

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SESSION LAW 2012-145  
SENATE BILL 187**

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO  
THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS  
APPROPRIATIONS ACTS.

The General Assembly of North Carolina enacts:

**PART I. GENERAL PROVISIONS**

**SECTION 1.1.** Section 2.1 of S.L. 2012-142 reads as rewritten:

**"CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

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

<b>Current Operations – General Fund</b>	<b>2012-2013</b>
<b>EDUCATION</b>	
Community Colleges System Office	\$ 5,165,000
Department of Public Instruction	62,430,967
University of North Carolina – Board of Governors	
Appalachian State University	573,876
East Carolina University	
Academic Affairs	4,447,287
Health Affairs	0
Elizabeth City State University	0
Fayetteville State University	473,656
NC A&T State University	0
NC Central University	0
NC State University	
Academic Affairs	3,346,252
Agricultural Research	0
Agricultural Extension	0
UNC-Asheville	0
UNC-Chapel Hill	
Academic Affairs	0
Health Affairs	0
AHEC	<u>015,000,000</u>
UNC-Charlotte	0
UNC-Greensboro	103,534
UNC-Pembroke	0
UNC-School of the Arts	0
UNC-Wilmington	434,038
Western Carolina University	0
Winston-Salem State University	0



General Administration	9,808,141
University Institution Programs	15,560,828
Related Educational Programs	(12,139,141)
UNC Financial Aid Private Colleges	4,500,000
NC School of Science & Math	0
UNC Hospitals	(3,000,000)
Total University of North Carolina – Board of Governors	<u>\$ 24,108,471</u>

## HEALTH AND HUMAN SERVICES

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

## NATURAL AND ECONOMIC RESOURCES

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

## JUSTICE AND PUBLIC SAFETY

Department of Public Safety	\$ (32,231,135)
Judicial Department	(2,334,307)
Judicial Department – Indigent Defense	0
Department of Justice	(6,667,504)

## GENERAL GOVERNMENT

Department of Administration	\$ (24,861)
Department of State Auditor	(213,521)
Office of State Controller	1,580,412

Department of Cultural Resources	
Cultural Resources	(298,866)
Roanoke Island Commission	(300,000)
State Board of Elections	(102,532)
General Assembly	1,570,422
Office of the Governor	
Office of the Governor	(94,823)
Office of State Budget and Management	(116,973)
OSBM – Reserve for Special Appropriations	1,438,388
Housing Finance Agency	(8,064,634)
Department of Insurance	
Insurance	459,055
Insurance – Volunteer Safety Workers' Compensation	0
Office of Lieutenant Governor	(144,150)
Office of Administrative Hearings	0
Department of Revenue	(1,563,991)
Department of Secretary of State	766,661
Department of State Treasurer	
State Treasurer	0
State Treasurer – Retirement for Fire and Rescue Squad Workers	0

**RESERVES, ADJUSTMENTS AND DEBT SERVICE**

Information Technology Fund	\$	(750,000)
Reserve for Job Development Investment Grants (JDIG)		(6,500,000)
Judicial Retirement System Contribution		100,000
Continuation/Justification Review Reserve		(35,576,758)
Compensation and Performance Pay Reserve		(121,105,840)
Reserve for Compensation Increases and Personnel Flexibility		159,984,426
Disability Income Plan Rate Reduction		(8,688,000)
One North Carolina Fund		9,000,000
Reserve for VIPER		10,000,000
Debt Service		
General Debt Service		(52,904,635)

**TOTAL CURRENT OPERATIONS – GENERAL FUND \$ ~~237,413,109~~ 240,413,109"**

**SECTION 1.1A.(a)** Section 2.2(a) of S.L. 2012-142 reads as rewritten:

**"GENERAL FUND AVAILABILITY STATEMENT**

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

		<b>FY 2012-2013</b>
Unappropriated Balance Remaining	\$	41,232,325
Anticipated Overcollections from FY 2011-2012		232,500,000
Anticipated Reversions for FY 2011-2012	<del>205,500,000</del>	<u>206,873,330</u>
Net Supplemental Medicaid Appropriation (S.L. 2012-2)		(154,000,000)
Less Earmarkings of Year-End Fund Balance		

