

AGENDA
GRANVILLE COUNTY BOARD OF COMMISSIONERS

Tuesday, January 17, 2023



Call to order @ 7:00 p.m......**Chair Russ May**
Invocation and Pledge of Allegiance.....**Commissioner**

Consent Agenda

1. Refunds, Releases, and Write-offs
2. Surplus Vehicles
3. Update Check Signing Signatures for Sheriff's Execution Account
4. Minutes

Introductions, Recognitions and Presentations

5. Recognition of Service - Vickie G. Hammie
6. Duke Energy Foundation Grant Award Presentation
7. Update from Granville County Youth Leadership Council

Public Comments

8. Public Comments

Tax Matters

9. Tax Refund Request
10. Tax Policy

Purchasing

11. State Fiscal Recovery Fund Grant Spending
12. Food Literacy Center Mini-Grant

Sheriff Matters

13. Purchase Request for Two Official Use Vehicles
14. Purchase Request for Two Official Use Vehicles

Solid Waste Matters

15. Approval of Contract for Engineering Oversight for Construction of Leachate Tank No. 2

Proclamations, Resolutions and Legislative Matters for Consideration

16. Proclamations, Resolutions and Legislative Matters

Appointments

17. Adult Home Care Community Advisory Committee
18. Nursing Home Community Advisory Committee
19. KARTS
20. Granville County Planning Board
21. Granville Health System Board of Trustees
22. Discussion of Expansion of ABC Board
23. Discussion of Expansion of DSS Board

County Manager's Report

24. Proposed Adjustments to Granville Athletic Park Fees
25. County Manager's Report

County Attorney's Report

26. County Attorney's Report

Presentations by County Board Members

27. Presentations by County Board Members

Any Other Matters

28. Any Other Matters

Closed Session

29. Closed Session as allowed by G. S. 143-318.11(a)(6) - Personnel



Granville County Tax Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Jenny Griffin
Department: Tax Administration
Date: January 12, 2023
Title: Refunds, Releases, and Write-offs

PURPOSE:

To approve tax refunds, releases, and write-offs

BACKGROUND:

Tax releases and refunds are generated according to N.C.G.S. 105-381. According to the resolution adopted May 1, 2003, the Board of Commissioners authorized the Tax Collector to forego the collection for all taxes which do not exceed \$2.00.

The following tax refunds, releases and write-offs are recommended for approval:

Refunds	December 2022:	\$ 3,008.82
Releases	December 2022:	\$ 468.50
Write-offs (\$2 and less)	December 2022:	\$ 9.43

Copies are attached.

RECOMMENDATION:

The Tax Administrator recommends approving refunds, releases, and write-offs.

ATTACHMENTS:

Release Report
Refund Report

ACTION TAKEN:

RUN DATE: 1/3/2023 9:45 AM

RELEASES REPORT
Granville County

PARAMETERS SELECTED FOR RELEASES REPORT:

TRANSACTION DATE/TIME RANGE: 12/01/2022 - 12/31/2022

PAYMENT DATE RANGE:

BILL TYPE: Both

BILL YEAR/NUMBER RANGE:

PRINT TOTALS ONLY: No

USER/OPERATOR:

EXCLUDE USERS/OPERATORS:

SORT ORDER: Transaction Date

REPORT TITLE:

DISTRICT/TYPE/FEE:

BATCH MONTH RANGE:

BATCH YEAR RANGE:

BATCH REAL TIME:

INCLUDE ONLY THOSE WITH RELEASE NUMBERS: No

RELEASES REPORT
Granville County

NAME	BILL NUMBER	OPER	DATE/TIME	DISTRICT	VALUE	AMOUNT
389101	2022-253667	DY:17 PERSONAL PROPERTY	RDR	12/6/2022 9:26:40 AM		
CURRIN ROBERT M OD PA						
				C ADVLTAX	3,400.00	29.92
				C PEN FEE	3,400.00	17.95
				CI58ADVL TAX	3,400.00	21.76
		AMENDED DISCOVERY PER EVANS' AUDIT		TOTAL RELEASES:		69.63
389101	2022-253668	DY:18 PERSONAL PROPERTY	RDR	12/6/2022 9:28:07 AM		
CURRIN ROBERT M OD PA						
				C ADVLTAX	2,975.00	24.99
				C PEN FEE	2,975.00	12.50
				CI58ADVL TAX	2,975.00	19.04
				CI58PEN FEE	2,975.00	9.52
		AMENDED DISCOVERY PER EVANS' AUDIT		TOTAL RELEASES:		66.05
389101	2022-253669	DY:19 PERSONAL PROPERTY	RDR	12/6/2022 9:29:56 AM		
CURRIN ROBERT M OD PA						
				C ADVLTAX	2,550.00	21.42
				C PEN FEE	2,550.00	8.57
				CI58ADVL TAX	2,550.00	16.32
				CI58PEN FEE	2,550.00	6.53
		AMENDED DISCOVERY PER EVANS' AUDIT		TOTAL RELEASES:		52.84
389101	2022-253670	DY:20 PERSONAL PROPERTY	RDR	12/6/2022 9:33:06 AM		
CURRIN ROBERT M OD PA						
				C ADVLTAX	2,125.00	17.85
				C PEN FEE	2,125.00	5.35
				CI58ADVL TAX	2,125.00	13.60
				CI58PEN FEE	2,125.00	4.08
		AMENDED DISCOVERY PER EVANS' AUDIT		TOTAL RELEASES:		40.88
389101	2022-253671	DY:21 PERSONAL PROPERTY	RDR	12/6/2022 9:34:35 AM		
CURRIN ROBERT M OD PA						
				C ADVLTAX	1,700.00	14.28
				C PEN FEE	1,700.00	2.86
				CI58ADVL TAX	1,700.00	10.88
				CI58PEN FEE	1,700.00	2.18
		AMENDED DISCOVERY PER EVANS' AUDIT		TOTAL RELEASES:		30.20
389101	2022-253672	DY:22 PERSONAL PROPERTY	RDR	12/6/2022 9:36:07 AM		
CURRIN ROBERT M OD PA						
				C ADVLTAX	1,275.00	10.71
				C PEN FEE	1,275.00	1.07
				CI58ADVL TAX	1,275.00	8.16
				CI58PEN FEE	1,275.00	0.82
		AMENDED DISCOVERY PER EVANS' AUDIT		TOTAL RELEASES:		20.76
9777301	2022-8245	DY:0RP:089609250236	JSG	12/6/2022 10:53:40 AM		
GOSS MILDRED CURRIN						
				C ADVLTAX	59,567.00	-500.36
				CI52ADVL TAX	59,567.00	-366.34
		12/5/22 BOC DID NOT APPROVE LATE APPLICATION		TOTAL RELEASES:		-866.70

RUN DATE: 1/3/2023 9:45 AM

RELEASES REPORT
Granville County

NAME	BILL NUMBER		OPER	DATE/TIME	DISTRICT	VALUE	AMOUNT
2808	2022-253930	DY:22 PERSONAL PROPERTY	JGS	12/6/2022 3:05:54 PM			
ATKINSON ANGELA SUE							
					C ADVLTAX	19,005.00	159.64
					C PEN FEE	19,005.00	15.96
					FR ADVLTAX	19,005.00	11.40
					FR PEN FEE	19,005.00	1.14
					TOTAL RELEASES:		188.14
6908304	2022-29822	DY:0RP:098600605596	JGS	12/27/2022 1:50:52 PM			
DANIEL JAMES P JR							
					SW47FFEEEFEE	126,900.00	91.00
					TOTAL RELEASES:		91.00
15983301	2022-7392	DY:0RP:089703329757	CAS	12/28/2022 10:05:00 AM			
ALLEN FAMILY FARM LLC							
					SW47FFEEEFEE	177,147.00	132.00
					TOTAL RELEASES:		132.00
NET RELEASES PRINTED:						-175.20	
TOTAL TAXES RELEASED							-175.20

RELEASES REPORT
Granville County

C ADVLTAX - 1 Granville County Tax

TAX YEAR	RATE YEAR	REAL VALUE RELEASED	PERS VALUE RELEASED	TOTAL VALUE RELEASED	REAL TAX RELEASED	PERS TAX RELEASED	MV VALUE RELEASED	MV TAXES RELEASED	TOTAL VALUE RELEASED	TOTAL TAXES RELEASED
2022	2017	0	6,800	6,800	0.00	47.87	0	0.00	6,800	47.87
2022	2018	0	5,950	5,950	0.00	37.49	0	0.00	5,950	37.49
2022	2019	0	5,100	5,100	0.00	29.99	0	0.00	5,100	29.99
2022	2020	0	4,250	4,250	0.00	23.20	0	0.00	4,250	23.20
2022	2021	0	3,400	3,400	0.00	17.14	0	0.00	3,400	17.14
2022	2022	0	40,560	40,560	0.00	187.38	0	0.00	40,560	187.38
DIST TOTAL		0	66,060	66,060	0.00	343.07	0	0.00	66,060	343.07

CI52ADVL TAX - 52 Creedmoor

TAX YEAR	RATE YEAR	REAL VALUE RELEASED	PERS VALUE RELEASED	TOTAL VALUE RELEASED	REAL TAX RELEASED	PERS TAX RELEASED	MV VALUE RELEASED	MV TAXES RELEASED	TOTAL VALUE RELEASED	TOTAL TAXES RELEASED
2022	2022	0	0	0	0.00	0.00	0	0.00	0	0.00
DIST TOTAL		0	0	0	0.00	0.00	0	0.00	0	0.00

CI58ADVL TAX - 58 Oxford City

TAX YEAR	RATE YEAR	REAL VALUE RELEASED	PERS VALUE RELEASED	TOTAL VALUE RELEASED	REAL TAX RELEASED	PERS TAX RELEASED	MV VALUE RELEASED	MV TAXES RELEASED	TOTAL VALUE RELEASED	TOTAL TAXES RELEASED
2022	2017	0	3,400	3,400	0.00	21.76	0	0.00	3,400	21.76
2022	2018	0	5,950	5,950	0.00	28.56	0	0.00	5,950	28.56
2022	2019	0	5,100	5,100	0.00	22.85	0	0.00	5,100	22.85
2022	2020	0	4,250	4,250	0.00	17.68	0	0.00	4,250	17.68
2022	2021	0	3,400	3,400	0.00	13.06	0	0.00	3,400	13.06
2022	2022	0	2,550	2,550	0.00	8.98	0	0.00	2,550	8.98
DIST TOTAL		0	24,650	24,650	0.00	112.89	0	0.00	24,650	112.89

FR ADVLTAX - Fire Rescue

TAX YEAR	RATE YEAR	REAL VALUE RELEASED	PERS VALUE RELEASED	TOTAL VALUE RELEASED	REAL TAX RELEASED	PERS TAX RELEASED	MV VALUE RELEASED	MV TAXES RELEASED	TOTAL VALUE RELEASED	TOTAL TAXES RELEASED
2022	2022	0	38,010	38,010	0.00	12.54	0	0.00	38,010	12.54
DIST TOTAL		0	38,010	38,010	0.00	12.54	0	0.00	38,010	12.54
GRAND TOTALS:		0	128,720	128,720	0.00	468.50	0	0.00	128,720	468.50

RUN DATE: 1/3/2023 9:43 AM

GRANVILLE COUNTY REFUND REPORT

PARAMETERS SELECTED FOR ACTIVITY REFUND REPORT:

TRANSACTION DATE RANGE: 12/01/2022 12:00:00 AM - 12/31/2022 12:00:00 AM

PAYMENT DATE RANGE:

USER/OPERATOR:

TAX DISTRICT(S):

BILL YEAR RANGE:

BILL# RANGE:

BILL TYPE: Both

SORT BY: Transaction Date

RELEASE NUMBER ONLY:No

PAYMENT TYPE: ,ACH - ACH,Card - Credit Card,Cash -
Cash,Check - Check,DSO - DSO,EPA - EPA,MOrder - Money
Order,OPM - OPM,PPAY - PPAY,WEB - WEB

RUN DATE: 1/3/2023 9:43 AM

GRANVILLE COUNTY REFUND REPORT

NAME	BILL NUMBER	PAYMENT TYPE	AMOUNT	OPER	DATE TIME
86142301 BORETTI JOHN JR ETAL TRUSTEES 2150 EAGLES WING LN OXFORD, NC 27565	2021-5262	RP: 099900970355	500.00	TYRELL	12/5/2022 1:29:48 PM
44069201 BULLOCK WILLIAM H 5640 CORNWALL RD OXFORD, NC 27565-9233	2022-251996	DURHAM PUBLIC SCHOOLS REFUND RECIPIENT: JOHN BORETTI GARNISHMENT OVERPAYMENT 2150 EAGLES WING LN OXFORD NC 27565 PERSONAL PROPERTY	3.41	TYRELL	12/7/2022 10:25:32 AM
64399302 HEINER MICHAEL E HEINER LINDA M 402 SEA GATE DR NEWPORT, NC 28570	2022-14510	RP: 183700980613	60.00	ADH	12/9/2022 10:17:54 AM
11158472 HALL LISA STEWART 387 CAMP CREEK LN ROUGEMONT, NC 27572-9327	2022-61165	TRIANGLE SUPERIOR WALL SYSTEMS INC REFUND RECIPIENT: CHERYL R TARNOW WILLIAM H BULLOCK MAIL IN OVERPAYMENT 5640 CORNWALL RD OXFORD NC 27565 RP: 095000869683	63.00	TYRELL	12/9/2022 4:32:56 PM
6990302 DANIEL SARAH M TRUST 5515 LAMBSHIRE DR	2022-2428	LISA S HALL REFUND RECIPIENT: LISA S HALL WALK IN OVERPAYMENT 387 CAMP CREEK LN ROUGEMONT NC 27572 9237 RP: 088917123331	290.57	TJT	12/12/2022 11:12:39 AM

** VOIDED **

** VOIDED **

RUN DATE: 1/3/2023 9:43 AM

GRANVILLE COUNTY REFUND REPORT

NAME	BILL NUMBER	PAYMENT TYPE	AMOUNT	OPER	DATE TIME
RALEIGH, NC 27612		SARAH M DANIEL RESIDUAL TRUST REFUND RECIPIENT: SARAH M DANIEL RESIDUAL TRUST HARRY T DANIEL TRUSTEE MAIL OVERPAYMENT 5515 LAMBSHIRE DR RALEIGH NC 27612			
23360301	2022-3676	RP: 181400842587	516.00	TYRELL	12/12/2022 11:26:47 AM
WHEELER WOODROW M WHEELER GERALDINE C/O WHEELERS RESTAURANT 14833 CREEDMOOR ROAD WAKE FOREST, NC 27587		FELICIA WHEELER THOMPSON REFUND RECIPIENT: EST OF WOODROW M WHEELER DECD FELICIA WHEELER THOMPSON CO EXTRX GREGORY WHEELER CO EXTRX MAIL OVERPAYMENT 1904 CREEKVIEW DR CLAYTON NC 27520 9189			** VOIDED **
144301	2022-23343	RP: 191319529083	192.12	TYRELL	12/12/2022 11:30:39 AM
BELCHER & BELCHER C/O MRS SAM PARROTT P O BOX 961 OXFORD, NC 27565		BELCHER AND BELCHER REFUND RECIPIENT: BELCHER AND BELCHER MAIL OVERPAYMENT PO BOX 961 OXFORD NC 27565			
23360301	2022-3676	RP: 181400842587	513.28	TYRELL	12/13/2022 11:30:30 AM
WHEELER WOODROW M WHEELER GERALDINE C/O WHEELERS RESTAURANT 14833 CREEDMOOR ROAD WAKE FOREST, NC 27587		FELICIA WHEELER THOMPSON CO EXTRX REFUND RECIPIENT: EST OF WOODROW M WHEELER DECD FELICIA WHEELER THOMPSON CO-EXTRX GREGORY WHEELER CO-EXTRX MAIL OVERPAYMENT 1904 CREEKVIEW DR CLAYTON NC 27520 9189			
22484304	2022-18482	RP: 183600525861	258.61	MH	12/19/2022 11:17:57 AM
TUTTLE GERALD O TUTTLE LYNN B 4128 OLD FRANKLINTON RD FRANKLINTON, NC 27525		LYNN B TUTTLE			

RUN DATE: 1/3/2023 9:43 AM

GRANVILLE COUNTY REFUND REPORT

NAME	BILL NUMBER	PAYMENT TYPE	AMOUNT	OPER	DATE TIME
REFUND RECIPIENT: LYNN B TUTTLE MAIL OVERPAYMENT 4128 OLD FRANKLINTON RD FRANKLINTON NC 27525					
2813	2022-253967	PERSONAL PROPERTY	53.81	MH	12/19/2022 12:28:16 PM
HYMAN DIANDRA LIANNE					
3531 DAISY LN					
WAKE FOREST, NC 27587-9838					
WAKE COUNTY REVENUE DEPT REFUND RECIPIENT: DIANDRA LIANNE HYMAN VTS OVERPAYMENT 3531 DAISY LN WAKE FOREST NC 27587 9838					
83491301	2022-19384	RP: 102101169052	21.14	MH	12/21/2022 12:02:15 PM
KIMMEL MICHAEL J KIMMEL CRISTI C 53 ARROWHEAD LN					
BULLOCK, NC 27507-9738					
ROCKET MORTGAGE REFUND RECIPIENT: ROCKET MORTGAGE MAIL OVERPAYMENT 1050 WOODWARD AVENUE DETROIT MI 48226					
46227301	2022-23338	RP: 193100527224	958.95	ADH	12/27/2022 3:48:07 PM
HESTER TONYA E HESTER MICHAEL J 4542 BREEZING LANE					
OXFORD, NC 27565					
TONYA E HESTER REFUND RECIPIENT: TONYA E HESTER MAIL OVERPAYMENT 4542 BREEZING LN OXFORD NC 27565 9430					
53818201	2019-52211	PERSONAL PROPERTY	1.43	ADH	12/28/2022 9:19:23 AM
PINTO NELSON					
1687 WHITNEY LN					
CREEDMOOR, NC 27522					
WESTERN UNION REFUND RECIPIENT: PINTO NELSON MAIL OVERPAYMENT 1687 WHITNEY LN creedmoor NC 27522					
15704301	2022-7483	RP: 086612960148	40.00	TYRELL	12/28/2022 10:15:19 AM
WILSON PHYLLIS					
307 12TH ST					

