licensee's name, license number, tax identification number, business address, and any other information pertaining to the licensee in possession of the board that the Secretary deems necessary to determine the licensee's compliance with this Chapter. For purposes of this subsection, the term "occupational licensing board" has the same meaning as defined in G.S. 93B-1.

(b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when the Secretary requests the information. The Secretary may not request the information more than one time per calendar year. The Secretary may request the alcohol vendor to provide on a return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a permittee's name, license number, and business address and any other information pertaining to the permittee in possession of the alcohol vendor that the Secretary deems necessary to determine the ~~permittee's~~ permittee's compliance with this Chapter. This subsection applies to the following alcohol vendors:

- (1) An ABC store in the ABC system, as defined in G.S. 18B-101.
- (2) A wine wholesaler, as defined in G.S. 18B-1201.
- (3) A wholesaler, as defined in G.S. 18B-1301.
- (4) The holder of an unfortified winery permit, a fortified winery permit, a brewery permit, or a distillery permit under G.S. 18B-1100.

(c) Payment Settlement Entity. – For any year in which a payment settlement entity is required to make a return pursuant to section 6050W of the Code, the entity shall submit the information in the return to the Secretary at the time the return is made. For purposes of this subsection, the term "payment settlement entity" has the same meaning as provided in section 6050W of the Code.

(d) Electronic Format. – All reports submitted to the Department of Revenue under this section shall be in an electronic format as ~~requested~~ prescribed by the Secretary. ~~Any report not timely filed under this section is subject to a penalty of one thousand dollars (\$1,000)."~~

**SECTION 38.10.(p)** G.S. 105-236(a) reads as rewritten:

**"§ 105-236. Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(10) ~~Failure to File Penalties Regarding Informational Returns. – The following penalties apply with regard to an informational return required by Article 4A, 5, 9, 36C, or 36D of this Chapter:~~

- a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective January 1, 1999.
- b. ~~The Secretary may request a person who fails to file timely statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements by that date, the amounts claimed on the payer's income tax return as deductions for salaries and wages, or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements.~~
- c. ~~For failure to file with the Secretary an informational return required by Article 4A, 36C, or 36D of this Chapter by the date the return is due, there shall be assessed the Secretary shall assess a penalty of fifty dollars (\$50.00) per day, up to a maximum penalty of one thousand dollars (\$1,000).~~
- d. For failure to file in the format prescribed by the Secretary, the Secretary shall assess a penalty of two hundred dollars (\$200.00).

...."

**SECTION 38.10.(q)** G.S. 105-263 reads as rewritten:

**"§ 105-263. Timely filing of mailed documents and requests for extensions.**

(a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a return with the Secretary. To obtain an extension of time for filing a return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a return extends the time for paying the tax expected to be due with the return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the return to the date the tax is paid.

(c) Electronic Documents. – The Secretary shall prescribe when a return, report, payment, or any other document that is electronically submitted to the Department is timely filed."

**SECTION 38.10.(r)** Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-241A. Electronic filing of returns.**

(a) Purpose. – The General Assembly finds that the various statutes within Chapter 105 of the General Statutes that address the filing of tax returns or informational returns were originally drafted for the use of paper returns submitted either personally or through the mail. Through technological advances, there are many methods by which tax returns can be filed electronically that can be processed more efficiently by the Department of Revenue, are easier and more convenient for taxpayers, improve the accuracy of the return, and are safer to use with respect to identity theft.

The General Assembly further finds that, in some cases, it is proper to require returns to be filed electronically, while in other cases it is more appropriate to provide electronic filing as an option instead of a requirement. In addition, the General Assembly recognizes that, because of constant technological advances, it is necessary to allow the Department of Revenue flexibility to provide specific guidance for how to file returns electronically, with a goal of continually improving the process and reducing the costs of and time to process returns.

(b) Electronically Filed Returns. – The Department shall offer electronic filing for returns required under this Chapter if the Department determines that it is cost-effective to do so and the Department has established and implemented procedures to electronically file specific returns.

(c) Form of Filing Electronically; Electronic Signature. – The Secretary shall prescribe the form of electronically filing each return that is required to or may be filed electronically and how the taxpayer or return preparer signs an electronically filed return.

(d) Waiver of Requirement to File Electronically. – The Secretary may, upon showing of good cause, waive any electronic submission requirement for returns required to be filed electronically under this Chapter.

(e) Notice to Taxpayers. – The Department shall, by December 1 of each year, publish on its Web site a list of returns required to be filed electronically and permitted to be filed electronically during the next calendar year."

**SECTION 38.10.(s)** Except as otherwise provided, this section is effective when it becomes law.

Subsection (g) of this section becomes effective July 1, 2018, and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after that date. A retailer is not liable for an undercollection of sales tax, occupancy tax, or prepared food and beverage tax if the retailer has made a good-faith effort to



comply with the law and collect the proper amount of tax and has, due to the change under subsection (g) of this section, undercollected the amount of sales tax, occupancy tax, or prepared food and beverage tax that is due. A retailer is liable for all taxes collected whether in error or otherwise. The exception for liability provided in this paragraph applies only to the period beginning January 1, 2018, and ending July 1, 2018.

Subsection (m) of this section is effective for taxable years beginning on or after January 1, 2018.

## **PART XXXIX. MISCELLANEOUS PROVISIONS**

### **STATE BUDGET ACT APPLIES**

**SECTION 39.1.** 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 39.2.(a)** The Joint Conference Committee Report on the Base and Expansion Budget (Committee Report) for Senate Bill 99, dated May 28, 2018, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall, therefore, be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, 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 39.2.(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 2018-2019 fiscal year budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted a recommended base budget to the General Assembly in the Governor's Recommended Budget for the 2018-2019 fiscal year, dated May 2018, and in the Budget Support Document for the various departments, institutions, and other spending agencies of the State. The adjustments to the recommended base budget made by the General Assembly are set out in the Committee Report.

**SECTION 39.2.(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**

**SECTION 39.3.** The Fiscal Research Division shall issue a report on budget actions taken by the 2017 Regular Session of the General Assembly in 2018. The report shall be in the form of a Committee Report adopted for Senate Bill 99 pursuant to G.S. 143C-5-5. The Director of the Fiscal Research Division 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 2018-2019 FISCAL YEAR**

**SECTION 39.4.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2018-2019 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2018-2019 fiscal year.

## **EFFECT OF HEADINGS**

**SECTION 39.5.** The headings to the parts, subparts, 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 or subpart.

## **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

**SECTION 39.6.(a)** Except where expressly repealed or amended by this act, the provisions of S.L. 2017-57, 2017-119, 2017-187, 2017-189, 2017-192, 2017-197, 2017-204, 2017-206, 2017-209, 2017-212, and 2018-2 remain in effect.

**SECTION 39.6.(b)** Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2017-2019 fiscal biennium in S.L. 2017-57, 2017-119, 2017-187, 2017-189, 2017-192, 2017-197, 2017-204, 2017-206, 2017-209, 2017-212, and 2018-2 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 CLAUSE**

**SECTION 39.7.** 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 39.8.** Except as otherwise provided, this act becomes effective July 1, 2018.

In the General Assembly read three times and ratified this the 1<sup>st</sup> day of June, 2018.

s/ Rick Gunn  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

VETO Roy Cooper  
Governor

Became law notwithstanding the objections of the Governor at 11:17 a.m. this 12<sup>th</sup> day of June, 2018.

s/ James White  
House Principal Clerk