Savings Reserve Account	(123,170,924)
Repairs and Renovations Reserve Account	(23,170,924)
<b>Beginning Unreserved Fund Balance</b>	<b>\$</b>
<del>178,890,477</del> <u>180,263,807</u>	

**Revenue Based on Existing Tax Structure** **18,931,200,000**

**Nontax Revenue**

Investment Income	21,600,000
Judicial Fees	258,700,000
Disproportionate Share	115,000,000
Insurance	73,700,000
Other Nontax Revenues	304,400,000
Highway Trust Fund Transfer	27,600,000
Highway Fund Transfer	212,280,000
<b>Total – Nontax Revenues</b>	<b>1,013,280,000</b>

**Subtotal General Fund Availability** **20,123,370,477 20,124,743,807**

**Adjustments to Availability: 2012 Session**

E-Commerce Reserve Cash Balance	2,470,642
One North Carolina Fund Cash Balance	45,000,000
Sale of State Assets Receipt	(25,000,000)
Information Technology Internal Service Fund Cash Balance	14,000,000
National Mortgage Settlement	9,610,000
Highway Fund Transfer – Technical Adjustment	8,000,000
Work Opportunity Tax Credit Extension (HB 1015 Reserve)	(800,000)
Tax Deduction for Educational Supplies (HB 1015 Reserve)	(1,800,000)
Sales Tax Refund Application for Passenger Air Carriers (HB 1015 Reserve)	(3,150,000)
Insurance Regulatory Fund	166,613
Teaching Fellows Trust Fund Cash Balance	3,265,000
Diversion of Golden L.E.A.F. Funds	<u>3,750,000</u> <u>6,750,000</u>
<b>Charitable Licensing Receipts</b>	<b>979,752</b>

**Subtotal Adjustments to Availability:** **56,492,007 59,492,007**

**Revised Total General Fund Availability** **20,179,862,484 20,184,235,814**  
**Less General Fund Appropriations** **20,179,862,484 20,184,235,814**

**Balance Remaining** **0"**

**SECTION 1.1A.(b).** Section 2.2(e) of S.L. 2011-145, as amended by Section 2.2(h) of S.L. 2012-142, reads as rewritten:

"**SECTION 2.2.(e)** Of the 2011-2012 and the 2012-2013 annual installment payments to the North Carolina State Specific Account that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of S.L. 1999-2, seventeen million five hundred sixty-three thousand seven hundred sixty dollars (\$17,563,760) for the 2011-2012 fiscal year and ~~twenty one million five hundred sixty three thousand seven hundred sixty dollars (\$21,563,760)~~ twenty-four million three hundred thirteen thousand seven hundred sixty dollars (\$24,313,760) for the 2012-2013 fiscal year is transferred to the General Fund."

**SECTION 1.2.** S.L. 2012-142 is amended by adding a new section to read:  
**"EXEMPTIONS FROM MANAGEMENT FLEXIBILITY REDUCTIONS**

"**SECTION 6.15.** Notwithstanding the provisions of Section 6.14 of this act and G.S. 143C-6-4, and unless otherwise specifically directed in this act or in S.L. 2011-145, additional funds appropriated for the 2012-2013 fiscal year to State agencies as defined by G.S. 143C-1-1(d)(24) shall not be used to offset management flexibility adjustments enacted in this act or in S.L. 2011-145."

## LOTTERY FUNDS

**SECTION 1.3** Section 5.3(d) of S.L. 2012-142 reads as rewritten:

**"SECTION 5.3.(d)** Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2011-2012 fiscal year in the amount of ~~twenty-five million five hundred eighty-eight thousand three hundred seventy dollars (\$25,588,370)~~ thirty-two million one hundred thirty-three thousand six hundred forty-one dollars (\$32,133,641) shall be allocated for UNC Need-Based Financial Aid."

## PART II. EDUCATION

**SECTION 2.1.** S.L. 2012-142 is amended by adding a new section to read:

### **"AUTHORITY TO ESTABLISH POSITIONS TO ADMINISTER THE EXCELLENT PUBLIC SCHOOLS ACT**

**"SECTION 7A.12.** The Department of Public Instruction may establish 11 positions to administer the provisions of Section 7A.1 of this act."