RUN DATE: 1/3/2023 9:43 AM

GRANVILLE COUNTY REFUND REPORT

NAME	BILL NUMBER	PAYMENT TYPE	AMOUNT	OPER	DATE TIME
BUTNER, NC 27509		PHYLLIS WILSON REFUND RECIPIENT: PHYLLIS J WILSON MAIL OVERPAYMENT 307 12TH ST BUTNER NC 27509 RP: 099500865193			
1069163	2022-4525		90.30	TYRELL	12/28/2022 10:32:17 AM
WILSON MARY FRANCES HEIRS C/O ELLIS E THORNTON 64 ALEXANDER ST 1ST FLOOR DORCHESTER, MA 02125-2729		ELLIS E THORNTON REFUND RECIPIENT: ELLIS E THORNTON MAIL IN OVERPAYMENT 64 ALEXANDER ST, APT 1 DORCHESTER MA 02125 RP: 182300846493			
71139301	2022-17569		4.50	ADH	12/28/2022 11:17:48 AM
MOORE JULIANNE R 3673 CREEKBEND DR WAKE FOREST, NC 27587		JULIANNE R MOORE REFUND RECIPIENT: JULIANNE R MOORE MAIL OVERPAYMENT 3673 CREEKBEND WAKE FOREST NC 27587			
75574103	2022-36058	PERSONAL PROPERTY	2.00	TYRELL	12/28/2022 1:53:11 PM
SYSTEL BUSINESS EQUIPMENT CO I 2604 FT BRAGG RD FAYETTEVILLE, NC 28303		SYSTEM BUSINESS EQUIPMENT CO INC REFUND RECIPIENT: SYSTEL BUSINESS EQUIPMENT CO INC MAIL IN OVERPAYMENT PO BOX 35910 FAYETTEVILLE NC 28303 RP: 180504644390			
82740301	2021-24860		2.44	TYRELL	12/28/2022 2:31:48 PM
BENINATI MICHAEL J BENINATI NICOLE L 2644 POE CURRIN RD CREEDMOOR, NC 27522		AUTOZONE REFUND RECIPIENT: MICHAEL BENINATI NICOLE BENINATI GARNISHMENT OVERPAYMENT 2644 POE CURRIN RD creedmoor NC 27522 RP: 181400960326			
82869301	2022-23157		3.00	ADH	12/29/2022 10:25:29 AM

RUN DATE: 1/3/2023 9:43 AM

GRANVILLE COUNTY REFUND REPORT

NAME	BILL NUMBER	PAYMENT TYPE	AMOUNT	OPER	DATE	TIME
HEFFREN MICHAEL HEFFREN TRACEY ANN 3177 HARDIE STREET CREEDMOOR, NC 27522		MICHAEL HEFFREN REFUND RECIPIENT: MICHAEL HEFFREN MAIL OVERPAYMENT 3177 HARDIE ST creedmoor NC 27522 7114				
71802301	2021-16114	RP: 193203030388	2.40	TYRELL	12/29/2022	4:03:21 PM
THOMAS WILLIE L III THOMAS CARLA P 4022 W ANTIOCH DR OXFORD, NC 27565		STATE OF NORTH CAROLINA REFUND RECIPIENT: WILLIE LEE THOMAS III MAIL IN OVERPAYMENT 4022 W ANTIOCH DR OXFORD NC 27565				
56066301	2022-41238	PERSONAL PROPERTY	11.27	ADH	12/30/2022	11:01:02 AM
HASTY ROGER O HASTY ANDREA A 916 WOODLAND RD CREEDMOOR, NC 27522		MSG ROGER O HASTY SR REFUND RECIPIENT: MSG ROGER O HASTY SR MAIL OVERPAYMENT PO BOX 845 creedmoor NC 27522				
TOTAL REFUNDS PRINTED:	3,588.23					
TOTAL VOID REFUNDS:	-579.41					
TOTAL:	3,008.82					

VOIDED REFUND AMOUNTS OF REFUNDS NOT IN 12/1/2022 - 12/31/2022

NAME	BILL NUMBER	AMOUNT	OPER	PAYMENT TYPE	DATE	TIME	REFUND DATE
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TOTAL VOID REFUNDS:



Granville County Finance

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Steve McNally
Department: Finance
Date: January 4, 2023
Title: **Surplus Vehicles**

PURPOSE:

To consider declaring vehicles as surplus in order to be sold via online auction platform.

BACKGROUND:

North Carolina General Statutes require the Board of Commissioners to formally declare items surplus prior to the sale. Per Granville County's surplus procedures, all vehicles must be approved for sale or transfer by the Granville County Board of Commissioners prior to their sale or transfer.

The vehicles to be declared surplus are:

Emergency Management Department:

- Layton Homes 2006 Nomad – VIN # - 00694

Sheriff Department

- TL Industries 2005 International – VIN # 43171

RECOMMENDATION:

Finance Director recommends declaring items as surplus.

ACTION TAKEN:



Granville County Finance

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Steve McNally
Department: Finance
Date: January 13, 2023
Title: Update Check Signing Signatures for Sheriff's Execution Account

PURPOSE:

To authorize the County Finance Director to make the recommended changes to the Sheriff's Execution Account.

BACKGROUND:

In January 2020, the Granville County Board of County Commissioners approved the transition of control of the Sheriff Department bank accounts to the Finance office. As part of this transition process, a dual check signature system would be required, based on one of two scenarios:

1. Two signatures from Finance or Administration personnel.
2. One signature from Sheriff's Department and the other from either Finance or Administration personnel.

In the case of the Sheriff's Execution Account at Union Bank in Oxford, scenario #2 is applicable. Because of this requirement, as well as changes in the Sheriff Department personnel, the following signature changes for the Sheriff Department are recommended:

Signatures coming off	Signatures adding on
John Hardy	Kendall Mangum
	Robert Fountain. Jr.

RECOMMENDATION:

County Finance Director recommends authorizing the County Finance Director to make the recommended changes to the Sheriff's Execution Account signature card.

ATTACHMENTS:

Agenda Outline 1062020

Agenda Item detail

Minutes reflecting 1/6/20 approval of control transfer from Sheriff to Finance

ACTION TAKEN:

AGENDA

GRANVILLE COUNTY BOARD OF COMMISSIONERS



Monday, January 6, 2020

Call to order @ 7:00 p.m......Chairman David T. Smith
Invocation.....Commissioner Zelodis Jay

Consent Agenda

1. Contingency Summary (p. 1)
2. Budget Amendment #5 (p. 3)
3. Approve Bonds for Finance for 2019-2020 (p. 8)
4. **Transfer of Sheriff Office Accounts to County Finance Department (p. 9)**
5. Appointment of Members to Board/Committee/Liaison Assignments (p. 10)
6. Minutes (p. 15)
7. Tax Releases and Refunds (p. 70)
8. Authorizing Resolution - Project Adam (p. 84)
9. Authorizing Resolution for Project FNP (p. 86)
10. National Radon Action Month Proclamation (p. 88)

Introductions, Recognitions and Presentations

11. Recognition of Service - Warren Daniel (p. 90)
12. Recognition of Service - Douglas P. Logan (p. 92)
13. Recognition of Service - Donnie L. Boyd (p. 94)
14. Recognition of Service - Francine M. Hart (p. 96)
15. Recognition of Service - Willie S. Richards (p. 98)

Public Comments

16. Public Comments (p. 100)

Department: Sheriff's Office
Date: January 1, 2020

Title: Transfer of Sheriff Office Accounts to County Finance Department

PURPOSE:

To designate Union Bank as an official depository of Granville County and authorize the transfer of control of existing Sheriff Office bank accounts to the County Finance Department.

BACKGROUND:

County Attorney Jim Wrenn, Chief Deputy Sherwood Boyd and County Manager Michael Felts reviewed the Local Government Budget and Fiscal Control Act and the status of the existing Sheriff Office accounts held at Union Bank. As noted by Attorney Jim Wrenn, the best reading of the Local Government Budget and Fiscal Control Act requires that these accounts be held at an official depository of the County. As a result, and based upon the understanding that Chief Deputy Boyd and County Manager Felts also joins in this request, Attorney Wrenn requests that the Board designate Union Bank (where the accounts are currently held) as an official depository of the County subject to verification from Union Bank that the Sheriff's Office accounts are listed as public funds accounts by Union Bank.

FUNDING:

N/A

RECOMMENDATION:

County Manager, Chief Deputy, and County Attorney recommend that the Board of Commissioners designate Union Bank as an official depository of the County subject to verification from Union Bank that the Sheriff's Office accounts are listed as public funds accounts by Union Bank, and authorize the County Finance Director and Chief Deputy to execute new signature cards for the existing accounts and to develop County Internal Controls for the maintenance and use of the accounts.

ACTION TAKEN:

- (D) Approved designation of Union Bank as an official depository of the County subject to verification from Union Bank that the Sheriff's Office accounts are listed as public funds accounts by Union Bank, and authorized the County Finance Director and Chief Deputy to execute new signature cards for the existing accounts and to develop County Internal Controls for the maintenance and use of the accounts.



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 13, 2023
Title: Minutes

PURPOSE:

To approve minutes of the April 6, 2022 Special Meeting, April 18, 2022 Regular Meeting.

RECOMMENDATION:

Approval

ATTACHMENTS:

April 6, 2022 Special Meeting Draft Minutes
April 18, 2022 Draft Minutes

ACTION TAKEN:

OXFORD, NORTH CAROLINA
April 6, 2022

The Members of the Honorable Board of Commissioners of Granville County, North Carolina met in a special meeting on Wednesday, April 6, 2022, at 4:00 p.m. in the Meeting Room at the Granville Expo and Convention Center, 4185 US Highway 15 South, Oxford. The purpose of the meeting was regarding American Rescue Plan funding.

Present were:

Chairman: Tony W. Cozart

Commissioners: Sue Hinman Jimmy Gooch
Zelodis Jay Timothy Karan
Russ May David T. Smith

County Manager: Michael S. Felts

Assistant County Manager: Korena Weichel

County Attorney: James C. Wrenn, Jr.

News Reporters: David Murray – Oxford Public Ledger

MEETING CALLED TO ORDER

At 4:01 p.m., Chairman Tony W. Cozart called the meeting to order and then had the invocation.

INTRODUCTION OF COUNTY STAFF AND NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS (NCACC) STAFF

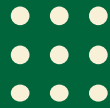
Chairman Cozart introduced County staff present at the meeting. He then recognized Jason King, Director of Strategic Member Services, with the North Carolina Association of County Commissioners (NCACC). Mr. King introduced Neil Emory, Outreach Associate, and Don Reeves, Strategic Project Coordinator, from NCACC who were also present.

OVERVIEW OF CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Mr. King stated that Granville County received \$11.74 million in American Rescue Plan Act (ARPA) funding. He then spoke from the following PowerPoint presentation that provided basic information about ARPA:



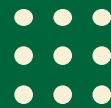
North Carolina Association
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ARPA Update

Jason King

NCACC Director of Strategic Member Services



INTERIM FINAL RULE (IFR)

The SLFRF Interim Final Rule (IFR) went into effect **MAY 17, 2021** and included preliminary information on eligible uses for the funds, reporting and compliance requirements to implement the program, other applicable rules, and potential consequences of ineligible uses.

The IFR was issued without advance notice and public comment to allow for immediate implementation of this program. Although it went into effect immediately, comments were solicited from interested members of the public and from recipient governments on all aspects of the IFR until July 2021, when the public comment period closed.

FINAL RULE

U.S. Treasury released its Final Rule on the American Rescue Plan Act State and Local Fiscal Recovery Funds program on January 6, 2022, after receiving over 1,500 public comments on its Interim Final Rule.

The long awaited Final Rule, which goes into effect April 1, 2022, provided increased flexibility for state and local governments. Among other things, it created a new standard allowance for expenditures in the revenue loss eligibility category, enabling counties to use up to \$10 million of their ARPA allocation for matching funds for other federal programs or general government services costs. To read an overview of the Final Rule, visit www.ncacc.org/ARPAfinalrule.

JANUARY 6, 2022

NOVEMBER 17, 2021

ENACTED STATE BUDGET

The North Carolina state budget was enacted, which directed North Carolina's \$5.4 billion allocation of American Rescue Plan Act funding. North Carolina was the last state in the country without an enacted budget in place, and prior to its passage, counties didn't know what programs or services the state would offer with state ARPA funds. Many counties wanted to preserve the option to leverage state programs first before investing their limited ARPA allocation. North Carolina state agencies are still in the process of rolling out guidance for the state-administered programs that utilize federal ARPA funds.

Tier	Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
1	States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021 or 60 days after receiving funding if funding was received by October 15, with expenditures by category	By January 31, 2022, and then 30 days after the end of each quarter thereafter ¹	By August 31, 2021 or 60 days after receiving funding, and annually thereafter by July 31 ²
2	Metropolitan cities and counties with a population below 250,000 residents which received more than \$10 million in SLFRF funding		By April 30, 2022, and then annually thereafter ³	Not required
3	Tribal Governments which received more than \$30 million in SLFRF funding			
4	Tribal Governments which received less than \$30 million in SLFRF funding			
5	Metropolitan cities and counties with a population below 250,000 residents which received less than \$10 million in SLFRF funding			
6	NEUs	Not required		



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Key Milestones

- Initial project report was due January 31, 2022
 - Must submit Project and Expenditure Reports to US Treasury on a quarterly basis.
- Obligation deadline is December 31, 2024
 - Must obligate your grant award by this date.
- Final deadline is December 31, 2026
 - Must full expend your grant award by this date.



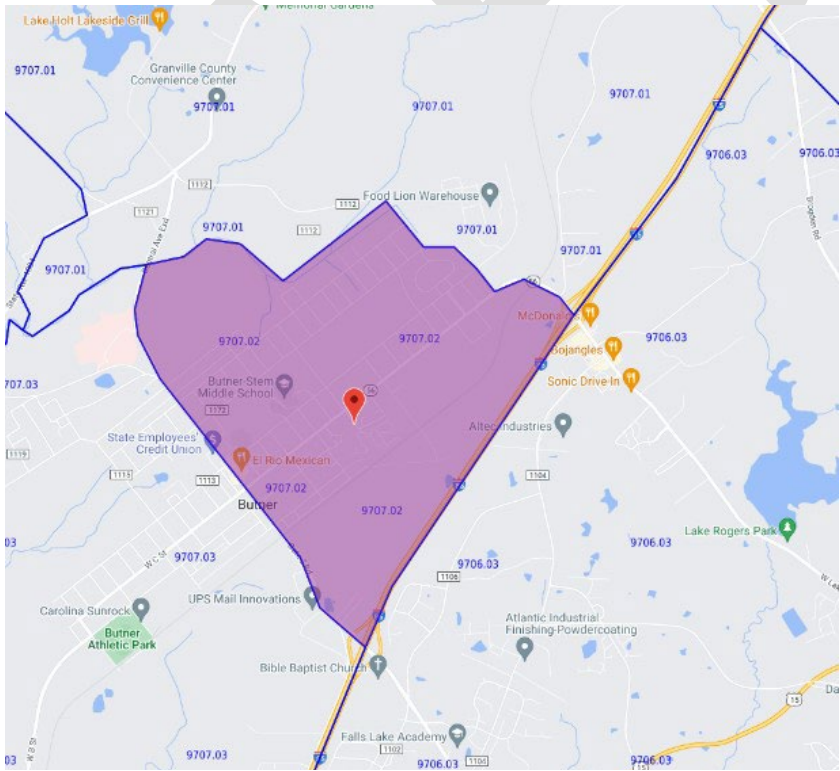
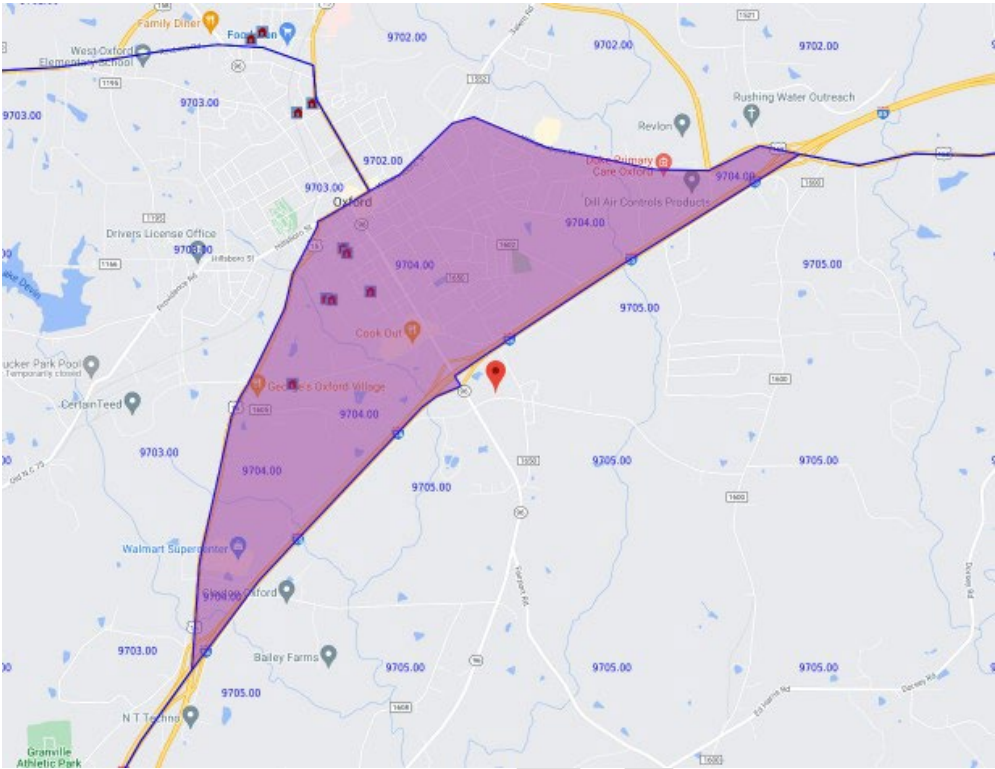
Unique Features of ARPA Fiscal Recovery Funds

- First tranche – 50 percent of total allocation – completed in 2021
 - Second tranche comes no less than 12 months after first tranche (Treasury: likely May 10)
- Counties receive ARPA funds directly from US Treasury
 - Must follow reporting and federal administrative requirements



Final Rule Offers Additional Flexibility

- Expands eligibility for investments in broadband and water infrastructure and the public sector workforce
- Allows more flexibility to address health and economic impacts
 - Offers new methods to identify certain populations presumed to have been impacted and disproportionately impacted by the pandemic.
- Expands eligible uses for cybersecurity, including the modernization of hardware and software





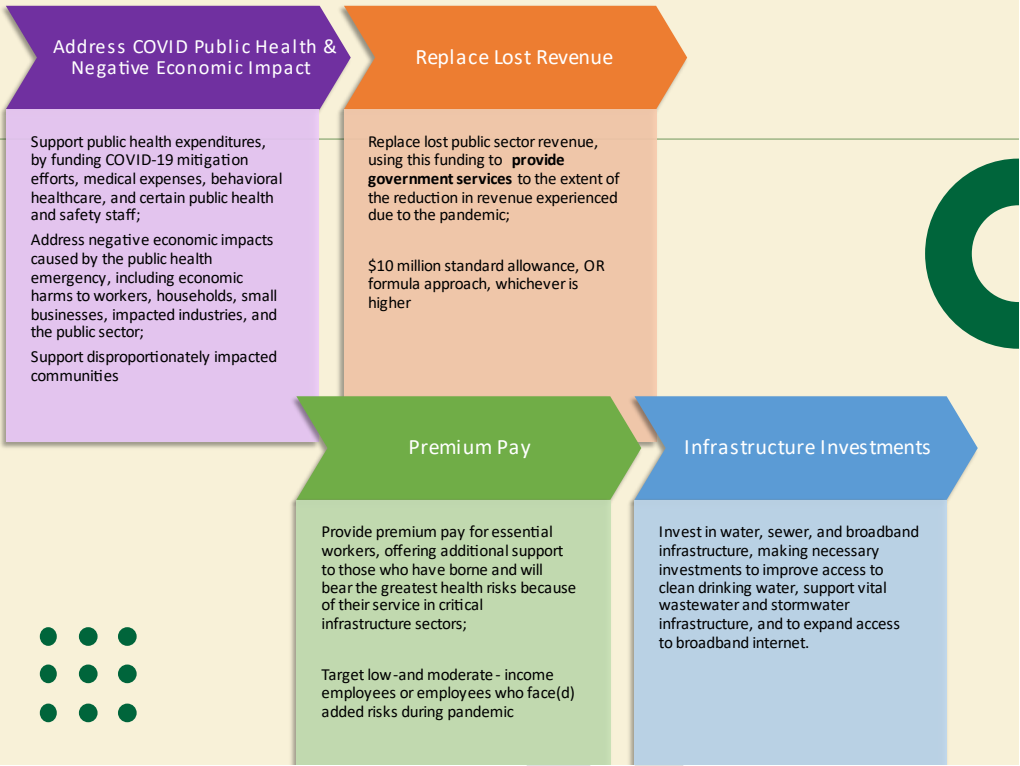
Final Rule: Clarity on Capital Expenditures

- Eligible capital projects must:
 - respond to the public health and negative economic impacts of the pandemic,
 - and be proportional to impact identified
- Capital expenditures equal to or greater than \$1 million require a prescribed written justification
- New congregate facilities and economic development projects are ineligible



New 'Revenue Loss' Standard Allowance

- New guidance allows counties to pick a new standard allowance (up to \$10 million) or use a revised formula to determine revenue loss
 - Revenue Loss category allows counties to fund broad, general government service expenditures
 - Cannot change decision once the choice is made
 - Simplifies reporting





North Carolina Association
of County Commissioners

Revenue Replacement: Standard Allowance

Will elect standard allowance on Project & Expenditure Report
(report deadline by April 30, 2022)

-
-
-
-
-
-

Electing the standard allowance and spending a portion of your ARP/CSLFRF funds as revenue replacement will significantly reduce reporting requirements. IT **DOES NOT** CONVERT THESE FUNDS INTO GENERAL FUNDS. THEY ARE STILL GRANT FUNDS, SUBJECT TO GRANT AWARD TERMS AND UNIFORM GUIDANCE COMPLIANCE REQUIREMENTS.