**SECTION 2.2.** S.L. 2012-142 is amended by adding a new section to read:

### **"FUNDING FOR BOWLES CENTER FOR ALCOHOL STUDIES**

**"SECTION 9.16.** G.S. 20-7(i1) reads as rewritten:

"(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of fifty dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall pay a restoration fee of one hundred dollars (\$100.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the one-hundred-dollar (\$100.00) fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the one-hundred-dollar (\$100.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. The remainder of the one-hundred-dollar (\$100.00) fee shall be deposited in the General Fund. The Office of State Budget and Management shall annually report to the General Assembly the amount of fees deposited in the General Fund and transferred to the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services under this subsection.

~~It is the intent of the General Assembly to annually appropriate~~ Effective with the 2011-2012 fiscal year, from the funds deposited in the General Fund under this subsection the sum of five hundred thirty-seven thousand four hundred fifty-five dollars (\$537,455) shall be transferred annually to the Board of Governors of The University of North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies at The University of North Carolina at Chapel Hill."

**SECTION 2.3.** S.L. 2012-142 is amended by adding a new section to read:

### **"FUNDING FOR UNC MEDICAL SCHOOL**

**"SECTION 9.17.(a)** Notwithstanding any provision of law to the contrary, of the funds appropriated by this act for the 2012-2013 fiscal year to the Board of Governors of The University of North Carolina the sum of forty-four million eleven thousand eight hundred eighty-two dollars (\$44,011,882) in recurring funds, the recurring reduction of those funds in the amount of three million dollars (\$3,000,000), and the nonrecurring reduction of those funds in the amount of twenty-six million eleven thousand eight hundred eighty-two dollars (\$26,011,882) shall be transferred from the UNC Hospitals Budget Code 16095 to the UNC School of Medicine Budget Code 16021 and shall be used for medical education. The transfer of the appropriation of the sum of forty-four million eleven thousand eight hundred eighty-two dollars (\$44,011,882) in recurring funds and the transfer of the recurring reduction of those funds in the amount of three million dollars (\$3,000,000) shall be a permanent transfer of appropriation and reduction in funds from the UNC Hospitals Budget Code 16095 to the UNC School of Medicine Budget Code 16021 that shall be reflected in those budget codes for the 2012-2013 fiscal year and in the continuation budgets for those budget codes for each subsequent fiscal year."

**SECTION 2.4.(a)** Section 7.21(a) of S.L. 2011-145, as amended by Section 7.18 of S.L. 2012-142, reads as rewritten:

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

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

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

**SECTION 2.4.(a1)** Section 7.18(b) of S.L. 2012-142 reads as rewritten:

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

**SECTION 2.4.(b)** This section applies to the 2012-2013 fiscal year only. For subsequent fiscal years, it is the intent of the General Assembly to require that all transfers of teacher and instructional support personnel positions be based on step 0 of the "A" Teachers salary schedule.

**SECTION 2.5.** S.L. 2012-142 is amended by adding a new section to read:

**"SCHOOL CALENDAR**

**"SECTION 7A.11.(a)** G.S. 115C-84.2 reads as rewritten:

**"§ 115C-84.2. School calendar.**

(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of 185 days ~~and or~~ 1,025 hours of instruction covering at least nine calendar months. The local board shall designate when the ~~185~~ instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

...

~~If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a local board of education a waiver to use up to five of the instructional days required by subdivision (1) of this subsection as teacher workdays. For each instructional day waived, the State Board shall waive an equivalent number of instructional hours.~~

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards shall designate at least two days scheduled under subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave. Local boards may designate the remaining days scheduled in subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave, but local boards shall give teachers at least 14

calendar days' notice before requiring a teacher to work instead of taking vacation leave on any of these days. A teacher may elect to waive this notice requirement for one or more of these days.

...  
(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall ~~not be before August 25, be no earlier than the Monday closest to August 26,~~ and the closing date for students shall ~~not be after June 10, be no later than the Friday closest to June 11.~~ On a showing of good cause, the State Board of Education may waive ~~this requirement~~ the requirement that the opening date for students be no earlier than the Monday closest to August 26 and may allow the local board of education to set an opening date no earlier than the Monday closest to August 19, to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means ~~either that:~~ that schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

- (1) ~~Schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or~~
- (2) ~~Schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.~~

~~The State Board also may waive this requirement for an educational purpose. The term "educational purpose" means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.~~

The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.