Allowable Expenditures: Revenue Replacement

"maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services."



US Treasury Overview Supplement:

"[g]overnment services generally include any service traditionally provided by a government, unless Treasury has stated otherwise. Here are some common examples, although this list is not exhaustive: Construction of schools and hospitals; Road building and maintenance, and other infrastructure; Health services; General government administration, staff, and administrative facilities; Environmental remediation; [and] Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)."



Allowable Expenditures: Revenue Replacement

Translation: General government services are anything that a local government has state law authority to engage in, including public enterprise activities.



May fund any project that is eligible under the other ARPA/CSLFRF categories with revenue replacement funds, with the possible exception of Premium Pay. It is probably best to fund/report Premium Pay under the Premium Pay category.



North Carolina Association
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Share Your Stories

- Share statewide; NCACC can help
- Keep the public informed
- Congressional delegation needs to be informed and part of the process

Resources

- www.ncacc.org/arpa



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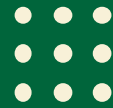


NCACC Strategic Member Services

- ARPA Local Fiscal Recovery Funds and funds from the national opioid settlement represent an opportune moment to meet needs and provide services.
- A complex set of federal and state guidelines accompany the funds along with extensive reporting requirements.
- NCACC is building internal capacity and expertise to help counties respond to the heightened load of administrative duties through a new service arm, NCACC Strategic Member Services.



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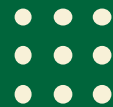
NCACC Strategic Member Services

Strives to assist counties in the areas of:

- Strategic planning and collaborative conversations
- Federal compliance standards, and eligible projects
- Project management, grant management, subrecipient monitoring and oversight, expenditure reporting, community outreach & communications



North Carolina Association
of County Commissioners



NCACC Strategic Member Services

Our goal is to offer a variety of assistance to counties, including building a pipeline of future county government professionals and enhancing the career bridge between key North Carolina graduate programs and county governments.

Note: This is federal funding that has never been allocated before.

UPDATE ON COMMUNITY PROJECT FUNDING OPPORTUNITIES EARMARKS

Terry Hobgood, Public Information Officer and Grant Development Specialist reported that he and Chair Cozart attended a meeting via Zoom with Representative David Price's staff this morning about fiscal year 2023 Community Project Funding Opportunities. He reported that project applications can be submitted to Representative Price's office and are due next week, noting the quick turnaround for submittal. He gave examples of previously funded projects and

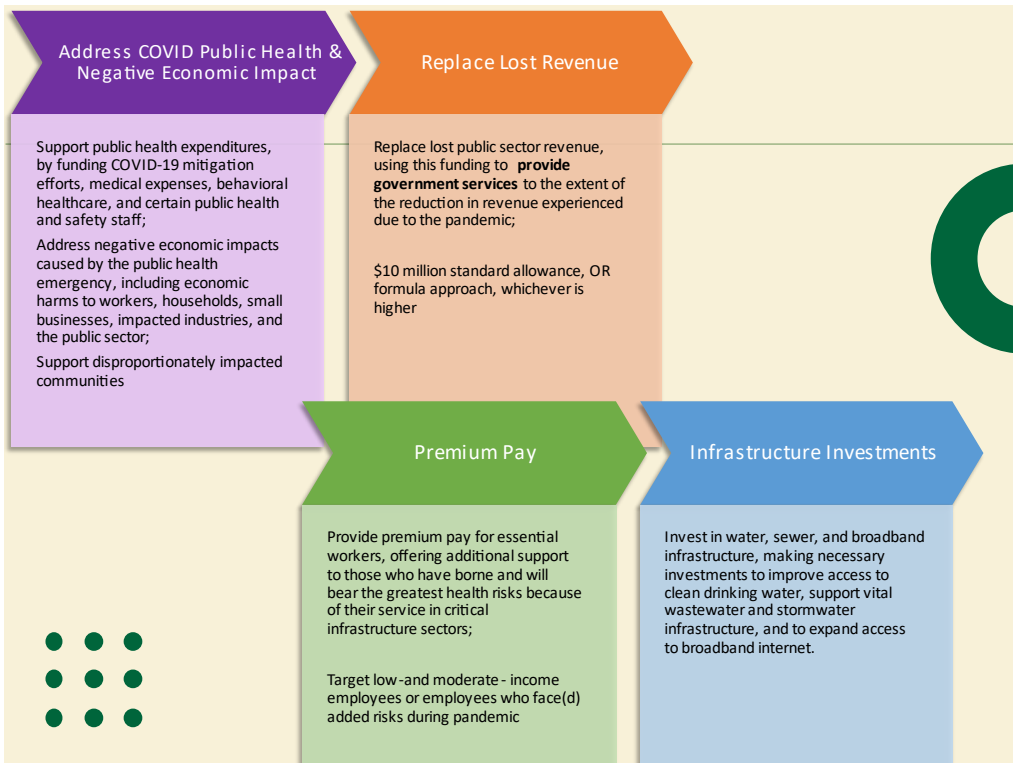
noted there is no limit on the number of applications and no limit on the amount of funding requested. He noted that local matches are not required but do increase the chance of being selected. Funding will be available late this year or next year and must be spent in fiscal year 2022-2023.

County Manager Felts said that Mr. Hobgood will be the point person for any suggestions for applications. Board members asked questions and clarification was made that any project that is ongoing or phased is eligible for funding, but funds must be spent in fiscal year 2022-2023. It was mentioned that there were several projects that might qualify for funding such as SGWASA, Oxford for the water project, and broadband.

City of Oxford Manager Alan Thornton and Oxford Mayor Jackie Sergent were present and mentioned seeking funding for the Kerr Lake regional water project.

RECAP OF PREVIOUS AMERICAN RESCUE PLAN ACT WORKSHOP

County Manager Felts recapped the previous work session of the proposed funding distribution from a handout that was distributed. He then spoke about the different categories that the State and Local Fiscal Recovery Funds (SLFRF) have available through the American Rescue Plan and how they can be used (see chart below). Granville County is anticipated to receive a total of \$11,740,344. He reviewed a list of potential projects, noting that Granville County Public School (GCPS) System air quality improvements for \$500,000 and Broadband Great Grants Projects for \$3.1M have been tentatively earmarked during previous meetings. He also mentioned revenue replacement of \$8.6M and talked about maximizing the benefit of the funds and minimizing the burden of reporting and tracking. County Manager Felts noted that he will need to know if the Board wants to do the revenue replacement option and if so will the standard or the long form will be used. Finance Director Steve McNally recommended the standard form. County Manager Felts encouraged the Board to make the determination of standard or long form in the regular budget process.



BREAK

At this point, the Board took a break at 4:53 p.m. The meeting resumed at 5:07 p.m.

DISCUSSION LEAD BY NCACC STAFF

Neil Emory with NCACC thanked the Board for the invitation to participate in the meeting and for supporting the NCACC. He talked about how you move forward and accept and report the funding. He recommended using the Replace Lost Revenue category for up to the maximum amount of \$10M to allow for flexibility and the Infrastructure Investments category for broadband and/or water and sewer needs. He explained that the State has money that will be passed down and it could be used as a match for projects. He talked about maximizing funds, using the Replace Loss Revenue category to allow for more flexibility, and the reporting challenges associated with ARPA funding. Mr. Emory noted that there is some discussion to remove some reporting requirements. He asked the Board to keep it simple, get more bang for your buck by allowing flexibility, and make the process staff friendly.

It was noted that the UNC School of Government has a blog and the Local Government Commission (LGC) has publications regarding the funding accountability requirements.

CONSENSUS REGARDING FUNDING

When asked by Mr. Emory, the Board noted consensus for broadband for \$3.1M and Granville County Schools for \$500,000 out of the \$11.7M of the proposed allocation plan. The Board reviewed and talked about capital needs at Granville Health System for EMS (Emergency

Medical Services) and hospital plant ops (parking lot and air handlers) as well as infrastructure water needs for SGWASA and Oxford. County Manager Felts said he would like to address the food insecurity matter in the regular budget and the Board agreed. The Board also decided to look at fire department needs and the Health Department surge funding during the regular budget process.

Chairman Cozart mentioned some capital needs at Granville County Schools including the track at J.F. Webb High School and the Board's responsibility for upkeep at the schools.

Discussion ensued.

The consensus of the Board was to direct the County Manager to work on a funding distribution plan of ARPA funds to include broadband, water and sewer infrastructure projects, hospital projects, and Granville County Public Schools air quality projects, and to leave the balance of funding in the Replace Lost Revenue category to allow for flexibility.

County Manager Felts said he would work on the funding plan for the ARPA funds and the regular budget to have most items sorted out by July 1st. He said he would reach out to the Board during the budget process about the air quality projects for Granville County Public Schools in the amount of \$500,000 so work can be done while students are out for the summer.

Mr. Emory noted that the State has a lot of available funding and encouraged the Board to reach out to their legislators.

ANY OTHER MATTERS

Chairman Cozart noted that blue ribbons were distributed by Social Workers and left for the Board to acknowledge Child Abuse Prevention Month.

Commissioner David T. Smith gave a closing prayer.

BOARD ADJOURNED

Upon a motion by Commissioner Sue Hinman, seconded by Commissioner Russ May, and unanimously carried, the Board adjourned at 5:40 p.m.

Respectfully submitted,
Debra A. Weary, NCMCC, CMC
Clerk to the Board

APPROVED BY:

Tony W. Cozart, Chairman

OXFORD, NORTH CAROLINA
April 18, 2022

The Members of the Honorable Board of Commissioners of Granville County, North Carolina met in a regular meeting on Monday, April 18, 2022, at 7:00 p.m. in the Auditorium, Granville Expo and Convention Center, 4185 US Highway 15 South, Oxford.

Present were:

Chair: Tony W. Cozart

Commissioners: Jimmy Gooch Timothy Karan
Sue Hinman Russ May
Zelodis Jay David T. Smith
Sue Hinman

County Manager: Michael S. Felts
Assistant County Manager: Korena Weichel
County Attorney: James C. Wrenn, Jr.

News Reporters: David Murray – *Oxford Public Ledger*

MEETING CALLED TO ORDER

At 7:00 p.m., Chairman Tony W. Cozart called the meeting to order. He then recognized Commissioner Sue Hinman for the invocation and Pledge of Allegiance.

CONSENT AGENDA APPROVED

Upon a motion by Commissioner Zelodis Jay, seconded by Commissioner Jimmy Gooch, and unanimously carried, the Board approved the consent agenda as follows:

- (A) Approved the Summary of Contingency and Use of Fund Balance report that showed the following balances:
- | | | |
|--|----|-----------|
| General Contingency Balance | \$ | 14,000 |
| School Bond D/S Contingency | \$ | 100,000 |
| Environmental Disaster Contingency | \$ | 10,000 |
| General Fund Appropriated Fund Balance | \$ | 4,485,783 |
- (B) Approved authorizing the County Manager, Assistant County Manager, Sheriff, Finance Director, and Detention Administrator to serve as grant project contacts and financial reporting contacts for the Detention Center COVID-19 Support for County Confinement Facilities Grant request application RFA #A399, no-match grant, in the amount of \$80,000.

RECOGNITION OF VERNELL ANDERSON – GRANVILLE HEALTH SYSTEM BOARD OF TRUSTEES -HELD

Chairman Tony Cozart announced that Vernell Anderson was unable to attend the meeting tonight and that the recognition will be held at a later date.

PUBLIC COMMENTS

Baba Kerr, 7089 Bayberry Drive, Oxford, NC, made comments about tutoring at the

Richard H. Thornton Library and an incident involving an employee:

I would like to thank the GC Commissioners for establishing a system of tutoring at Richard H. Thornton Library. This system included setting up tables in the library so that teachers/tutors could assist students in need of academic assistance, especially at improving their EOG testing in Math and Language Arts. The former Children's Services Librarian was committed to this system. In fact, I tutored her grandchild in Math at the library.

Comments continued about an incident that took place at the library involving an employee. Chairman Cozart asked Mr. Kerr to not mention the names of individuals.

Mr. Kerr said that there had been a misunderstanding and that he has only been making copies since the incident. He asked the Board to let new staff know about the tutoring program that has been there for eight years so the matter can be resolved. He gave a copy of the comments to the Clerk.

BOARD APPROVED RADIO PURCHASE FOR DETENTION OFFICERS

Chairman Cozart stated that the Sheriff's Office/Detention Center was requesting approval to purchase nine (9) VP5430 Viking Portable Radios with chargers and speaker microphones at a cost of \$16,313.40. These radios are for the officers who are now being hired so these are new purchases. Chairman Cozart noted that the Sheriff's Office/Detention Center recommends the purchase.

Commissioner Sue Hinman made a motion to approve the purchase and Commissioner Timothy Karan seconded the motion.

After clarification that the radios work with the Viper System, have dual capabilities, and in case of emergencies outside agencies can be contacted, the Board voted on the matter.

When Chairman Cozart called for a vote on the matter, it passed unanimously to approve the purchase of nine (9) VP5430 Viking portable radios and related equipment for the Detention Center from Radio Communications Company for an amount not to exceed \$16,313.40.

BOARD APPROVED RADIOS FOR THE SHERIFF'S OFFICE

Chairman Cozart requested that the Board consider the purchase of twenty (20) APX6000 Motorola portable radios and sixteen (16) APX4500 Motorola mobile radios so the Sheriff's Office will be compatible with the new Viper System requirements effective July 1,

2025. He stated that the funding for this planned purchase is included in the Sheriff's fiscal year 2021-2022 budget and that the Sheriff recommends the purchase.

Upon a motion by Commissioner Russ May, seconded by Commissioner David T. Smith, and unanimously carried, the Board approved the purchase of twenty (20) APX6000 Motorola portable radios and sixteen (16) APX4500 Motorola mobile radios for the Sheriff's Office from Motorola Solutions in the amount of \$159,541.85.

Sheriff Hardy then introduced Lonnie Lemmons, consultant for the Detention Center, and noted that it was his second day with the office.

Chairman Cozart mentioned a recent difficult situation in the Antioch community and told Sheriff Hardy that he was thankful for the partnership with Franklin County and for their assistance.

BOARD APPROVED STREET NAME FOR TRIANGLE NORTH-GRANVILLE INDUSTRIAL PARK

Harry Mills, Director of Economic Development, stated that the Triangle North-Granville Industrial Park is located at 5612 Tabbs Creek Road, Oxford. There is a road that goes one mile into the park and will eventually be completed throughout the park. At this point in time there is no name for the road. He said that after consulting with Sandy Woody, Granville County Addressing Coordinator, they came up with the name Triangle North Drive and noted that the name is available. Mr. Mills noted that the Granville County Economic Development Advisory Board agreed with the proposed name for the road.

Upon a motion by Commissioner David T. Smith, seconded by Commissioner Timothy Karan, and unanimously carried, the Board approved the name of the Triangle North Granville Industrial Park street as Triangle North Drive and approved placement of a street sign in the amount of \$135.

BOARD WAS NOTIFIED OF CHANGE OF MEETING SCHEDULE FOR ECONOMIC DEVELOPMENT ADVISORY BOARD

Harry Mills, Director of Economic Development, stated that there were scheduling conflicts with the Economic Development Advisory Board meeting dates and that it would be better to meet on the first Thursday of every other month. He notified the Board of the change of meeting dates included in the agenda packet as follows:

Notice of meeting dates for the Economic Development Advisory Board
at 5:30 p.m. at the Economic Development Office located at
310 Williamsboro Street, Oxford.

May 5, 2022
July 7, 2022
September 1, 2022
November 3, 2022

Commissioner Timothy Karan, a member of the Economic Development Advisory Board, thanked Mr. Mills for the change of meeting day. He reported that they were waiting for an announcement by Governor Roy Cooper on the CertainTeed expansion project and noted that Mr. Mills did the work for the project. He commended Mr. Mills and the Economic Development staff and said they are doing a great job.

BOARD APPROVED UTILITY BILLING AUDIT SERVICES AGREEMENT

Chairman Cozart stated that the purposed of the next item was to consider an agreement with Utility Management Services, Inc. (UMS) to perform a utility billing audit on Granville County accounts. He stated further that there are no up-front fees or out-of-pocket expenses and, if they do not identify and produce savings, there is no charge for the service. He noted that the Granville County Internal Auditor recommended authorizing the County Manager to execute the attached Utility Billing Audit Services Agreement between Granville County and Utility Management Services, Inc.

Upon a motion by Commissioner Sue Hinman, seconded by Commissioner Timothy Karan, and unanimously carried, the Board approved authorizing the County Manager to execute the Utility Billing Audit Services Agreement between Granville County and Utility Management Services, Inc.

PROCLAMATIONS, RESOLUTIONS AND LEGISLATIVE MATTERS

Commissioner May reported that the verdict is still out on the Leandro decision that has been sent back to the courts for a final ruling. The decision will impact education funding throughout the state.

BOARD APPOINTED BLAINE HOLMES (DISTRICT 5) TO THE GRANVILLE COUNTY CITIZENS ADVISORY COMMITTEE FOR ENVIRONMENTAL AFFAIRS

Upon a motion by Commissioner Russ May, seconded by Commissioner Jimmy Gooch, and unanimously carried, the Board appointed Blaine Holmes (District 5) to the Granville County Citizens Advisory Committee for Environmental Affairs.

BOARD REAPPOINTED MEMBERS TO THE GRANVILLE GREENWAYS ADVISORY COUNCIL

Upon a motion by Commissioner Sue Hinman, seconded by Commissioner Jimmy Gooch, and unanimously carried, the Board reappointed Commissioner Timothy Karan, Granville County Representative, and Angela Allen, Tourism Development Authority Representative to the Greenways Advisory Council.

Commissioner Timothy Karan reported that three new trails will be opening in Stem, Creedmoor, and District 6 in conjunction with the partnership with Tar River Land Conservancy.

BOARD APPOINTED CAROL JO HARRIS (DISTRICT 5) TO THE SENIOR SERVICES ADVISORY COMMITTEE

Upon a motion by Commissioner Russ May, seconded by Commissioner David T. Smith, and unanimously carried, the Board appointed Carol Jo Harris (District 5) to the Senior Services Advisory Committee.

COUNTY ATTORNEY'S REPORT

County Attorney Wrenn stated that he had attorney-client privilege matters for closed session.

BOARD PRESENTATIONS

Commissioner Jay announced a clean-up event in memory of the late Marshal Floyd who was on the Environmental Affairs Committee. Those interested will meet on Saturday, April 30th at 8:45 a.m. at the Expo Center. He stated that Jason Falls will be giving out directions and that they will be cleaning up Wilton Slopes, down around Tar River and on Highway 96 near where Mr. Floyd lived.

Commissioner Hinman stated it was an honor to be at the meeting today for the presentations of the checks to the different fire departments. She said she hoped everyone had a Happy Easter.

Commissioner May said he had the privilege and honor to attend K-9 Major's memorial service, noting that K-9 Major assisted the Granville County Sheriff's Department and the Franklin County's S.W.A.T. Team at a recent incident. He stated that it is a really touching and profound loss when you are a K-9 handler, and you lose your best partner. He said he hopes that the County will find a way to recognize Major. He stated that he is encouraged by what this Sheriff's Department is doing regarding the Detention Center and for equipping and

creating a sufficient, efficient, and effective SRT (Special Response Team) Team. He stated that it is critical and thanked Sheriff Hardy for his leadership in that regard. He continued that this afternoon when fire department checks were presented, some Commissioners spoke with North Carolina Secretary of Insurance Mike Causey and voiced their concerns about the amount of training that volunteer fire departments have to continue to do, and the mandates placed upon them by the state. He noted that it is unrealistic to think that a volunteer will have to complete the same amount of training and time as a full-time firefighter and that he hopes that the Board can have further dialogue. He stated that if the County intends to maintain volunteer fire departments at the level that ours has to maintain them, as well as other counties throughout North Carolina, then Granville County will have to have assistance from the State of North Carolina in reviewing training standards and regulations as they apply.

Chairman Cozart stated that the Night of Kindness will be this Thursday at 6:30 p.m. at Northern Granville Middle School. He said that he has been looking forward to this event as he had missed it the last two years due to COVID issues. He stated that it is a very touching event and that he hopes others can attend as it is very special to hear what our young people have to say about those who make a difference in their lives.

Chairman Cozart stated that he wanted to express his thanks to Vice Chair May for being in Franklin County today for the memorial service for K-9 Major. He also thanked those who could be in attendance for the check presentations earlier to the fire departments. He stated that he wanted to echo again that he has family and a lot of friends in Antioch and there has been nothing but positive comments about the professionalism and concern about the recent incident. He said he wanted to take the moment to say this because he does not care what people say about law enforcement on the national level, he just wanted to say to people here, that our local people are our friends, and they work with us. He noted that it is very gratifying to hear people in our community talk so fondly about the compassion and concern of law enforcement and all of those connecting pieces — 911, firemen, and all the other services and noted that he is proud of that.

BOARD WENT INTO CLOSED SESSION

Upon a motion by Commissioner David T. Smith, seconded by Commissioner Russ May, and unanimously carried, the Board went into closed session as allowed by G.S. 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to

preserve attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

Upon a motion by Commissioner Russ May, seconded by Commissioner Jimmy Gooch, and unanimously carried, the Board returned to open session.

BOARD TOOK ACTION REGARDING ZONING AND SOLID WASTE COMPLAINTS

County Attorney Wrenn stated that he and the County Manager would like to recommend that zoning and solid waste complaints be sent by the Planning Director and Solid Waste/Environmental Programs Director with a recommendation to the County Manager for review and approval before a lawsuit is filed so the matters do not have to be brought back to the Board individually for approval.

Upon a motion by Commissioner Zelodis Jay, seconded by Commissioner Timothy Karan, and unanimously carried, the Board approved authorizing a process for zoning and solid waste complaints. Complaints will be sent to the Planning Director and/or the Environmental Services/Solid Waste Director depending on the nature of the complaint. If the Director believes the issue needs to be addressed by the County Attorney, he will forward the complaint with a recommendation to the County Manager for review before sending them to the County Attorney to file a lawsuit.

BOARD ADJOURNED

Upon a motion by Commissioner Sue Hinman, seconded by Commissioner Jimmy Gooch, and unanimously carried, the Board adjourned the meeting at 8:03 p.m.

Respectfully submitted,
Debra A. Weary, NCMCC, CMC
Clerk to the Board

APPROVED BY:

Tony W. Cozart, Chairman



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: Recognition of Service - Vickie G. Hammie

PURPOSE:

The Board will recognize Vickie Hammie for her 30 years of service with the Department of Social Services.

ATTACHMENTS:

Plaque-Hammie

ACTION TAKEN:

Vickie G. Hammie

Granville County Department of Social Services

January 8, 1992 – December 31, 2022

In Recognition of Outstanding Service

to

The Citizens of Granville County

Presented by

The Granville County Board of Commissioners

January 3, 2023



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Korena Weichel, Assistant County Manager
Department: Administration
Date: January 17, 2023
Title: **Duke Energy Foundation Grant Award Presentation**

PURPOSE:

Presentation of grant check from the Duke Energy Foundation.

BACKGROUND:

Granville County submitted two applications to Duke Energy Foundation's grant program in 2022 and was recently awarded a total of \$30,000. The County Emergency Management Department was awarded \$25,000 to purchase Automated External Defibrillators (AEDs) and to purchase other supplies used to operate emergency shelters. In addition, the Parks and Grounds Department was awarded \$5,000 to perform safety improvements to the Granville Athletic Park trail system.

Tanya Evans, District Manager for Duke Energy, is in attendance at tonight's meeting to formally present the grant awards to Granville County.



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Charissa Puryear
Department: Cooperative Extension
Date: January 4, 2023
Title: **Update from Granville County Youth Leadership Council**

PURPOSE:

To provide an update from the Granville County Youth Leadership Council (GCYLC).

BACKGROUND:

The purpose of the GCYLC is to ensure that youth in our community have a voice, but most importantly, that their voices are heard, recognized and valued. Cooperative Extension is supporting the initiative and facilitating the process. Youth have been active in pushing the initiative forward and would like to provide an update of their progress as well as their board liaison positions.

ACTION TAKEN:



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: **Public Comments**

PURPOSE:

The Granville County Board of Commissioners is committed to allowing members of the public an opportunity to offer comments and suggestions for the efficient and effective administration of government.

Public comments are limited to 3 minutes.

ACTION TAKEN:



Granville County Tax Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Jenny Griffin
Department: Tax Administration
Date: January 11, 2023
Title: Refund Request

PURPOSE:

To consider refunding incorrectly assessed taxes to Tyler Wilson.

BACKGROUND:

N.C.G.S. 105-325(a)(6) Empowers of board of county commissioners to change abstracts and tax records after board of equalization and review has adjourned OR to appraise or reappraise property when the assessor reports to the board that, since adjournment of the board of equalization and review, facts have come to the assessor's attention that render it advisable to rise or lower the appraisal of some particular property of a given taxpayer in the current calendar year.

The Tax Administrator was notified on December 14, 2022, that our office taxed Tyler Wilson's property including a house that should have been taxed on the parcel next to him. The tax office will send an adjusted bill to the landowner that has the house on their property.

RECOMMENDATION:

The Tax Administrator recommends refunding Tyler Wilson.

ATTACHMENTS:

Letter from Tyler Wilson

ACTION TAKEN:

Jenny Griffin

From: Tyler Wilson <twilson3141@gmail.com>
Sent: Wednesday, December 14, 2022 2:53 PM
To: Jenny Griffin
Subject: Tyler Wilson's Tax Refund
Attachments: Tax Refund Letter.docx

Follow Up Flag: Follow up
Flag Status: Flagged

This email originated from External Source. Please use proper judgement and caution when opening attachments, clicking links, or responding to this email.

Hello Jenny,
Attached is the letter requesting a tax refund for 1605 Wayside farm rd. Franklinton, NC 27525.
Thank you
-Tyler Wilson

Dear Jenny Griffin,

It came to my attention that the appraisal card for my parcel of land located at 1605 Wayside farm road. Franklinton, NC 27525 had an error on it. My land which consists of 10.74 acres does not have a dwelling on it. The dwelling that was shown on my appraisal card was the dwelling of my neighbor at 1607 Wayside farm road.

Thank you for your timely response to my inquiry into this matter. At your request I am writing this letter requesting a refund of the amount this discrepancy caused as I paid the incorrect amount of taxes.

The refund can be sent to:

Tyler Wilson
2300 Victoria Park Lane
Raleigh, NC 27614

Many thanks,
Tyler Wilson



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Jenny Griffin
Department: Tax Department
Date: January 3, 2023
Title: Tax Policy

PURPOSE:

To approve a policy for late exemption and exclusion application process.

BACKGROUND:

North Carolina law provides clear guidance on how property taxes are to be assessed and paid, including the processes by which local jurisdictions can receive and process applications for allowable exemptions and exclusions from property taxation. The statutory application period for exemptions is January 1st through January 31st and exclusion application period is from January 1st through June 1st. Each year we have several late applications delivered to our office.

N.C.G.S. 105-282.1(a1) states upon a showing of good cause by the applicant for failure to make a timely application, the governing board may approve the application. The statute does not clearly define just cause, but to avoid accidentally setting unhelpful precedents, staff believes that adopting the attached policy will provide the needed guidance to staff and to the County Commissioners for what would be considered just cause.

RECOMMENDATION:

The Tax Administrator recommends approving the untimely application policy.

ATTACHMENTS:

Late application policy

ACTION TAKEN:

Granville County Proposed Late Application Policy and Process
(for exclusions and exemptions from property taxes)

Inherent in owning property is the obligation of property owners to understand their rights and obligations including paying taxes and applying for all exclusion and exemptions from property taxes in a timely manner. With that principle in mind, taxpayer neglect or oversight will not constitute “good cause” for a late exemption or exclusion application.

A “late” application is any application (1) not received by the tax office before the official deadline, or (2) not bearing a clear postmark or official timestamp before the official deadline from the USPS or other recognized delivery company or common carrier such that the date of deposit with the delivery company or common carrier can be determined.

Good cause for considering a late application may include situations in which:

- The taxpayer was given incorrect information in writing regarding the matter from the tax office or the N.C. Department of Revenue; or
- The taxpayer was incompetent, incapacitated, or deployed in military service out of the country during the period in which the application should have been submitted.

The burden of proving both good cause for the late application and eligibility for the requested exemption or exclusion falls on the taxpayer.



Granville County Library

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Will Robinson
Department: Library
Date: January 13, 2023
Title: State Fiscal Recovery Fund Grant Spending

PURPOSE:

To purchase outdoor instruments from Percussion Play for the Thornton library using funds from the State Fiscal Recovery Funds (SFRF) grant.

BACKGROUND:

The Thornton Children's Librarian, Amy Carlson and part-time employee and Masters of Library and Information Science student, Lydia Fontenelle were very impressed with the outdoor instruments at the GAP and thought that they would be a great resource for the Library System.

FUNDING:

Budget line item 10-6110-511 – SFRF Aid to Public Libraries - Expenditures

RECOMMENDATION:

Library Director recommends the purchase of the outdoor instruments from Percussion Play using funds from the State Fiscal Recovery Funds grant in the amount of \$18,730.

ATTACHMENTS:

Invoice from Percussion Play Outdoor Musical instruments

ACTION TAKEN:

Pro Forma



Percussion Play Ltd
Staple Ash Lane
Froxfield
Hampshire
GU32 1DJ

UK/ROW +44 (0) 1730 235180
USA/CAN +1 (866) 882-9170

info@percussionplay.com
www.percussionplay.com

Invoice Number: Pro Forma

Invoice Date: 05/12/2022

Payment due by: Pro Forma

Invoice To:
Granville County Library System
Richard H. Thornton Library
210 Main Street
Oxford
NC
27565
United States of America
Contact: Lydia Fontenelle
Tel: 919 693 1121
Email: lydia.fontenelle@granvillecounty.org
Tax ID: 0
Purchase Order Number QU/91937
Customer Job Reference Richard H. Thornton Library, NC

Deliver To:

Invoice Address

Our Job Reference SO/18098
Order Received Date 05-Dec-2022

Part Number:	Part Description:	Part Text:	Qty:	Disc. %	Unit Price:	Value:
PLEASE NOTE: PRODUCTION WILL NOT COMMENCE UNTIL THIS PRO FORMA HAS BEEN PAID. PLEASE REMIT PAYMENT BY 12-Dec 22 SEND REMITTANCE ADVICE TO accounts@percussionplay.com						
PPHDTRIOENSEMGR	Heavy Duty Trio Ensemble (Ground Fix)	Comprised of (See Below)	1	0.00%	10,215.00	10,215.00
PPBABLLGXG	Babel Drum (Large) - G-Major (Ground Fix)		1	0.00%	0.00	0.00
PPRSAMSTHG	Heavy Duty Rainbow Sambas (Set of 5) - (Ground Fix)	Standard Colours	1	0.00%	0.00	0.00
PPTBELSTXG	Tubular Bells (Set of 7) - Silver (Ground Fix)		1	0.00%	0.00	0.00
PPCAVARBHG	Heavy Duty Cavatina - Rainbow (Ground Fix)	Black	1	0.00%	3,585.00	3,585.00
PPSUNFXXXG	Sunflower Petal Drum (C-Pygmy) (Ground Fix)		1	0.00%	2,330.00	2,330.00
PPMUSI8SXG	Music Book (8 Scores) (Ground Fix)		1	0.00%	2,600.00	2,600.00
601768	Music Book Page 1, Side A - Jesu, Joy of Man's Desiring, Side B - Ode To Joy		1	0.00%	0.00	0.00
601769	Music Book Page 2, Side A - Old MacDonald Had A Farm, Side B - Twinkle Twinkle		1	0.00%	0.00	0.00
601772	Music Book Page 5, Side A - Amazing Grace, Side B - When The Saints Go Marching In		1	0.00%	0.00	0.00
601775	Music Book Page 8, Side A - Itsy Bitsy Spider, Side B - It's Raining, It's Pouring		1	0.00%	0.00	0.00
PACKDEL	Packaging and Delivery/Freight	ALA Free Shipping Offer Incoterms DDP (Duties and Taxes Paid)	1	0.00%	0.00	0.00
THE EXPORTER OF PRODUCTS COVERED BY THIS DOCUMENT (EORI GB 130599708000) DECLARES THAT, EXCEPT WHERE OTHERWISE CLEARLY INDICATED, THESE PRODUCTS ARE OF UK (UNITED KINGDOM) PREFERENTIAL ORIGIN.						

Account Name: PERCUSSION PLAY LTD
Sort Code: ABA: #075900575 | Account Number: #2915134890
IBAN:

Bank Name: Associated Bank, N.A.
Branch Name:
BIC: SWIFT: ABGBUS44

Sub Total USD (Excl. TAX) 18,730.00
0.00% TAX 0.00
Total USD (Incl. TAX) 18,730.00

We reserve the right to charge interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 for all overdue debts. All products remain the property of the seller until paid for in full.
File Path: F:\Percussion Play\Production\SALES ORDERS\SO_18000-18099\SO_18098 (GRAN004) (Pro Forma)
Last Printed/Modified: 05/12/2022 10:20



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Will Robinson
Department: Library
Date: January 13, 2023
Title: Food Literacy Center Mini-Grant

PURPOSE:

To consider the purchase of a mobile kitchen using Food Literacy Center Mini-Grant funds.

BACKGROUND:

The Granville County Library System was one of five applicants chosen to receive the Food Literacy Center Mini-Grant for a mobile kitchen called a Charlie Cart. We were awarded \$16,930 of which \$15,000 will be applied to the purchase of the mobile kitchen per the attached award letter.

FUNDING:

Food Literacy budget line item 10-6110-694.

RECOMMENDATION:

Library Director recommends the purchase of a mobile kitchen with funding from the Food Literacy Center Mini-Grant in the amount of \$15,000.

ATTACHMENTS:

Award Letter
Charlie Cart Invoice

ACTION TAKEN:

12/01/2022

Amy Carlson
Children's Services Librarian
Granville County Library System
210 Main Street
Oxford, NC 27565-3321

Re: Food Literacy Center Mini-Grants - Spice & Dice Program

Dear Amy,

Congratulations! The State Library is pleased to inform you that this application has been approved for funding in the amount of **\$16,930.00**. Reviewers felt the proposal demonstrated good use of partners, covers a wide age-range and types of dietary adjustments. Holding programs outside of the library to reach underserved populations and encouraging use of other library services via exposure lends strength to the application. However, the timeline will need to be adjusted to fit the grant period, December 2022 through June 2023.

To make it easier for signatures to be gathered in a timely fashion, agreements are sent via DocuSign. How DocuSign works: the Library Director receives the documentation first, then after checking the cover page for accuracy and filling in any missing information, attach any other necessary documents, and then sign the agreement. The agreement is then automatically sent to the 2nd signer, which is the Local Government or Institutional Representative for the awarded library.

Once that person signs, the agreement package is then sent automatically to the State Librarian for execution. Once the State Librarian has signed, all parties receive a completed copy from DocuSign. Please keep this for your records, you will not receive a copy in the mail. LSTA Staff will then email the Project Manager a notification that spending may begin, which includes important information about administering the grant, and any necessary attachments.

Keep in mind that:

- The library's authorized representatives AND the State Librarian must sign the Grant Agreement for the grant to be considered fully executed; thereby completing the awarding of funds. Funds cannot be encumbered or spent until you have been notified that spending may begin.
- The Project Manager is the primary contact between your library and the State Library for the life of the project. It is expected that when questions arise about expenditures, reimbursements, reporting, and anything else related to the grant, the Project Manager will be the State Library's

Roy Cooper, Governor
D. Reid Wilson, Secretary
Michelle Underhill, State Librarian
Susan Forbes, Asst. State Librarian

Physical Address
109 East Jones Street
Raleigh, NC 27601
(919)-814-6780

Mailing Address
4640 Mail Service Center
Raleigh, NC 27699-4600

primary point of contact. It is the library's responsibility to notify the State Library of changes in Project Manager information.

- You are required to [credit IMLS](#) and the State Library (see statement below) in all related purchases, publications, and activities in conjunction with the use of the grant funds.