....  
"SECTION 7A.11.(b) G.S. 115C-238.29F(d)(1) reads as rewritten:

- "(1) The school shall provide instruction each year for at least 185 ~~days~~ days or 1,025 hours over nine calendar months. ~~If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a charter school a waiver to use up to five of these instructional days as teacher workdays."~~

"SECTION 7A.11.(c) G.S. 115C-238.53(d) reads as rewritten:

"(d) A program approved under this Part shall provide instruction each school year for at least ~~180 days~~ 185 days or 1,025 instructional hours during nine calendar months, shall comply with laws and policies relating to the education of students with disabilities, and shall comply with Article 27 of this Chapter. The requirements of G.S. 115C-84.2 shall not apply to the school calendar of a program approved under this Part."

"SECTION 7A.11.(d) G.S. 115C-238.66(1)d. reads as rewritten:

- "d. The board of directors shall adopt a school calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months."

**"SECTION 7A.11.(e)** Notwithstanding the calendar requirements of G.S. 115C-84.2, a local board of education may adopt a calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months for certain schools within the local school administrative unit that meet all of the following requirements:

- (1) Are located in a local school administrative unit that borders another state and serves a minimum of 135,000 students.
- (2) Participate in a public-private partnership with private monetary investment in the school and local school administrative unit for the purpose of eliminating the educational gap and ensuring that all students graduate from high school prepared to succeed in college and life through a program that requires excellent principals and effective teachers, extended learning time opportunities, access to and effective use of technology, and community support through engaged parents, motivated mentors, and community connections.
- (3) Belong to a feeder pattern that also participate in the same public-private partnership and includes not more than nine schools.

State funding shall not be used by the local board of education to fund any instructional days in excess of 185 included in a school calendar adopted as provided in this section. Local and private funds may be used to fund additional instructional days in the school calendar. The requirements of G.S. 115C-84.2 shall not apply to a school calendar approved as provided in this section.

**"SECTION 7A.11.(f)** This section is effective when it becomes law and applies beginning with the 2013-2014 school year."

### **PART III. HEALTH AND HUMAN SERVICES**

**SECTION 3.1.(a)** The portion of Section 10.25(a) of S.L. 2012-142 setting forth the allocation for County Departments of Social Services for Local Program Expenditures, Divisions of Social Services and Aging and Adult Services, under the Social Services Block Grant reads as rewritten:

**"SECTION 10.25.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

#### **SOCIAL SERVICES BLOCK GRANT**

##### Local Program Expenditures

###### Divisions of Social Services and Aging and Adult Services

01. County Departments of Social Services \$ ~~32,249,206~~ \$30,452,068  
(Transfer from TANF \$4,148,001)  
...."

**SECTION 3.1.(b)** The portion of Section 10.25(a) of S.L. 2012-142 setting forth the allocation for Children's Health Services for Local Program Expenditures, Division of Public Health, under the Maternal and Child Health Block Grant reads as rewritten:

**"SECTION 10.25.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

#### **MATERNAL AND CHILD HEALTH BLOCK GRANT**

##### Local Program Expenditures

###### Division of Public Health

01. Children's Health Services \$ ~~8,487,547~~ \$ 8,569,465  
...."

**SECTION 3.1.(c)** The portion of Section 10.25(a) of S.L. 2012-142 setting forth the allocation for HIV/STD Prevention and Community Planning for Local Program Expenditures, Division of Public Health, under the Preventive Health Services Block Grant reads as rewritten:



"SECTION 10.25.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

...  
**PREVENTIVE HEALTH SERVICES BLOCK GRANT**

Local Program Expenditures

Division of Public Health

01. HIV/STD Prevention and Community Planning  
(Transfer from Social Services Block Grant) 180,470

...."

**SECTION 3.1.(d)** Section 10.25(l) of S.L. 2012-142 reads as rewritten:

"**SECTION 10.25.(l)** The sum of ~~thirty-two million two hundred forty-nine thousand two hundred six dollars (\$32,249,206)~~ thirty million four hundred fifty-two thousand sixty-eight dollars (\$30,452,068) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used for County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures."