"This grant is made possible by funding from the federal Institute of Museum and Library Services (IMLS) under the provisions of the Library Services and Technology Act (LSTA) as administered by the State Library of North Carolina, a division of the Department of Natural and Cultural Resources (IMLS grant number LS-252476-OLS-22)."

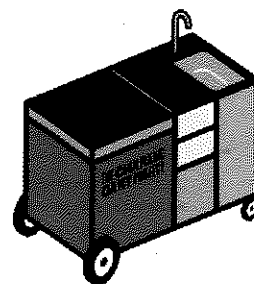
Please let me know if you have any questions.

Sincerely,

Jasmine Rockwell, Youth Services Consultant

The Charlie Cart Project
 1442A Walnut Street #469
 Berkeley, CA 94709 US
 info@charliecart.org
 www.charliecart.org

Invoice



BILL TO

Amy Carlson
 Richard H. Thornton Library
 210 Main Street
 Oxford, NC 27565

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
1483	01/12/2023	\$15,000.00	02/11/2023	Net 30	

CCP CONTACT

info@charliecart.org

ACTIVITY	QTY	RATE	AMOUNT
Charlie Cart Charlie Cart Project Mobile Kitchen, Tools and Curriculum	1	14,250.00	14,250.00
Shipping	1	750.00	750.00

Thank you for supporting the Charlie Cart Project! We accept ACH or check payments. You may pay by ACH via this invoice or send a check to 1442A Walnut Street, #469, Berkeley, CA 94709. Please contact info@charliecart.org with any questions.

Thank you for supporting food education in your community!

BALANCE DUE

\$15,000.00

We appreciate your timely payment. Please note: Payment terms are 30 days from date of delivery. A late fee of 1% will be assessed for each week following payment due date.

By paying this invoice you agree to the Terms and Conditions of Purchase as stated on the Charlie Cart Project website at www.charliecart.org.

We look forward to working with you!

VENDOR #	46086	INV #	1483
VENDOR NAME	The Charlie Cart Project		
ACCT #	10-6110-694	PO #	31747
TAX \$	TOTAL \$ 15,000.00		
(DEPT)	(FIN)		



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Sheriff Robert Fountain
Department: Sheriff's Office
Date: January 12, 2023
Title: Purchase Request for Two Official Use Vehicles

PURPOSE:

To receive approval for the purchase of two (2) Official Use Vehicles for the Granville County Sheriff's Office. The request is as follows:

- The Sheriff's Office is requesting to expend up to \$78,904.56 in federal asset forfeiture funds to purchase two (2) Official Use Vehicles. The purchase will be conducted with the Capital Chevrolet Government Sales Division utilizing NC State Contract 070A.

BACKGROUND:

The Sheriff's Office is in the process of outfitting the existing fleet with vehicles that can meet service requirements during hazardous weather events. The acquisition of 4-wheel drive vehicles will meet this need and provide the Sheriff's Office with an increased response capability when road conditions are hazardous.

The purchase of vehicles is authorized by the federal forfeiture program as an anticipated expenditure to support law enforcement operations (*U.S. Department of Justice and U.S. Department of the Treasury Guide to Equitable Sharing 2018*). Additionally, the expenditure meets the DOJ and Treasury requirement that equitable sharing funds be used in a timely manner.

Pricing was received for the equipment listed above:

- | | |
|--|--------------------|
| ▪ Capital Chevrolet Inc.: 2023 Chevrolet Tahoe 4WD | \$39,616.78 |
| 2023 Chevrolet Tahoe 4WD | <u>\$39,287.78</u> |

Total: \$78,904.56

A copy of the recommended estimated quote is attached for your reference.

FUNDING:

Asset Forfeiture funds are available for this purchase and are in line with the required annual spending plan specified by the U.S. Department of Justice and U.S. Treasury Department.

RECOMMENDATION:

The Sheriff recommends approval of the purchase of two (2) Official Use Vehicles in the amount of \$78,904.56 utilizing Asset Forfeiture funds.

ATTACHMENTS:

Quote for White Tahoe

Quote Black Tahoe

ACTION TAKEN:

Capital Chevrolet Inc.

Government Sales Division

January 10, 2023

Rod Mitchell Government Account Manager
Office 919-573-8530
rmitchell@capitalchevroletnc.com

NC State Contract 070A

2023 Chevrolet Tahoe 4 Dr 1500 PPV 4WD 9C1 CK10706 \$38,313.00

Colors available: White

AMF 4 additional remotes not programmed	\$ 70.50
6C7 Aux Red & White Dome Light driver & passenger	\$ 300.80
6J3 WIRING FOR GRILLE LAMPS & SPEAKERS	\$ 86.48
7X3 LEFT HAND SPOTLIGHT	\$ 752.00
BCV Auto door lock disable	\$ 47.00
V76 Recovery Hooks	<u>\$ 47.00</u>

TOTAL PRICE: \$39,616.78

Remit to:
rmitchell@capitalchevroletnc.com
Capital Chevrolet of Wake Forest
9820 Capital Blvd
Wake Forest, NC 2758

Capital Chevrolet Inc.

Government Sales Division

January 10, 2023

Rod Mitchell Government Account Manager
Office 919-573-8530
rmitchell@capitalchevroletnc.com

NC State Contract 070A

2023 Chevrolet Tahoe 4 Dr 1500 PPV 4WD 9C1 CK10706 \$38,313.00

Colors available: Black

AMF 4 additional remotes not programmed	\$ 70.50
6C7 Aux Red & White Dome Light driver & passenger	\$ 300.80
6J3 WIRING FOR GRILLE LAMPS & SPEAKERS	\$ 86.48
6J4 WIRING FOR HORN & SIREN CIRCUIT	\$ 51.70
9G8 Daytime running lamps and automatic headlamp control delete	\$ 47.00
PQA Driver safety package	\$ 371.30
V76 Recovery Hooks	<u>\$ 47.00</u>

TOTAL PRICE: \$39,287.78

Remit to:
rmitchell@capitalchevroletnc.com
Capital Chevrolet of Wake Forest
9820 Capital Blvd
Wake Forest, NC 2758



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Sheriff Robert Fountain
Department: Sheriff's Office
Date: January 12, 2023
Title: Purchase Request for Two Official Use Vehicles

PURPOSE:

To receive approval for the purchase of two (2) Official Use Vehicles for the Granville County Sheriff's Office. The request is as follows:

- The Sheriff's Office is requesting to expend up to \$104,000.00 from the Sheriff's Office General Fund Account #10-4310-540 (Capital Outlay Cars) to purchase two (2) Official Use Vehicles. The purchase will be conducted through a Chevrolet government sales contract.

BACKGROUND:

The Sheriff's Office is in the process of outfitting the existing fleet with vehicles that can meet service requirements during hazardous weather events. The acquisition of 4-wheel drive vehicles will meet this need and provide the Sheriff's Office with an increased response capability when road conditions are hazardous.

Pricing was received for the equipment listed above:

- Modern Chevrolet: 2023 Chevrolet Silverado 4X4
Stock #1N4387 \$ 52,000.00
2023 Chevrolet Silverado 4X4
Stock #1N4384 \$ 52,000.00
Total: \$104,000.00

A copy of the recommended estimated quote is attached for your reference.

FUNDING:

Funds are available for this purchase from the Sheriff's Office General Fund, Account #10-4310-540 (Capital Outlay Cars).

RECOMMENDATION:

The Sheriff recommends approval for the purchase of two (2) Official Use Vehicles in the amount of \$104,000.00 utilizing the Sheriff's Office General Fund Account.

ATTACHMENTS:

Quote - Modern Chevrolet

ACTION TAKEN:

MODERN CHEVROLET
5955 UNIVERSITY PARKWAY
WINSTON-SALEM, NC 27105

QUOTE

IN TRANSIT

Bill To:

COUNTY OF GRANVILLE
525 NEW COMMERCE DRIVE
OXFORD, NC 27565

Date: Jan 12, 2023

PO Number: 000151062

Balance Due: \$104,000.00

Item	Quantity	Rate	Amount
2023 CHEVROLET SILVERADO LT CREW CAB 4X4 VIN:2GCUDD8P1121303 STOCK # 1N4387	1	\$52,000.00	\$52,000.00
2023 CHEVROLET SILVERADO LT CREW CAB 4X4 VIN 2GCUDD8XP1121271 STOCK# 1N4384	1	\$52,000.00	\$52,000.00

Subtotal: \$104,000.00

Tax (0%): \$0.00

Total: \$104,000.00

Notes:

NO TAXES, TITLE, REGISTRATION, DOC FEES ARE INCLUDED IN PRICE

:

PLEASE SIGN BELOW FOR INTENTION OF PURCHASE AND EMAIL THIS QUOTE WITH PURCHASE ORDER
AND COPY OF YOUR BUSINESS CARD TO ABSHERCHIP@GMAIL.COM



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Jason Falls
Department: Environmental Programs Director
Date: January 12, 2023
Title: **Approval of Contract for Engineering Oversight for Construction of Leachate Tank No. 2**

PURPOSE:

Board approval for engineering oversight for the construction of Leachate Tank No. 2

BACKGROUND:

The Board approved the construction of an additional leachate tank at their regular meeting in August. The additional tank that was approved is designed to accommodate the increased flow of leachate due to the new cell being constructed. The attached scope of work (identified as Task Order #10) discusses services and the associated costs for engineer review of design and construction oversight for this additional leachate tank. These services are required by the state for our “permit to construct” as well as a “permit to operate”.

Additional background information regarding this request includes: Board summary of leachate tank need/procurement history, Board award/approval of tank construction, notice of award to contractor, an executed contract between county and contractor, as well as a notice to proceed letter. The majority of the work will begin and end in February of 2023.

FUNDING:

County Administration recommends using General Fund Balance to loan an additional \$45,663.00 to the already approved loan of \$4,000,000 at 1% over a 7-year period to the Solid Waste Enterprise Fund for the construction and engineering costs associated with the proposed 8-acre cell.

RECOMMENDATION:

The Environmental Services Director recommends approval of the scope of work and associated funding and authorizes the County Manager to execute the resulting contract once the County Attorney and Engineer have finished working out the contract details at the amount of \$45,663.00. No contingencies are expected with this contract.

ATTACHMENTS:

Attachment
Board Approval Leachate Tank #2 Procurement/Approval
Notice of Board Approval
Notice of Intent to Award

Haren Executed Contract
Notice to Proceed

ACTION TAKEN:

TASK ORDER NO. 10
BETWEEN
OWNER AND ENGINEER
FOR PROFESSIONAL ENGINEERING SERVICES

FURTHER DESCRIPTION OF BASIC ENGINEERING SERVICES,
AND RELATED MATTERS

This Task Order is hereby included as an addition to and incorporated as part of the Professional Services Contract, dated December 2020 between Granville County (OWNER), and Garrett & Moore, Inc. (ENGINEER) for professional services.

SERVICES DURING CONSTRUCTION
FOR THE GRANVILLE COUNTY
OXFORD LANDFILL
LEACHATE TANK NO. 2

1. The Basic Services of ENGINEER for this Task Order are as follows:

TASK 1 - CONSTRUCTION CONTRACT DOCUMENTS

Under this task, ENGINEER will prepare and facilitate the execution of the Contract Documents for the CONTRACTOR and OWNER. ENGINEER will complete the following items:

1. Revise the Contract Documents to reflect OWNER requested changes to the scope of the Project. Engineer will revise the construction drawings, technical specifications, and bid forms to eliminate leachate tank equipment, revise electrical requirements and revise leachate tank piping.
2. Review the Contract Documents with the OWNER and incorporate any changes into the final documents;
3. Review proposed changes with the CONTRACTOR prior to sending final documents for execution;
4. Review the CONTRACTOR's executed Agreements including the Performance and Payment Bond, Financial Statement, Insurance coverages, etc; and
5. Forward approved contracts to the OWNER for signature and distribute fully executed contracts to all parties.

ENGINEER will prepare conformed Project Plans and Technical Specifications, which will include technical revisions and clarifications issued during bidding, and distribute Electronic (.pdf) copies to the CONTRACTOR and OWNER.

TASK 2 - PRE-CONSTRUCTION CONFERENCE

ENGINEER will conduct a web-based Pre-Construction Conference. At the pre-construction conference, ENGINEER will assist the OWNER to define procedural guidelines and specific project requirements. Among the items to be addressed are: correspondence distribution, shop drawing and scheduling procedures, Notice-to-Proceed date, critical schedule requirements, staging areas, emergency procedures, and quality control procedures.

TASK 3 - ADMINISTRATION OF THE CONSTRUCTION CONTRACT

ENGINEER will consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to CONTRACTOR will be issued through ENGINEER, who shall have authority to act on behalf of OWNER in dealings with CONTRACTOR to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.

Under this task, ENGINEER will act on behalf of the OWNER and act as its representative during the construction period. ENGINEER will provide contract administration required for the Project, including:

1. Carry out the duties and responsibilities as stated in the General Conditions and Supplemental conditions of the construction contract;
2. On behalf of the OWNER, ENGINEER shall administer the construction contract, responding to CONTRACTOR's correspondence, and issuing instructions from the OWNER; maintain a complete document file for the project. Documents to be maintained include, but are not limited to: correspondence, quality assurance & quality control procedures, quality control testing for soils, inspection records, shop drawings, change orders, scheduling, project meetings, costs and disbursement data, progress reports and all other documents pertaining to the construction contract.

The fee for this task is based on a 180-calendar-day construction contract time. If conditions of the Agreement or the scope of the work defined in the Agreement between the CONTRACTOR and OWNER is modified such that the contract time is modified, then ENGINEER and OWNER may negotiate a modification to the fee for this task.

TASK 4 - PROGRESS MEETINGS

During the estimated 180-calendar day construction period, ENGINEER will conduct progress meetings monthly (either web-based or in person) from Notice-to-Proceed through Substantial Completion. It is assumed the purpose of the progress meetings is to address items such as: scheduling slippages, coordination problems, design issues, pending change orders, outstanding shop drawings, procurement delays, and any other

issues related to completion of the project. This task assumes a total of 6 progress meetings.

If conditions of the Agreement or the scope of the work defined in the Agreement between the CONTRACTOR and OWNER is modified such that the contract time is modified, then ENGINEER and OWNER may negotiate a modification to the fee for Task 4.

TASK 5 - SHOP DRAWING REVIEW

ENGINEER will review and approve (or take other appropriate action with respect to) Shop Drawings and samples, the results of tests and inspections, and other data, which the Contractor is required to submit in accordance with the Contract Documents. Included in the shop drawing review is the assessment of alternates proposed by the CONTRACTOR. All alternate requests will be carefully scrutinized for conformance with the Contract Specifications. During construction, ENGINEER will maintain a file with an electronic copy of all shop drawings (including as-built documents) for submission to the OWNER upon completion of the project.

TASK 6 - CHANGE ORDERS AND DESIGN CLARIFICATIONS

ENGINEER will provide services in connection with change orders to the construction contract that reflect minor changes or deletions requested by the OWNER, ENGINEER, or the CONTRACTOR. An accurate listing of additional costs and credits as a result of change orders will be maintained by ENGINEER. Upon receipt of a requested change order, it will be reviewed with the OWNER. Larger changes or claims asserted by CONTRACTOR and redesigns requested by the OWNER or CONTRACTOR may require additional fees, analyses, or evaluation beyond the scope of this Agreement.

A necessary part of any construction project is the preparation of design clarifications and other routine supplementary information. This work will be performed by the ENGINEER. On behalf of the OWNER, ENGINEER will issue necessary interpretations and clarifications of the Contract Documents; act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work there under and make decisions on claims of the OWNER and ENGINEER relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work.

TASK 7 - REVIEW PROGRESS PAY REQUESTS

Based on our on-site observations and review of the applications for progress payment and the accompanying data and schedules; ENGINEER will evaluate the percentage of completion submitted by the CONTRACTOR and recommend in writing payments to CONTRACTOR in the appropriate amount.

ENGINEER will determine the amounts that ENGINEER recommends CONTRACTOR be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of

ENGINEER's knowledge, information and belief, the Work has progressed to the point indicated, the quality of such is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Contract Documents).

By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of the Work as it is performed and furnished have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of the Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control the Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or CONTRACTOR's compliance with Laws and Regulations applicable to the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

The fee for this task assumes a 180-calendar day construction period, and progress payment application by the CONTRACTOR of no more frequent than monthly. A total of six (6) progress payment applications are budgeted for this task.

If conditions of the Agreement or the scope of the work defined in the Agreement between the CONTRACTOR and OWNER is modified such that the contract time is modified, then ENGINEER and OWNER may negotiate a modification to the fee for Task 7.

TASK 8 - CONSTRUCTION QUALITY ASSURANCE (CQA) SERVICES

The purpose of this task is to observe and document the progress of construction for consistency with the project technical specifications.

ENGINEER will provide overall construction quality assurance (CQA) project management for the project to include:

- Visit the project site during critical stages of construction related to the installation

of the leachate sump pump, leachate tank, and appurtenances. For this task, twelve (12) site visits by the CQA Engineer are budgeted.

TASK 9 - CONTRACT CLOSEOUT

When the Work is found to be substantially complete as defined in the Contract General Conditions and acceptable, ENGINEER will provide a certification that the project has been completed in substantial accordance with the Contract Documents.

Upon receipt and approval of all required surveys, final verified quantities, and CONTRACTOR's final Construction Quality Control report, ENGINEER will prepare a final Contract Settlement which recognizes the final Contract Price and Contract Time for execution by OWNER and CONTRACTOR.

ENGINEER will recommend final payment to the CONTRACTOR based upon the executed final Contract Settlement.

TASK 10 - FINAL INSPECTION

At completion, notification and request of the CONTRACTOR, ENGINEER will conduct a walk-through inspection with the CONTRACTOR to determine if the Project has reached completion and prepare a punch list of work items remaining. ENGINEER will conduct one final inspection to determine if the work is acceptable; at the appropriate time ENGINEER will recommend in writing final payment to CONTRACTOR and give written notice to the OWNER and the CONTRACTOR that the work is acceptable. A certification will be provided that the project has been completed in accordance with the bid plans and specifications to the best of our knowledge.

2. The responsibilities of OWNER are as follows:

1. Review all project deliverables in a timely manner and forward submittals to ENGINEER as appropriate.

2. The time period for the performance of ENGINEER's services are as follows:

- Task 1 will be completed within 14 days following award of the construction project
- Task 2 will be completed as agreeable to the OWNER and the CONTRACTOR.
- Tasks 3 through 10 will be initiated with the CONTRACTOR's Notice-to-proceed and will proceed based on a 180-calendar day construction schedule.

4. The method of payment for services rendered by ENGINEER shall be set forth as follows:

SEE ATTACHED SPREADSHEET – TABLE 1

5. OWNER has established the following special provision and/or other consideration or requirements in respect to the Assignment.

None.

IN WITNESS WHEREOF, the parties hereto have executed this Task Order to be effective as of the date executed by OWNER.

FOR THE OWNER:

Granville County

By: _____

Name: _____

Title: _____

Date: _____

FOR THE ENGINEER:

Garrett & Moore, Inc.

By: Bernie Garrett

Name: Bernie Garrett, P.E.

Title: Project Manager

Date: October 24, 2022

TABLE 1
TASK ORDER NO. 10
SERVICES DURING CONSTRUCTION
FOR THE
GRANVILLE COUNTY OXFORD LANDFILL
LEACHATE TANK NO. 2

TASK / DESCRIPTION	FEE \$
TASK 1 - CONSTRUCTION CONTRACT DOCUMENTS	\$ 3,560
TASK 2 - PRE-CONSTRUCTION CONFERENCE	\$ 570
TASK 3 - ADMINISTRATION OF THE CONSTRUCTION CONTRACT	\$ 8,550
TASK 4 - PROGRESS MEETINGS	\$ 7,928
TASK 5 - SHOP DRAWING REVIEW	\$ 7,300
TASK 6 - CHANGE ORDERS AND DESIGN CLARIFICATIONS	\$ 1,000
TASK 7 - REVIEW PROGRESS PAY REQUESTS	\$ 2,675
TASK 8 - CQA SERVICES	\$ 9,870
TASK 9 - CONTRACT CLOSEOUT	\$ 1,710
TASK 10 - FINAL INSPECTION	\$ 2,500
TASK ORDER TOTAL	\$ 45,663



Granville County Environmental Services

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Jason Falls
Department: Environmental Services
Date: August 2, 2022
Title: Leachate Tank Purchase Request

PURPOSE:

Review and approve bid for Leachate Tank-Phase 2.

BACKGROUND:

The Leachate Tank Project was bid separately due to the project being described as “specialty work” and was therefore not included in the Landfill Construction Bid Documents. Garrett and Moore, our engineering firm, reached out to tank suppliers as well as water and sewer contractors for advertising bids. After advertisement, one bid was received from Haren Construction. The bid remained sealed and given back to the lone contractor. A second bid opening was advertised and again Haren Construction was the lone bidder. The proposal was opened publicly and read aloud at a price of \$1,242,000.

Staff discussed concerns over the high cost of the submittal (i.e. electrical and mechanical costs) and advised Garrett and Moore to work with lone bidder on providing just the tank while removing some of the before mentioned costs. After consulting with Haren Construction, a price of \$692,250 was submitted.

With the addition of 8 acres of open cell for the next year or two, leachate quantities will increase significantly, further requiring this additional tank to adhere to all state and federal environmental regulations.

FUNDING:

County Administration recommends using General Fund Balance to loan an additional \$692,250 to the already approved loan of \$4,000,000 at 1% over a 7-year period to the Solid Waste Enterprise Fund for the construction and engineering costs associated with the proposed 8-acre cell.

RECOMMENDATION:

The Environmental Services Director recommends awarding the construction contract to Haren Construction at its bid amount of \$692,250.00. No contingencies are expected with this contract.

ATTACHMENTS:

Bid Letter
Bid Tabulation

ACTION TAKEN:

From: [Debra Weary](#)
To: [Jason Falls](#)
Cc: [Doug Logan](#); [Korena Weichel](#); [Steve McNally](#); [Vivian Wright](#)
Subject: August 8, 2022 Board Action - Leachate Tank Purchase
Date: Monday, August 22, 2022 4:13:01 PM
Attachments: [image001.jpg](#)

During the regular meeting on August 8, 2022, the Granville County Board of Commissioners took the following action regarding the Environmental Services Department:

- Approved awarding the construction contract for the leachate tank purchase to Haren Construction in the amount of \$692,250.00 with funding from the General Fund Balance to loan an additional \$692,250 to the already approved loan of \$4,000,000 at 1% over a 7-year period to the Solid Waste Enterprise Fund for the construction and engineering costs associated with the proposed 8-acre cell.

If you have any questions, please let me know.

Debra A. Weary, NCMCC, CMC
Clerk to the Board
Executive Assistant
104 Belle Street
P.O. Box 906
Oxford, NC 27565
919-603-1307
www.granvillecounty.org





COUNTY OF GRANVILLE, NORTH CAROLINA

August 22, 2022

Mr. Richard Kesler
Haren Construction Company Inc.
1715 Highway 411 North
Etowah, TN 37331

RE: Notice of Intent to Award - Granville County Oxford MSW Landfill
Leachate Tank No. 2

Dear Mr. Kesler:

During a regular scheduled meeting held on August 8, 2022, the Granville County Board of Commissioners approved awarding a construction contract for the Oxford MSW Landfill Leachate Tank No. 2 project to Haren Construction Company, Inc. in the amount of \$692,250. Please forward the performance bond, payment bond, and insurance certificates to me as soon as possible so that the contract may be executed by both parties next week.

As you are aware, we are on a tight timeline and look forward to working with you on this project and completing it on schedule. If you have any questions and/or need further information, please do not hesitate to contact me at (910) 691-0928.

Respectfully,

Jason Falls

Jason Falls
Environmental Services Director

CONSTRUCTION CONTRACT

**GRANVILLE COUNTY
OXFORD MSW LANDFILL
LEACHATE TANK NO. 2**

THIS AGREEMENT, made the th day of **AUGUST** in the year of 2022 by and between **Haren Construction Company Inc.**, hereinafter called the "Contractor" and **GRANVILLE COUNTY**, a body politic and corporate of the State of North Carolina, hereinafter called the "Owner" or "County".

WITNESSETH:

That the Party of the First Part and the Party of the Second Part for the consideration herein named agree as follows:

1. Scope of Work: The Contractor shall furnish and deliver all of the materials, and perform all of the work in the manner and form as provided by the following enumerated plans, specifications and documents, which are attached hereto and made a part thereof as if fully contained herein:
 - a. This Agreement
 - b. Advertisement
 - c. Pre-bid meeting notes dated April 29, 2022
 - d. Project and Specifications Manual, for the Granville County Oxford MSW Landfill Leachate Tank No. 2 dated April 2022 (Revised August 2022)
 - e. Project Drawings, for the Granville County Oxford MSW Landfill Leachate Tank No. 2 dated April 2022 (Revised August 2022)
 - f. Addendum #4 dated May 17, 2022 (Only applicable addenda to Contractor's revised proposal are included).
 - g. Proposal by Contractor consisting of the following:
 - i. Form of Proposal
 - ii. Identification of HUB Certified/ Minority Business Participation
 - iii. Granville County Affidavit A—Listing Good Faith Efforts
 - iv. Bid Bond and Power of Attorney
 - h. Contractor's Schedule of Work with a time for completion of **180** days from the date a notice to proceed is issued, per the requirements of the Supplementary General Conditions
 - i. Certificate of Insurance (workers' compensation, public liability, property damage, and builder's risk insurance certificate)
 - j. Payment Bond
 - k. Performance Bond
 - l. Power of Attorney
 - m. Granville County—Affidavit C—Portion of the Work to be Performed by HUB Certified/Minority Businesses
 - n. Any other documents listed in this Agreement
 - o. Modifications issued after the execution of this Agreement

The foregoing documents are collectively referred to as the "Contract Documents". Defined terms in the Contract Documents shall have the same meaning herein to the extent not in conflict with any term or provision of this agreement. Additional Contract Documents may be incorporated into this Agreement by written acknowledgement of both parties indicating that the parties intend that said documents be incorporated into this Agreement.

2. That the Party of the First Part shall commence work to be performed under this agreement on a date to be specified in a written order of the Party of the Second Part and shall complete all work hereunder within 180 consecutive calendar days from said date per the requirements of the Supplementary General Conditions. For each day in excess of thereof, liquidated damages shall be as stated in Supplementary General Conditions. The Party of the First Part, as one of the considerations for the awarding of this contract, shall furnish to the Party of the Second Part a construction schedule setting forth planned progress of the project broken down by the various divisions or part of the work and by calendar days as outlined in Article 14 of the General Conditions of the Contract.

3. The Owner hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the specifications or proposal including adjustments based on unit prices, in lawful money of the United States as follows: \$ 692,250 Dollars and in words: **Six Hundred and Ninety-Two Thousand Two Hundred Fifty Dollars** (the "Contract Sum") consisting of the base bid and all alternates.

4. In accordance with Article 31 and Article 32 of the General Conditions of the Contract, the Owner shall review, and if approved, process the Contractor's pay request within 30 days upon receipt from the Designer. The Owner, after reviewing and approving said pay request, shall make payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, less five percent (5%) of the amount of such estimate which is to be retained by the Owner until all work has been performed strictly in accordance with this Agreement and until such work has been accepted by the Owner. The Owner may elect to waive retainage requirements after 50 percent of the work has been satisfactorily completed on schedule as referred to in Article 31 of the General Conditions.

5. Upon submission by the Contractor of evidence satisfactory to the Owner that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within thirty (30) days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the Owner.

6. It is further mutually agreed between the parties hereto that if at any time after the execution of this Agreement and the surety bonds for its faithful performance, the Owner shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the Owner so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the Owner. In such event no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Owner.

7. Contractor warrants that it is and shall at all times remain in compliance with the "EVerify" provisions of Article 2, Chapter 64 of the North Carolina General Statutes. Further, Contractor shall require that all subcontractors providing services related to this Contract be and remain in compliance with Article 2, Chapter 64 of the North Carolina

General Statutes. Failure to meet the requirements of this paragraph shall be an event of default hereunder.

8. Contractor represents that as of the date of this Agreement, Contractor is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Contractor also represents that as of the date of this Agreement, Contractor is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise one and the same instrument. This Agreement may be executed and delivered by facsimile or email/pdf. The parties agree to accept a digital/electronic image of this Agreement as executed, as a true and correct original and admissible as best evidence for the purposes of State law, Federal Rule of Evidence 1002, and the like statutes and regulations.

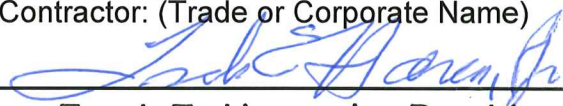
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and date first above written.

Witness:

Haren Construction Co., Inc.

Contractor: (Trade or Corporate Name)

By: 

Title: **Frank E. Haren Jr.-President**
(Owner, Partner, or Corp. Pres. or Vice Pres. only)

Attest: (Corporation) N/A

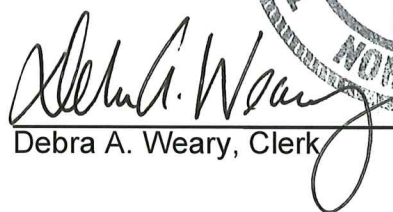
By: 

Title: **Andrew R. Haren-Corp. Sec.**
(Corp. Sec. or Asst. Sec. only)

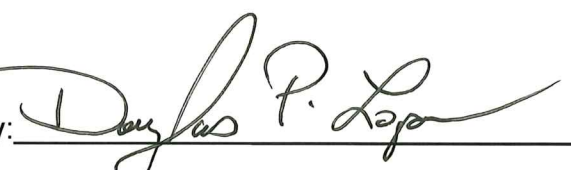
GRANVILLE COUNTY.

A Body of Politic and Corporate of the State of North Carolina

Witness:


Debra A. Weary, Clerk

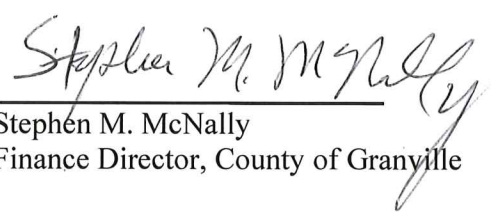


By: 

County Manager

PRE-AUDIT CERTIFICATION

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.


Stephen M. McNally
Finance Director, County of Granville

Executed in two (2) original counterparts

Bond No. 107680458

PRINCIPAL: Haren Construction Company, Inc.

SURETY: Travelers Casualty and Surety Company of America

OBLIGEE: **Granville County**, a body politic and corporate of the State of North Carolina

PROJECT: Granville County Oxford MSW Landfill - Leachate Tank No. 2 Project

BOND AMOUNT: \$692,250.00

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

"THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, numbered as shown above and hereto attached: "NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

"IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body."

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Haren Construction Company, Inc.

(Name of Principal)

[Execution by Principal when the Principal is a corporation]

By: 

Title of officer: **Frank E. Haren Jr. - President**

(Affix Principal's corporate seal.)

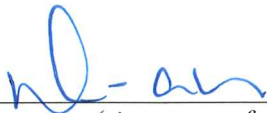
[Execution by Principal when the Principal is a limited liability company]

By: _____
 Manager of Principal

[Surety's execution]

Travelers Casualty and Surety Company of America

 (Name of Surety)



 (signature of attorney in fact) D-Ann Kleidosty, Attorney-in-Fact
 (Affix Surety's corporate seal.)

(Instructions to Surety and Principal: If you use a raised corporate seal, press hard enough to make it legible.)

ACKNOWLEDGMENT OF DEVELOPER'S EXECUTION OF PERFORMANCE BOND

[Acknowledgment when the Developer (the Principal) is a corporation]

State of _____

County of _____

I, a notary public in and for the aforesaid county and state, certify that _____
 _____ personally appeared before me this day and stated that he
 or she is

(strike through the inapplicable): chairperson/ president/ chief executive officer/ vice-president/
 assistant vice-president/ treasurer/ chief financial officer of

_____, a
 corporation, and that by authority duly given and as the act of the corporation, he or she signed
 the foregoing Performance Bond and the corporate seal was affixed to said instrument(s). This
 the ____ day of _____, 20__.

My commission expires: _____

Notary Public

[Acknowledgment when the Developer (the Principal) is a limited liability company]

State of _____

County of _____

I, _____, a notary public for said county and state, certify
 that _____ (1) appeared before
 me this day, (2) stated that he or she is a manager of

_____, a limited
 liability company, (3) acknowledged that the foregoing Performance Bond carry on the
 company's business in the usual way, and (4) acknowledged the due execution of the
 Performance Bond on behalf of the company.

This the ____ day of _____, 20__.

My commission expires: _____

Notary Public

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF PERFORMANCE BOND

State of Florida
 County of Santa Rosa

I, Maria Concepcion, a notary public in and for said county and state, certify that D-Ann Kleidosty personally appeared before me this day and acknowledged that he or she is Attorney in Fact for Travelers Casualty and Surety Company of America

, the Surety named in the foregoing Performance Bond, in which bond the Obligee is **Granville County**, a body politic and corporate of the State of North Carolina, on behalf of the Surety.

This the 23rd day of August, 2022.

My commission expires:
4/20/2026

Maria Concepcion
 Notary Public



MARIA CONCEPCION
 Notary Public
 State of Florida
 Comm# HH265424
 Expires 4/20/2026



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint D-Ann Kleidosty of Atlanta, Georgia, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, **2021**.



State of Connecticut

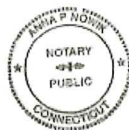
City of Hartford ss.

By: *Robert L. Raney*
 Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, **2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2026**



Anna P. Nowik
 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this _____ day of _____, _____.



Kevin E. Hughes
 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.

Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

Executed in two (2) original counterparts

Bond No. 107680458

PRINCIPAL: Haren Construction Company, Inc.

SURETY: Travelers Casualty and Surety Company of America

OBLIGEE: **Granville County**, a body politic and corporate of the State of North Carolina

PROJECT: Granville County Oxford MSW Landfill - Leachate Tank No. 2 Project

BOND AMOUNT: \$692,250.00

PAYMENT BOND

"KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

"THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, numbered as shown above and hereto attached;

"NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

"IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body."

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Haren Construction Company, Inc.

(Name of Principal)

[Execution by Principal when the Principal is a corporation]

By: 

Title of officer: Frank E. Haren Jr. - President

(Affix Principal's corporate seal.)

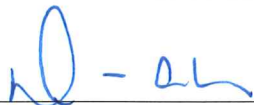
[Execution by Principal when the Principal is a limited liability company]

By: _____
 Manager of Principal

[Surety's execution]

Travelers Casualty and Surety Company of America

 (Name of Surety)



 (signature of attorney in fact) D-Ann Kleidosty, Attorney-in-Fact
 (Affix Surety's corporate seal.)

(Instructions to Surety and Principal: If you use a raised corporate seal, press hard enough to make it legible.)

ACKNOWLEDGMENT OF DEVELOPER'S EXECUTION OF PAYMENT BOND

[Acknowledgment when the Developer (the Principal) is a corporation]

State of _____

County of _____

I, a notary public in and for the aforesaid county and state, certify that _____
 _____ personally appeared before me this day and stated that he
 or she is

(strike through the inapplicable): chairperson/ president/ chief executive officer/ vice-president/
 assistant vice-president/ treasurer/ chief financial officer of

_____, a
 corporation, and that by authority duly given and as the act of the corporation, he or she signed
 the foregoing Payment Bond and the corporate seal was affixed to said instrument(s). This the
 ____ day of _____, 20 ____.

My commission expires: _____

Notary Public

[Acknowledgment when the Developer (the Principal) is a limited liability company]

State of _____

County of _____

I, _____, a notary public for said county and state, certify
 that _____ (1) appeared before
 me this day, (2) stated that he or she is a manager of

_____, a limited
 liability company, (3) acknowledged that the foregoing Payment Bond carry on the company's
 business in the usual way, and (4) acknowledged the due execution of the Payment Bond on
 behalf of the company.

This the ____ day of _____, 20 ____.

My commission expires: _____

Notary Public

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF PAYMENT BOND

State of Florida
 County of Santa Rosa

I, Maria Concepcion, a notary public in and for said county and state, certify that D-Ann Kledosty personally appeared before me this day and acknowledged that he or she is Attorney in Fact for Travelers Casualty and Surety Company of America

, the Surety named in the foregoing Payment Bond, in which bond the Obligee is **Granville County**, a body politic and corporate of the State of North Carolina, and that he or she executed said bond, under the seal of the Surety, on behalf of the Surety.

This the 23rd day of August, 2022.

My commission expires:
4/20/2026

Maria Concepcion

Notary Public



MARIA CONCEPCION
 Notary Public
 State of Florida
 Comm# HH265424
 Expires 4/20/2026



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint D-Ann Kleidosty of Atlanta, Georgia, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, **2021**.



State of Connecticut

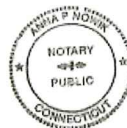
City of Hartford ss.

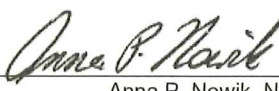
By: 
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, **2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2026**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

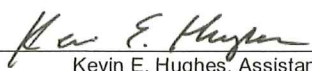
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this _____ day of _____, _____.