**SECTION 3.1.(e)** Section 10.25 of S.L. 2012-142 is amended by adding a new subsection to read:

"**SECTION 10.25.(r1)** The sum of two million seven hundred twenty-eight thousand dollars (\$2,728,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Public Health, shall be used for tobacco cessation and prevention. These funds are exempt from the provisions of 10A NCAC 71R .0201(3)."

**SECTION 3.3.** Section 10.9A of S.L. 2012-142 reads as rewritten:

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

- (1) The administrative functions and responsibilities of permanent Division staff.
- (2) The administrative functions that are performed either partially or entirely through contracts, cooperative agreements, Memorandums of Understanding (MOUs) with external entities, such as independent contractors, private vendors, universities, county governments, and other State or federal agencies. To identify these administrative functions, the State Auditor shall develop an inventory of all administrative contracts for purchased services, including a brief description of the scope of work, cost, and the period of performance for each contract.
- (3) The amount of funds, staff, and other resources dedicated to the performance of each administrative function of the Division.
- (4) The timeliness and compliance with State and federal mandates when carrying out the functions of the Division, including all of the following:
  - a. The production of accurate, multiyear projections of Medicaid recipient participation, consumption of services, and costs.
  - b. The oversight of the Medicaid program to ensure that program participation by Medicaid eligible recipients, consumption of services, and expenditures are within the budget authorized by the General Assembly for each fiscal year, including early detection of expenditure trends that indicate potential budget shortfalls.

- c. The timeliness of preparing and submitting Medicaid State Plan amendments to obtain approval from the Centers for Medicare and Medicaid Services to comply with State and federal laws and regulations.
- d. The collection, distribution, and maintenance of statistical data and other information on the Medicaid eligible population, eligible recipient participation, consumption of services, Medicaid patient health outcomes, provider participation and related issues, and costs.
- e. The timeliness of distribution and the presentation of complete and accurate information with supportive documentation to the Secretary of the Department of Health and Human Services, the Governor's Office, and the General Assembly regarding funding needs and policy issues.

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

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

**SECTION 3.4.** Section 10.11(a) of S.L. 2012-142 is amended by adding a new subdivision to read:

"(4) The impact of implementing the 1915(b)/(c) Medicaid waiver and other mental health system reforms on public guardianship services, including at least all of the following:

- a. Guardianship roles, responsibilities, and procedures.
- b. The effect on existing relationships between guardians and wards.
- c. Recommended legislation to support the transition of public guardianship services from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services within the Department of Health and Human Services to county departments of social services."

**SECTION 3.5.** Section 10.9E(a) of S.L. 2012-142 reads as rewritten:

**"SECTION 10.9E.(a)** ~~The~~By September 15, 2012, the Department of Health and Human Services, Division of Medical Assistance, shall develop and submit to the Centers for Medicare and Medicaid Services an application for a home- and community-based services program under Medicaid State Plan 1915(i) authority for ~~elderly~~ individuals who (i) are typically served in special care and memory care units that meet the criteria of the State-County Special Assistance Program and (ii) have been diagnosed with a ~~progressive~~, degenerative, irreversible disease that attacks the brain and results in impaired memory, thinking, and behavior. The home- and community-based services program developed by the Department pursuant to this section shall focus on providing these ~~elderly~~ individuals with personal care services necessary to ameliorate the effects of gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and loss of language skills."

**SECTION 3.6.** Section 10.23A.(f) of S.L. 2012-142 reads as rewritten:

**"SECTION 10.23A.(f)** Of the amount appropriated to the Fund established in subsection (d) of this section, the sum of thirty-nine million seven hundred thousand dollars (\$39,700,000) is designated for implementation of the State's plan to provide temporary, short-term assistance only to adult care homes as they transition into the State's Transitions to Community Living Initiative. These funds shall be used only for this purpose. The General Assembly recognizes that while transformation of the system is being undertaken, adult care homes provide stable and safe housing and care to many of North Carolina's frail and elderly population, and it is necessary during this time of transition and transformation of the statewide system that the industry remain able to provide such care.