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER TIS Insurance Services, Inc. 1900 Winston Road, Suite 100 P.O. Box 10328 Knoxville TN 37939-0328		CONTACT NAME: Dana Flett PHONE (A/C, No, Ext): (865) 691-4847 FAX (A/C, No): (865) 694-4847 E-MAIL ADDRESS: dflett@tisins.com																						
INSURED Haren Construction Co., Inc. P. O. Box 350 Etowah TN 37331		<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>Amerisure Insurance Company</td> <td>19488</td> </tr> <tr> <td>INSURER B:</td> <td>Travelers Property Casualty Company of America</td> <td>25674</td> </tr> <tr> <td>INSURER C:</td> <td>Amerisure Mutual Insurance</td> <td>23396</td> </tr> <tr> <td>INSURER D:</td> <td>ACE American Insurance Company</td> <td>22667C</td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Amerisure Insurance Company	19488	INSURER B:	Travelers Property Casualty Company of America	25674	INSURER C:	Amerisure Mutual Insurance	23396	INSURER D:	ACE American Insurance Company	22667C	INSURER E:			INSURER F:		
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INSURER E:																								
INSURER F:																								

COVERAGES

CERTIFICATE NUMBER: 22/23 BR

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual Liability ☒ XCU GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	CPP20928650702	06/14/2022	06/14/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Limited Pollution Liability \$ 1,000,000
	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Underinsured motorist \$ 1,000,000
	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED \$ RETENTION \$						COMBINED SINGLE LIMIT EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE ☒ OTH-ER ☐ E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Builder's Risk			I21133814012	06/14/2022	06/14/2023	Limit (Excl. Frame/JM): \$25,000,000 Deductible: \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Granville County Oxford MSW Landfill Leachate Tank #2, 6584 Landfill Road, Oxford NC 27565. The County of Granville, Granville County Development Services and Engineer (Garrett & Moore) are additional insured with respect to general liability (ongoing and completed operations) on a primary & non-contributory basis, automobile liability and umbrella liability as required by written contract per policy form #s CG70481015 & CA71151109. Umbrella is follow form. A waiver of subrogation in favor of the additional insured applies to general liability, automobile liability, workers compensation and umbrella liability as required by written contract per policy form #s CG70490417, CA71151109 & WC0003130484. Umbrella is follow

CERTIFICATE HOLDER

CANCELLATION

The County of Granville 104 Belle Street Oxford NC 27565	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	--

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ACTION OF DIRECTORS
OF
HAREN CONSTRUCTION CO., INC.
BY UNANIMOUS CONSENT WITHOUT A MEETING

The members of the Board of Directors of Haren Construction Company, Inc., hereby record by unanimous consent the following action with the same effect as if done at a duly constituted meeting of the directors.

RESOLVED that the CEO & President, Frank E. Haren, Jr., Senior Vice-President, Daniel L. Berry, Vice-President, Vice-Secretary & Treasurer, Frank E. Haren, III, Vice-President Richard W. Kesler, and Vice-President, George W. Gaskins, of Haren Construction Company, Inc. either one of them is hereby authorized for, on behalf of, and in the name of Haren Construction Company, Inc., to execute Bid Proposals.

RESOLVED that the CEO & President, Frank E. Haren, Jr., Senior Vice-President, Daniel L. Berry, and Vice-President, Vice-Secretary & Treasurer, Frank E. Haren, III, of Haren Construction Company, Inc. either one of them is hereby authorized for, on behalf of, and in the name of Haren Construction Company, Inc., to execute contracts.

Dated: January 4, 2022



Andrew R. Haren, Secretary
Director/Officer



D-Ann Kleidosty
Vice President

Marsh USA Inc.
3560 Lenox Road, Suite 2400

Atlanta, GA 30326
404-995-2658
D-Ann.Kleidosty@marshmc.com
www.marsh.com

August 23, 2022

City of Granville County

Subject: New Bond

Principal: Haren Construction Company, Inc.

Bond Description: Oxford MSW Landfill

Bond Number: 107680458

Surety Name: Travelers Casualty and Surety Company of America

To Whom It May Concern

This letter will serve as your authorization to date the Performance and Payment Bonds and the Power of Attorney, the same date as the contract.

Sincerely,

A handwritten signature in black ink that reads 'D-Ann Kleidosty'.

D-Ann Kleidosty, Attorney-in-Fact
Travelers Casualty and Surety Company of America



HAREN CONSTRUCTION COMPANY, INC.

August 24, 2022

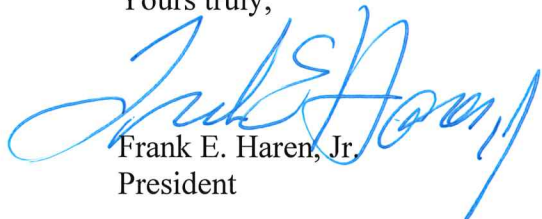
To: City of Granville County
From: Haren Construction Company, Inc.
Frank E. Haren, Jr.

Subject: Granville County Oxford MSW Landfill
Leachate Tank No. 2
Oxford, NC

To Whom It May Concern:

This memo will serve as your authorization to date the Performance & Payment Bonds, as well as the powers of attorney, the same date as the Contract (after the Contract is signed).

Yours truly,

A handwritten signature in blue ink, appearing to read "Frank E. Haren, Jr.", is written over the typed name and title.

Frank E. Haren, Jr.
President

Owner, To/212-217
Contract/212-217



COUNTY OF GRANVILLE, NORTH CAROLINA

August 22, 2022

Mr. Richard Kesler
Haren Construction Company Inc.
1715 Highway 411 North
Etowah, TN 37331

RE: Notice of Intent to Award - Granville County Oxford MSW Landfill
Leachate Tank No. 2

Dear Mr. Kesler:

During a regular scheduled meeting held on August 8, 2022, the Granville County Board of Commissioners approved awarding a construction contract for the Oxford MSW Landfill Leachate Tank No. 2 project to Haren Construction Company, Inc. in the amount of \$692,250. Please forward the performance bond, payment bond, and insurance certificates to me as soon as possible so that the contract may be executed by both parties next week.

As you are aware, we are on a tight timeline and look forward to working with you on this project and completing it on schedule. If you have any questions and/or need further information, please do not hesitate to contact me at (910) 691-0928.

Respectfully,

Jason Falls

Jason Falls
Environmental Services Director

From: [Steve Nichting](#)
To: [Eric Martin](#)
Cc: [Jason Falls](#); [Scott Phillips](#); [Bernie Garrett](#); [Stefan Bray](#)
Subject: Granville County Oxford MSW Landfill-Leachate Tank No. 2-Oxford, NC
Date: Tuesday, September 13, 2022 2:53:39 PM

This email originated from External Source. Please use proper judgement and caution when opening attachments, clicking links, or responding to this email.

Eric,
On behalf of Granville County, please accept this correspondence as documentation of the Notice to Proceed date of September 1, 2022, for the referenced project. Please submit a construction schedule at your earliest convenience.

Thank you and look forward to working with you all.
Steve

Stephen Nichting | Garrett & Moore | www.garrett-moore.com
mobile: 919.602.8118
snichting@garrett-moore.com



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 13, 2023
Title: Proclamations, Resolutions and Legislative Matters

PURPOSE:

This item on the agenda will be used for the introduction of proclamations, resolutions, or legislative matters. It can also be used for the general discussion of related matters.

ACTION TAKEN:



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 12, 2023
Title: **Adult Home Care Community Advisory Committee**

PURPOSE:

To make appointments/reappointments to the Adult Care Home Community Advisory Committee.

BACKGROUND:

The committee works to maintain the rights of adult care home residents. It works to see that each resident's civil and religious liberties shall not be infringed. The committee serves as a link between the community and the adult care home seeking to increase community involvement and at the same time to keep the public informed about aspects of long-term care and the operation of the adult care home as well as the needs of those residents in the various types of settings.

The terms of Delores Lyons (District 4) and Vernestine Bannerman (District 6 appointed by 1) expire in January.

Others serving:	Barbara Harris	District 2
	Kathy Keith	District 4 (referred for training & vetting)
	Tanner Bailey	District 5 (referred for training & vetting)

RECOMMENDATION:

Ms. Lyons and Ms. Bannerman have been active and are recommended for reappointment by Kimberly Hawkins, Regional Long Term Care Ombudsman with the Kerr-Tar Council of Governments.

ACTION TAKEN:



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 12, 2023
Title: Nursing Home Community Advisory Committee

PURPOSE:

To make appointments/reappointments to the Nursing Home Community Advisory Committee.

BACKGROUND:

The committee works to maintain the rights of nursing home residents. It works to see that each resident's civil and religious liberties shall not be infringed. The Committee serves as a link between the community and nursing home, seeking to increase community involvement and at the same time to keep the public informed about aspects of long-term care and the operation of the nursing homes as well as the needs of those residents in the various types of settings.

The terms of Gwen Bullock (District 1) and Gail Birdsong (District 7) expire in January.

Others serving:	Sarah Mayfield	District 1
	George Bullock	District 2
	Jason Jenkins	District 5

RECOMMENDATION:

Ms. Bullock and Ms. Birdsong have been active and are recommended for reappointment by Kimberly Hawkins, Regional Long Term Care Ombudsman with the Kerr-Tar Council of Governments.

ACTION TAKEN:



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: KARTS

PURPOSE:

To consider an appointment to KARTS (Kerr Area Transportation Authority).

BACKGROUND:

The function of the Kerr Area Transportation Authority is to meet the needs in Franklin, Granville, Vance and Warren Counties, for public transportation, especially within the elderly and disadvantaged segments of the population.

Two members are appointed from each County which represents one government official and one human service representative.

Adonica Hampton, Granville County Social Services Director, has resigned and needs to be replaced.

Others serving: Commissioner Zelodis Jay

ACTION TAKEN:



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 13, 2023
Title: Granville County Planning Board

PURPOSE:

To make an appointment to the Granville County Planning Board.

BACKGROUND:

The function and duty of the Planning Board is to make comprehensive surveys and studies of existing conditions and probable future developments. The Board is responsible for preparing such plans for physical, social and economic growth, as will best promote the public health, safety, convenience or the general welfare as well as efficiency and economy in the development of Granville County.

The Planning Board serves at the pleasure of the Board of County Commissioners and reviews and makes recommendations to the governing body.

John Currin (District 2) has resigned effective January 31, 2023 and needs to be replaced. An application from Adam Brewer (District 2) has been received for consideration.

Others Serving:	Allen Nelson	District 1
	Elvin Mangum, Jr.	District 3
	Howard Tyler	District 4
	Joshua H. Averette	District 5
	Michael O'Briant Turner	District 6
	Justin Milstein	District 7

ACTION TAKEN:



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: Granville Health System Board of Trustees

PURPOSE:

To fill the hospital staff vacancy position.

BACKGROUND:

The purpose of the Granville Health System Board of Trustees shall be to determine hospital policies with relation to community needs; to see that proper professional standards are maintained; to coordinate professional interest of the hospital with administrative, financial and community needs; to direct the Chief Executive Officer of the hospital in carrying out policies; and to provide adequate financing and control of expenditures.

Others serving:

Zelodis Jay	District 1
James Lumpkins	District 2
David T. Smith	District 2
Jim Blaine	District 5 appointed by District 3
Tony W. Cozart	Vice Chairman, District 4
Dawn Omokunde	District 4
Robert V. "Bobby" Wheeler	District 5
Timothy Karan	District 6
Jimmy Gooch	Ex-Officio
Dr. Joseph C. Zola	Chief of Staff, Ex-Officio
John Snow	Ex-Officio

RECOMMENDATION:

The Medical Executive Committee and the Granville Health System Administrative Team recommend the appointment of Dr. Shane Hodge.

ACTION TAKEN:



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 12, 2023
Title: Discussion of Expansion of ABC Board

PURPOSE:

To discuss the expansion of the ABC Board.

BACKGROUND:

The creation and structure of local ABC boards are governed by statute. Since its inception several decades ago, the Granville County ABC system has been governed by a 3 member board. They are responsible for the hiring the ABC system general manager and providing policy direction and other direction to the system through the general manager. The Granville County ABC system is currently in the middle of constructing a new store in Oxford, with the intention of using the old building as a warehouse. There has been some discussion of adding additional stores in the future. General statutes give fairly specific direction on the size and appointment processes for local ABC boards, and the relevant general statutes are attached to this item.

ATTACHMENTS:

Memo from County Manager
General Statute on ABC Board

ACTION TAKEN:



COUNTY OF GRANVILLE, NORTH CAROLINA

104 BELLE STREET | POST OFFICE BOX 906 | OXFORD, NORTH CAROLINA 27565

TO: County Commissioners
FROM: Drew Cummings, County Manager
DATE: January 3rd, 2023
SUBJECT: Considerations For Possible ABC Board Expansion

There has been some discussion of the possibility of expanding the Granville County ABC Board from 3 members to 5 members, a shift which General Statute does give the Board of County Commissioners clear authority to enact. There could easily be upsides and downsides to such a shift, which the board can discuss.

One concern which has been raised about such a small board is that two members represents a quorum and thus an official gathering of the board. Any two board members do need and would need to be careful talking about ABC business together, as that could potentially put them in violation of open meetings law. Quorum standards and open meetings law apply to boards of all sizes, of course, and board members always need to make sure to abide by those rules.

If the board does end up wanting to expand the ABC board, they would also need to decided how to proceed with the recruitment and appointment of the new members. The new appointments would likely need to be by the full board as there would not be enough board slots for each district to have one. Further, in my experience, board members and staff who have direct experience in retail business, hospitality, and other closely related fields can be of particular use to ABC systems. Implicitly or explicitly considering this kind of professional knowledge and experience during recruitment and appointment, and perhaps even through official board member categories, could enhance our ABC system.

Article 7.

Local ABC Boards.

§ 18B-700. Appointment and organization of local ABC boards.

(a) **Membership.** – A local ABC board shall consist of three or five members appointed for three-year terms unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. If the board is a three-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. If the board is a five-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, two members for two-year terms, and two members for one-year terms. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. If a board is initially a three-member board and the appointing authority determines a five-member board is preferable, the terms of the two new members shall be for three years. If a local board has five members and the appointing authority determines a three-member board is preferable, the appointing authority shall not reduce the size of the board except upon the expiration of a member's term and only with the approval of the Commission. The appointing authority shall designate one member of the local board as chairman.

(a1) **Mission.** – The mission of local ABC boards and their employees shall be to serve their localities responsibly by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores.

(b) **City Boards.** – City ABC board members shall be appointed by the city governing body, unless a different method of appointment is provided in a local act enacted before the effective date of this Chapter.

(c) **County Boards.** – County ABC board members shall be appointed by the board of county commissioners, unless a different method of appointment is provided in a local act enacted before the effective date of this Chapter.

(c1) **Limit on Creation of New Boards.** – Notwithstanding any provision of law to the contrary, no new local board may be created in any county where a local board operates an ABC store. If a jurisdiction holds an ABC store election under G.S. 18B-602(g), the establishment of ABC stores is approved, and the jurisdiction is located in a county where a local board is already in operation, the jurisdiction that held the election shall enter into an agreement with an existing local board to create a merged local board in accordance with G.S. 18B-703. Nothing in this subsection shall be construed as prohibiting a local board from serving multiple cities, counties, or cities and counties.

(d) **Qualifications.** – The appointing authority shall appoint members of a local board on the basis of the appointees' interest in public affairs, good judgment, knowledge, ability, and good moral character.

(e) **Vacancy.** – A vacancy on a local board shall be filled by the appointing authority for the remainder of the unexpired term. If the chairman's seat becomes vacant, the appointing authority may designate either the new member or an existing member of the local board to complete the chairman's term.

(f) **Removal.** – A member of a local board may be removed for cause at any time by the appointing authority. Local board members are subject to the removal provisions of G.S. 18B-202.

(g) **Compensation of Board Members.** – A local board member shall receive compensation in an amount not to exceed one hundred fifty dollars (\$150.00) per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is

approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. No local board member shall receive any nonmonetary compensation or benefits unless specifically authorized by this section.

(g1) **(See Editor's note for applicability)** Compensation of General Managers of Local Boards. – The salary authorized for the general manager, as defined in G.S. 18B-101, of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. The general manager of a local board may receive any other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager.

(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority and such policy is approved by the appointing authority. The local board shall annually provide the appointing authority's written confirmation of such approval to the Commission and a copy of the travel policy authorized by the appointing authority. Any excess expenses not covered by the local board's travel policy shall only be paid with the written authorization of the appointing authority's finance officer. A copy of the written authorization for excess expenses shall be submitted to the Commission by the local board within 30 days of approval.

(h) Conflict of Interest. – The provisions of G.S. 18B-201 shall apply to local board members and employees.

(i) Bond. – Each local board member and the employees designated as the general manager and finance officer of the local board shall be bonded in an amount not less than fifty thousand dollars (\$50,000) secured by a corporate surety, for the faithful performance of his duties. A public employees' blanket position bond in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of the bond required for any member or employee who handles board funds.

(j) Limited Liability. – A person serving as a member of a local ABC board shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Was not acting within the scope of his official duties;
- (2) Was not acting in good faith;
- (3) Committed gross negligence or willful or wanton misconduct that resulted in the damage or injury;
- (4) Derived an improper personal financial benefit from the transaction; or
- (5) Incurred the liability from the operation of a motor vehicle.

The immunity in this subsection is personal to the members of local ABC boards, and does not immunize the local ABC board for liability for the acts or omissions of the members of the local ABC board.

(k) **(See Editor's note for applicability)** Nepotism. – Members of an immediate family shall not be employed within the local board if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This subsection applies to local board members and employees.

For the purpose of this subsection, the term "immediate family" includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations.

(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards. (1981, c. 412, s. 2; c. 747, s. 50; 1981 (Reg. Sess., 1982), c. 1262, s. 10; 1989, c. 800, s. 19; 2010-122, ss. 9-16; 2019-182, s. 16(b).)

§ 18B-701. Powers and duties of local ABC boards.

(a) Powers. – A local board shall have authority to do all of the following:

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores. In providing delivery of spirituous liquor to a mixed beverages permittee, as required by G.S. 18B-404(f), the local board may use its employees or contract with one or more independent contractors and may charge a fee to the permittee. A mixed beverage permittee may contract with an independent contractor to provide delivery of spirituous liquor from an ABC board's store or warehouse to the permittee's premises.
- (2) Adopt rules for its ABC system, subject to the approval of the Commission.
- (3) Hire and fire employees for the ABC system.
- (4) Designate one employee as manager of the ABC system and determine his responsibilities.
- (5) Require bonds of employees as provided in the rules of the Commission.
- (6) Operate ABC stores as provided in Article 8.
- (7) Issue purchase-transportation permits as provided in Article 4.
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5.
- (9) Borrow money as provided in G.S. 18B-702.
- (10) Buy and lease real and personal property, and receive property devised or given, as necessary for the operation of the ABC system.
- (11) Invest surplus funds as provided in G.S. 18B-702.
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes.
- (13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all rules adopted by the Commission pursuant to this Chapter and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal. (1937, c. 49, ss. 10, 12; cc. 411, 431; 1939, c. 98; 1957, cc. 1006, 1334; 1963, c. 1119, s. 2; 1967, c. 1178; 1969, cc. 118, 902; 1971, c. 872, s. 1;

1973, cc. 85, 185; c. 1000, ss. 1, 2; 1977, c. 618; 1979, c. 467, s. 20; c. 617; 1981, c. 412, s. 2; 2010-122, s. 17; 2011-284, s. 13; 2019-182, s. 25(a); 2021-150, s. 30.2.)

§ 18B-702. Financial operations of local boards.

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source, except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, explain important features of the activities anticipated in the budget, set forth the reasons for stated changes from the previous year in appropriation levels, and explain any major changes in fiscal policy.

(e) Filing and Publication of the Budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection, and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget Hearings. – Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) Working capital funds set aside pursuant to G.S. 18B-805 shall be established by rule of the Commission. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.
- (4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.
- (5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.
- (6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption, and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

(h) Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the local board at its next regular meeting and shall be entered in the minutes. Amendments to the adopted budget shall also be provided to the appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the local board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local board for the interval between the beginning of the budget year and the adoption of the budget. Interim appropriations so made shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – Except as otherwise provided, the local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board. The Commission, for good cause shown, may grant a waiver to allow the

general manager of a board also to be the finance officer. Good cause includes, but is not limited to, the fact that the board operates no more than two stores, and any approval for the general manager also to be the finance officer shall apply until the board operates more than two stores; in any event, the approval shall be effective for 36 months. The Commission may grant one or more waivers to a board.