Upon ~~Following~~ completion of an independent assessment process, as outlined in Section 10.9F(d) of this act, by December 31, 2012, and upon certification by the Department of Health and Human Services, in consultation with a local adult care home resident discharge team, as

defined in G.S. 131D-2.1(3a), that a resident (i) who is no longer eligible to receive Medicaid reimbursable ~~assistance and assistance~~, (ii) for whom a community placement has not yet been ~~arranged~~ arranged, and (iii) who cannot be safely and timely discharged into the community, the Department may make a monthly payment to the adult care home to support the facility's continuing provision of services to the resident. The Department may make the monthly payment from the thirty-nine million seven hundred thousand dollars (\$39,700,000) designated for implementation of the State's plan under this subsection. The monthly payment provided by the Department to an adult care home pursuant to this subsection shall not exceed six hundred ninety-four dollars (\$694) per month per resident for a period not to exceed three months for each resident. At the expiration of this three-month period, the monthly payment shall be reduced by twenty-five percent (25%) and shall not exceed five hundred twenty dollars and fifty cents (\$520.50) per month per resident. Upon implementation of the home-and community-based services program for ~~elderly~~ individuals typically served in special care or memory care units, to be developed by the Department under Medicaid State Plan 1915(i) authority pursuant to Section 10.9E of this act, the Department shall terminate all monthly payments pursuant to this subsection for continuing services provided to residents of special care or memory care units. The Department shall terminate all monthly payments pursuant to this subsection on June 30, 2013. Notwithstanding any other provision of this subsection, the Department is prohibited from making any monthly payments under this subsection to an adult care home for services provided to any resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

The Department of Health and Human Services shall administer these funds but may, as needed, contract with a vendor for administration."

**SECTION 3.7.** Section 10.9F(g) of S.L. 2012-142 reads as rewritten:

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

#### **PART IV. NATURAL AND ECONOMIC RESOURCES**

**SECTION 4.1.** Notwithstanding any provision of S.L. 2012-142 to the contrary, the sum of two hundred eighty-two thousand four hundred twelve dollars (\$282,412) in recurring funds shall be transferred from the Department of Environment and Natural Resources to the Department of Health and Human Services to support Division of Environmental Health operations associated with the Department of Environment and Natural Resources' Regional Offices.

**SECTION 4.2.** Notwithstanding any provision of S.L. 2012-142 to the contrary, 8.75 full-time equivalents shall be transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services for the restoration of Division of Soil and Water Conservation employees associated with Department of Environment and Natural Resources' Regional Offices.

**SECTION 4.3.** S.L. 2012-142 reads is amended by adding a new section to read:

#### **"SOIL AND WATER CONSERVATION CLARIFICATIONS**

**"SECTION 11.6.(a)** Of the funds appropriated in this act to the Soil and Water Conservation Division of the Department of Agriculture and Community Services for the Conservation Reserve Enhancement Program, the recurring sum of two hundred seventy-five thousand dollars (\$275,000) designated for the Roanoke and Pasquotank River basins and for the implementation of amended Conservation Reserve Enhancement Program agreements in the Neuse, Tar-Pamlico, Chowan, and Jordan Lake basins may be used for operation and implementation of the Conservation Reserve Enhancement Program in any of the State's river basins eligible for the Conservation Reserve Enhancement Program.

**"SECTION 11.6.(b)** G.S. 139-4 reads as rewritten:

#### **"§ 139-4. Powers and duties of Soil and Water Conservation Commission generally.**

...  
(d) In addition to the duties and powers hereinafter conferred upon the Soil and Water Conservation Commission, it shall have the following duties and powers:

- ...  
(12) To develop and approve best management practices for the Agriculture Cost Share Program for Nonpoint Source Pollution Control and for use in the water quality protection and water use efficiency, availability, and storage programs of the Department of Environment and Natural Resources and to

adopt rules that establish criteria governing approval of these best management practices.

"**SECTION 11.6.(c)** Section 3.3 of S.L. 1999-329, as amended by Section 6 of S.L. 2001-254, Section 1.2 of S.L. 2002-176, Section 6.2 of S.L. 2003-340, and Section 12.7(b) of S.L. 2005-276, reads as rewritten:

"**SECTION 3.3.** The Department of ~~Environment and Natural Resources, Agriculture and Consumer Services~~, in consultation with both the Division of Water Quality of the Department of Environment and Natural Resources and the Division of Soil and Water Conservation, shall submit semiannual interim reports no later than 15 April and 15 October of each year beginning 15 October 1999 to the Environmental Review Commission, the Fiscal Research Division, and the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. These reports shall also compare the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F and the resources that would be required to expand the pilot program to all counties.""

**SECTION 4.4.** S.L. 2012-142 is amended by adding a new section to read:

**"CLARIFY USE OF FUNDS FROM NATURAL HERITAGE TRUST FUND**

"**SECTION 12.10.** G.S. 113-77.9(c) reads as rewritten:

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

**SECTION 4.5.** Section 13.9A of S.L. 2012-142 is amended by adding a new subsection to read:

"**SECTION 13.9A.(c)** The Department of Commerce shall transfer to the Department of Agriculture and Consumer Services position 60080945. This position shall be supported from funds appropriated for the 2012-2013 fiscal year in this act to the Department of Agriculture and Consumer Services for the North Carolina Wine and Grape Growers Council on a nonrecurring basis."

**SECTION 4.6.** Section 13.12A of S.L. 2012-142 is repealed.

**SECTION 4.7.** S.L. 2012-142 is amended by adding a new section to read as follows:

**"BIOFUELS CENTER OF NORTH CAROLINA/TVA FUNDS**

"**SECTION 13.12A1.** Subsections (a) and (b) of Section 14.14 of S.L. 2011-145 are repealed."

**SECTION 4.8.** S.L. 2012-142 is amended by adding the following new section to read:

**"REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS FUNDING**

**SECTION 13.16.** Of the funds appropriated in this act, an additional sum of one million dollars (\$1,000,000) for the 2012-2013 fiscal year in nonrecurring funds shall be allocated to the Regional Economic Development Commissions."

**SECTION 4.9.** S.L. 2012-142 is amended by adding the following new section to read:

**"RURAL ECONOMIC DEVELOPMENT CENTER FLEXIBILITY**

**SECTION 13.13B.(a)** Sections 13.13, 13.13A, and 13.14A of House Bill 950, 2012 Regular Session, are repealed.

**SECTION 13.13B.(b)** Notwithstanding Sections 14.16, 14.17, and 14.18 of S.L. 2011-145, an additional sum of two million dollars (\$2,000,000) for the 2012-2013 fiscal year in nonrecurring funds shall be allocated to the Rural Economic Development Center. The Center shall determine which reductions are needed to achieve the reductions required by this act for the 2012-2013 fiscal year."

**PART V. GENERAL GOVERNMENT**

**SECTION 5.1.** S.L. 2012-142 is amended by adding a new Part to read:

**"PART XVIA. DEPARTMENT OF ADMINISTRATION**

**"NORTH CAROLINA STERILIZATION VICTIMS FOUNDATION FUNDING**

**"SECTION 16A.1.** Of the funds appropriated to the Department of Administration, up to the sum of one hundred twenty-eight thousand six hundred eighteen dollars (\$128,618) for the 2012-2013 fiscal year shall be used for the continued operation of the North Carolina Sterilization Victims Foundation on a nonrecurring basis."

**PART VI. TRANSPORTATION**

**SECTION 6.1.** S.L. 2012-142 is amended by adding a new section to read:

**"DEPARTMENT OF TRANSPORTATION RELOCATION OF MUNICIPAL UTILITIES**

**"SECTION 24.22.** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-27.3. Relocation of municipalities' utilities by Department; repayment by municipalities.**

When requiring municipalities to relocate utilities under its power granted in G.S. 136-18(10), the Department may enter into agreements with municipalities to provide that the necessary engineering and utility construction be accomplished by the Department on a reimbursement basis as follows:

- (1) Reimbursement to the Department shall be due after completion of the work and within 60 days after date of invoice.
- (2) Interest shall be paid on any unpaid balance due at a variable rate of the prime rate plus one percent (1%)."

**SECTION 6.2.** Section 24.18(b) of S.L. 2012-142 reads as rewritten:

**"SECTION 24.18.(b)** ~~The Department of Transportation shall disregard Executive Order No. 116, or any other executive order pertaining to ferry tolls, and shall collect the tolls required by S.L. 2011-145 and this section, except for the Cherry Branch/Minnesott Beach route, for which the Department of Transportation shall not collect the increased tolls required by S.L. 2011-145 during fiscal year 2012-2013. Notwithstanding the clarifying amendment to G.S. 136-82 made by subsection (a) of this section and notwithstanding the increase in ferry toll revenue required by S.L. 2011-145, the Department of Transportation, Ferry Division, shall not collect the increased ferry tolls required by S.L. 2011-145 during fiscal year 2012-2013. Notwithstanding any other provision of this act, the sum of two million dollars (\$2,000,000), nonrecurring, is not appropriated to the Turnpike Authority to supplement and advance project studies related to the Mid-Currituck Bridge project; instead, notwithstanding G.S. 136-176(b2) or any other provision of law, the sum of two million dollars (\$2,000,000), nonrecurring, of the funds appropriated to the Turnpike Authority under G.S. 136-176(b2) is transferred from the Highway Trust Fund to the Highway Fund, and that sum is appropriated from the Highway Fund to the Department of Transportation, Ferry Division, for fiscal year 2012-2013. Notwithstanding any other provision of this act, the appropriation provided elsewhere in this act for the Reserve for General Maintenance in the Highway Fund is decreased by the sum of five hundred thousand dollars (\$500,000), nonrecurring, and that sum is appropriated to the Department of Transportation, Ferry Division, for fiscal year 2012-2013. For fiscal year 2012-2013, the Department of Transportation, Ferry Division, shall collect the tolls as found in 19 NCAC 02D .0532 prior to the Department's March 2012 amendment to 19 NCAC 02D .0532. The Department of Transportation, Ferry Division, shall collect tolls based on the March 2012 amendment to 19 NCAC 02D .0532 beginning on July 1, 2013."~~

**PART VI-A. CAPITAL APPROPRIATIONS**

**SECTION 6A.1.** Section 26.1 of S.L. 2012-142 reads as rewritten:

**"CAPITAL APPROPRIATIONS/GENERAL FUND**

**"SECTION 26.1.(a)** There is appropriated from the General Fund for the 2012-2013 fiscal year the following amounts for capital improvements:

**Capital Improvements – General Fund** **2012-2013**

Department of Environment and Natural Resources  
Water Resources Development Projects \$ 5,000,000

Department of Public Safety  
Greensboro Readiness Center Renovation and Expansion \$1,373,330

**TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND** **~~\$ 5,000,000~~\$6,373,330**

**"SECTION 26.1.(b)** The General Assembly authorizes the Department of Public Safety to complete the Greensboro Readiness Center Renovation and Expansion capital improvement project in accordance with this section. The funds appropriated for that project in subsection (a) of this section shall be used as State matching funds for this project. The remainder of the project costs shall be paid from federal matching funds. The total project cost shall not exceed the sum of five million four hundred eighty-nine thousand eight hundred twenty dollars (\$5,489,820)."

**PART VI-B. SALARIES AND BENEFITS**

**SECTION 6B.1.** S.L. 2012-142 is amended by adding a new subsection to read:

**"SPECIAL ANNUAL LEAVE BONUS**

**"SECTION 25.5.** Any person (i) who was on July 1, 2012 a full-time permanent employee of the State, a community college institution, or a local board of education, or was under contract on July 1, 2012 to be employed for the 2012-2013 school year in such a position, and (ii) who is eligible to earn annual leave, shall have a one-time additional five days of annual leave credited on July 1, 2012. The additional leave shall be accounted for separately from the annual leave bonus provided by Section 28.3A of S.L. 2002-126, by Section 30.12B(a) of S.L. 2003-284, and by Section 29.14A of S.L. 2005-276, and must be used by June 30, 2013. Annual leave bonus not used during FY 2012-2013 shall expire on June 30, 2013 and shall not be paid in a lump sum upon termination of employment unless the person effects a retirement from a State-supported retirement system immediately upon termination of employment. Part-time permanent employees shall receive a pro rata amount of the five days."

**PART VII. EFFECTIVE DATE**

**SECTION 7.1.** Except as otherwise provided, this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of July, 2012.

s/ Bill Rabon  
Presiding Officer of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 3:11 p.m. this 10<sup>th</sup> day of July, 2012