- (k) Duties and Powers of the Finance Officer. – The finance officer for a local board shall:
- (1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
 - (2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, preaudit obligations, and disbursements as required by this section.
 - (3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.
 - (4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.
 - (5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.
 - (6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget unless the budget includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project unless the budget authorizes the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702.

(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital

project or a grant project authorized by the budget, the finance officer may approve the claim only if:

- (1) The finance officer determines the amount to be payable; and
- (2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (o) of this section). The certificate shall take substantially the following form

"This disbursement has been approved in the manner required by G.S. 18B-702.

(Signature of finance officer)."

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

(t) Deposits and Investments. – A local board may deposit monies at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, the member or employee and the sureties on the official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer and the sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

(x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards. (1937, c. 49, ss. 10, 12; cc. 411, 431; 1939, c. 98; 1957, cc. 1006, 1335; 1963, c. 1119, s. 2; 1967, c. 1178; 1969, cc. 118, 902; 1971, c. 872, s. 1; 1973, cc. 85, 185; c. 1000, ss. 1, 2; 1977, c. 618; 1979, c. 467, s. 20; c. 617; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 11; 1991, c. 459, s. 2; 2010-122, s. 18; 2012-4, s. 2.)

§ 18B-703. Merger of local ABC operations.

(a) Conditions for Merger. – Any city governing body or board of county commissioners may merge its ABC system with the system of one or more other cities or counties if:

- (1) Stores operated by the systems of those jurisdictions serve the same general area or are in close proximity to each other; and

(2) The merger is approved by the Commission.

(b) Appointment of Board. – Upon merger of ABC systems, the local boards for those systems shall be replaced by one board appointed jointly by the appointing authorities for the previous boards.

(c) Distribution of Profits. – Before merger, the cities or counties involved shall agree upon a formula for distribution of the profits of the new merged ABC system, based as closely as practicable on the distribution previously authorized for the separate systems. This formula for distribution shall be subject to approval by the Commission.

(d) Enforcement. – Local officers hired by the local ABC board for the merged ABC system shall have the same territorial jurisdiction that officers for each of the merged boards would have.

(e) Dissolution. – Except as otherwise provided in this subsection, with the approval of the Commission, the cities or counties that have merged their ABC systems may dissolve the merged operation at any time and resume their prior separate operations. A city or county that has merged with another local board pursuant to the requirements of G.S. 18B-700(c1) may only dissolve a merged operation if one of the following applies:

(1) The city or county is merging with a different local board.

(2) The city or county is ceasing operation of all ABC stores within the city or county.

(f) Other Details Negotiated. – Issues not addressed in this section concerning the merger or dissolution of ABC systems, such as the method of appointment of the merged board, the size of the merged board, or the procedure for dissolution, may be negotiated by the affected cities and counties, subject to the approval of the Commission.

(g) Operation Follows General Law. – Except as otherwise provided in this section, the authority and operation of any local board established under this section shall be the same as for any other local board.

(h) Agreement for Joint Store Operations. – With the approval of the Commission, two or more governing bodies of counties and/or municipalities with ABC systems may enter into a written agreement whereby one or more ABC stores located within the counties and/or municipalities that are parties to the agreement shall be controlled and operated by the local ABC board specified in the agreement, even though said ABC store or stores are located outside the boundaries of the county or municipality of the local ABC board that will be operating the ABC store or stores that are subject to the agreement. The provisions of this section shall be effective as to such agreements insofar as is applicable. Issues not addressed in this section shall be negotiated by the parties, subject to the approval of the Commission. (1981, c. 412, s. 2; c. 747, s. 51; 2001-128, s. 1; 2019-182, s. 16(c).)

§ 18B-704. Removal of local board members and employees.

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – (i) Disqualification of a local board member or employee under the law, (ii) a violation of the ABC laws, (iii) failure to complete training required by this Chapter or the Commission, or (iv) engaging in any conduct constituting moral turpitude or which brings

the local board or the ABC system into disrepute is cause for the Commission to remove any member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or the employee's counsel may examine all evidence used against the employee and present evidence in the employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (e) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission hearing officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review for an appeal shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back pay. All awards for back pay shall be paid by the local board from which the board member or employee was removed.

(i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

(j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards. (2010-122, s. 19.)

§ 18B-705. Compliance with performance standards; remedies.

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting

performance evaluations, or taking other measures, which may include inspections by Commission auditors or alcohol law enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission and the local board, shall develop and deliver a performance improvement plan to the local board within 60 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, 12 months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards identified in the statement of findings cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case less than 12 months, the Commission shall take appropriate action to avoid insolvency. This action may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores, or merging the local board with another local board in order to maintain solvency. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt in order to maintain the solvency of the local board. Prior to taking action pursuant to this subsection, the Commission shall issue a notice of intent to take such action to the appointing authority and the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards. (2010-122, s. 20.)

§ 18B-706. Ethics requirements for local boards.

(a) Each local board shall adopt a policy containing a code of ethics, consistent with the provisions of G.S. 18B-201, to guide actions by the local board members and employees of the local board in the performance of their official duties. The policy shall address at least all of the following:

- (1) The need to obey all applicable laws regarding official actions taken as a local board member or employee.
- (2) The need to uphold the integrity and independence of the local board member or employee's position.
- (3) The need to avoid impropriety in the exercise of official duties.
- (4) The need to faithfully perform the duties of the position.
- (5) The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that

govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or another qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics education by each member of the local board. The local board may require appropriate ethics training and education for employees of the local ABC board.

(c) The Commission shall develop a model ethics policy that local ABC boards may adopt to be in compliance with this section. (2010-122, s. 21.)

§§ 18B-707 through 18B-799. Reserved for future codification purposes.



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 12, 2023
Title: Discussion of Expansion of DSS Board

PURPOSE:

To discuss the expansion of DSS (Department of Social Services) Board.

BACKGROUND:

The membership structure of local DSS boards are governed by statute. Since its creation, the Granville County DSS board has consisted of 3 members. They have supervisory authority over the DSS Director (subject to state personnel guidelines) and provide policy direction and other direction to the local Department of Social Services through the director. General statutes give fairly specific direction on the appointment authority and process for local DSS boards, and the relevant general statutes are attached to this item.

ATTACHMENTS:

Memo on Considerations for Possible DSS Board Expansion
General Statute on DSS Board Structure and Appointment

ACTION TAKEN:



COUNTY OF GRANVILLE, NORTH CAROLINA

104 BELLE STREET | POST OFFICE BOX 906 | OXFORD, NORTH CAROLINA 27565

TO: County Commissioners
FROM: Drew Cummings, County Manager
DATE: January 3rd, 2023
SUBJECT: Considerations For Possible DSS Board Expansion

There has been some discussion of the possibility of expanding the Granville County DSS Board from 3 members to 5 members, a shift which General Statute does give the Board of County Commissioners clear authority to enact. There could easily be upsides and downsides to such a shift, which the board can discuss.

One concern which has been raised about such a small board is that two members represents a quorum and thus an official gathering of the board. Any two board members do need and would need to be careful talking about DSS business together, as that could potentially put them in violation of open meetings law. Quorum standards and open meetings law apply to boards of all sizes, of course, and board members always need to make sure to abide by those rules.

If the board does end up wanting to expand the DSS board, they should note the particular rules General Statutes have for the appointment of 3 and 5 member boards (see attached and summary below).

Appointment rules for 3 member boards: The board of commissioners shall appoint one member who may be a county commissioner or a citizen selected by the board; the Social Services Commission shall appoint one member; and the two members so appointed shall select the third member. In the event the two members so appointed are unable to agree upon selection of the third member, the senior regular resident superior court judge of the county shall make the selection. (§ 108A-3)

Appointment rules for 5 member boards: The procedure set forth in subsection (a) shall be followed, except that both the board of commissioners and the Social Services Commission shall appoint two members each, and the four so appointed shall select the fifth member by majority vote of the membership. If a majority of the four are unable to agree upon the fifth member, the senior regular superior court judge of the county shall make the selection. (§ 108A-3)

Rules about terms to be served may also have some bearing on the board's decision:

Each member of a county board of social services shall serve for a term of three years. No member may serve more than two consecutive terms. Notwithstanding the previous sentence, the limitation on consecutive terms does not apply if the member of the social services board was a member of the board of county commissioners at any time during the first two consecutive terms, and is a member of the board of county commissioners at the time of reappointment. (§ 108A-4.)

The board would also need to decided how to proceed with the recruitment and appointment of its one new appointment and request the same of the Social Services Commission.

Chapter 108A.

Social Services.

Article 1.

County Administration.

Part 1. County Boards of Social Services.

§ 108A-1. Creation.

Every county shall have a governing board for social services, which may be a county board of social services created pursuant to this Part, a consolidated human services board created pursuant to G.S. 153A-77(b), a board of county commissioners that has assumed the powers and duties of a county board of social services or a consolidated human services board, or a regional board of social services created pursuant to G.S. 108A-15.8. The governing board shall establish policies for the programs established by this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Health and Human Services. Provided, however, policies for the program of medical assistance shall be established in conformity with the rules and regulations of the Department of Health and Human Services. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 6; 1981, c. 275, s. 1; 1995 (Reg. Sess., 1996), c. 690, s. 5; 1997-443, s. 11A.118(a); 2017-41, s. 4.2.)

§ 108A-2. Size.

The county board of social services of a county shall consist of three members, except that the board of commissioners of any county may increase such number to five members. The decision to increase the size to five members or to reduce a five-member board to three shall be reported immediately in writing by the chairman of the board of commissioners to the Department of Health and Human Services. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1981, c. 275, s. 1; 1995 (Reg. Sess., 1996), c. 690, s. 6; 1997-443, s. 11A.118(a).)

§ 108A-3. Method of appointment; residential qualifications; fee or compensation for services; consolidated human services board appointments.

(a) **Three-Member Board.** - The board of commissioners shall appoint one member who may be a county commissioner or a citizen selected by the board; the Social Services Commission shall appoint one member; and the two members so appointed shall select the third member. In the event the two members so appointed are unable to agree upon selection of the third member, the senior regular resident superior court judge of the county shall make the selection.

(b) **Five-Member Board.** - The procedure set forth in subsection (a) shall be followed, except that both the board of commissioners and the Social Services Commission shall appoint two members each, and the four so appointed shall select the fifth member by majority vote of the membership. If a majority of the four are unable to agree upon the fifth member, the senior regular superior court judge of the county shall make the selection.

(c) Provided further that each member so appointed under subsection (a) and subsection (b) of this section by the Social Services Commission and by the county board of commissioners or the senior regular resident superior court judge of the county, shall be bona fide residents of the county from which they are appointed to serve, and will receive as their fee or compensation for their services rendered from the Department of Health and Human Services directly or indirectly only the fees and compensation as provided by G.S. 108A-8.

(d) Consolidated Human Services Board. - The board of county commissioners shall be the sole appointing authority for members of a consolidated human services board and shall appoint those members in accordance with G.S. 153A-77(c). (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1971, c. 369; 1973, c. 476, s. 138; 1981, c. 275, s. 1; 1995 (Reg. Sess., 1996), c. 690, s. 7; 1997-135, s. 1; 1997-443, s. 11A.118(a).)

§ 108A-4. Term of appointment.

Each member of a county board of social services shall serve for a term of three years. No member may serve more than two consecutive terms. Notwithstanding the previous sentence, the limitation on consecutive terms does not apply if the member of the social services board was a member of the board of county commissioners at any time during the first two consecutive terms, and is a member of the board of county commissioners at the time of reappointment. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1981, c. 275, s. 1; c. 770.)

§ 108A-5. Order of appointment.

(a) Three-Member Board: The term of the member appointed by the Social Services Commission shall expire on June 30, 1981, and every three years thereafter; the term of the member appointed by the board of commissioners shall expire on June 30, 1983, and every three years thereafter; and the term of the third member shall expire on June 30, 1982, and every three years thereafter.

(b) Five-Member Board: Whenever a board of commissioners of any county decides to expand a three-member board to a five-member board of social services, the Social Services Commission shall appoint an additional member for a term expiring at the same time as the term of the existing member appointed by the board of commissioners, and the board of commissioners shall appoint an additional member for a term expiring at the same time as the term of the existing member appointed by the Social Services Commission. The change to a five-member board shall become effective at the time when the additional members shall have been appointed by both the county board of commissioners and the Social Services Commission. Thereafter all appointments shall be for three-year terms.

(c) Change from Five-Member to Three-Member Board: The change shall become effective on the first day of July following the decision to change by the board of commissioners. On that day, the following two seats on the board of social services shall cease to exist:

- (1) The seat held by the member appointed by the Social Services Commission whose term would have expired on June 30, 1983, or triennially thereafter; and
- (2) The seat held by the member appointed by the board of commissioners whose term would have expired June 30, 1981, or triennially thereafter.

(1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 1986; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1973, c. 476, s. 138; c. 724, s. 1; 1981, c. 275, s. 1.)

§ 108A-6. Vacancies.

Appointments to fill vacancies shall be made in the manner set out in G.S. 108A-3. All such appointments shall be for the remainder of the former member's term of office and shall not constitute a term for the purposes of G.S. 108A-4. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1981, c. 275, s. 1.)

§ 108A-7. Meetings.

The board of social services of a county shall meet at least once per month, or more often if a meeting is called by the chairman. Such board shall elect a chairman from its members at its July meeting each year, and the chairman shall serve a term of one year or until a new chairman is elected by the board. A consolidated county human services board shall meet in accordance with the provisions of G.S. 153A-77. (1917, c. 170, s. 1; 1919, c. 46, s. 4; C.S., s. 5015; 1937, c. 319, s. 4; 1941, c. 270, s. 3; 1947, c. 92; 1959, c. 320; 1961, c. 186; 1969, c. 546, s. 1; 1981, c. 275, s. 1; 1995 (Reg. Sess., 1996), c. 690, s. 8.)

§ 108A-8. Compensation of members.

Members of the county board of social services may receive a per diem in such amount as shall be established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners. (1917, c. 170, s. 1; 1919, c. 46, s. 4; C.S., s. 5015; 1937, c. 319, s. 4; 1941, c. 270, s. 3; 1947, c. 92; 1959, c. 320; 1961, c. 186; 1969, c. 546, s. 1; 1971, c. 124; 1981, c. 275, s. 1; 1985, c. 418, s. 3.)

§ 108A-9. Duties and responsibilities.

The county board of social services shall have the following duties and responsibilities:

- (1) To select the county director of social services according to the merit system rules of the North Carolina Human Resources Commission;
- (2) To advise county and municipal authorities in developing policies and plans to improve the social conditions of the community;
- (3) To consult with the director of social services about problems relating to his office, and to assist him in planning budgets for the county department of social services;
- (4) To transmit or present the budgets of the county department of social services for public assistance, social services, and administration to the board of county commissioners;
- (5) To have such other duties and responsibilities as the General Assembly, the Department of Health and Human Services or the Social Services Commission or the board of county commissioners may assign to it. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937,

c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 7; 1981, c. 275, s. 1; 1997-443, s. 11A.118(a); 2013-382, s. 9.1(c).)

§ 108A-10. Fees.

The county board of social services is authorized to enter into contracts with any governmental or private agency, or with any person, whereby the board of social services agrees to render services to or for such agency or person in exchange for a fee to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received, but shall not apply where the charging of a fee for a particular service is specifically prohibited by statute or regulation. The fees to be charged under the authority of this section are to be based upon a plan recommended by the county director of social services and approved by the local board of social services and the board of county commissioners. In no event is the fee charged to exceed the cost to the board of social services. Fee policies may not conflict with rules and regulations adopted by the Social Services Commission or Department of Health and Human Services regarding fees.

The fees collected under the authority of this section are to be deposited to the account of the social services department so that they may be expended for social services purposes in accordance with the provisions of Article 3 of Chapter 159, the Local Government Budget and Fiscal Control Act. No individual employee is to receive any compensation over and above his regular salary as a result of rendering services for which a fee is charged.

The county board of social services shall annually report to the county commissioners receipts received under this section. Fees collected under this section shall not be used to replace any other funds, either State or local, for the program for which the fees were collected. (1981, c. 275, s. 1; 1997-443, s. 11A.118(a).)

§ 108A-11. Inspection of records by members.

Every member of the county board of social services may inspect and examine any record on file in the office of the director relating in any manner to applications for and provision of public assistance and social services authorized by this Chapter. No member shall disclose or make public any information which he may acquire by examining such records. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5014; 1937, c. 319, s. 3; 1941, c. 270, s. 2; 1945, c. 47; 1953, c. 132; 1955, c. 249; 1957, c. 100, s. 1; 1959, c. 1255, s. 1; 1961, c. 186; 1963, c. 139; c. 247, ss. 1, 2; 1969, c. 546, s. 1; 1981, c. 275, s. 1.)

Part 2. County Director of Social Services.

§ 108A-12. Appointment.

(a) The board of social services of every county shall appoint a director of social services in accordance with the merit system rules of the North Carolina Human Resources Commission. Any director dismissed by such board shall have the right of appeal under the same rules.

(b) Two or more boards of social services may jointly employ a director of social services to serve the appointing boards and such boards may also combine any other functions or activities as authorized by Part 1 of Article 20 of Chapter 160A. The boards shall agree on the portion of the director's salary and the portion of expenses for other joint functions and activities that each participating county shall pay. (1917, c. 170, s. 1; 1919, c. 46, ss. 3, 4;

C.S., s. 5016; 1921, c. 128; 1929, c. 291, s. 1; 1931, c. 423; 1937, c. 319, s. 5; 1941, c. 270, s. 4; 1957, c. 100, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1981, c. 275, s. 1; 2013-382, s. 9.1(c).)

§ 108A-13. Salary.

The board of social services of every county, with the approval of the board of county commissioners, shall determine the salary of the director in accordance with the classification plan of the North Carolina Human Resources Commission, and such salary shall be paid by the county from the federal, State and county funds available for this purpose. (1917, c. 170, s. 1; 1919, c. 46, ss. 3, 4; C.S., s. 5016; 1921, c. 128; 1929, c. 291, s. 1; 1931, c. 423; 1937, c. 319, s. 5; 1941, c. 270, s. 4; 1957, c. 100, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1981, c. 275, s. 1; 2013-382, s. 9.1(c).)

§ 108A-14. Duties and responsibilities. [Effective until January 1, 2023]

- (a) The director of social services shall have the following duties and responsibilities:
- (1) To serve as executive officer of the board of social services and act as its secretary;
 - (2) To appoint necessary personnel of the county department of social services in accordance with the merit system rules of the North Carolina Human Resources Commission;
 - (3) To administer the programs of public assistance and social services established by this Chapter under pertinent rules and regulations;
 - (4) To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county board of social services;
 - (5) To act as agent of the Social Services Commission and Department of Health and Human Services in relation to work required by the Social Services Commission and Department of Health and Human Services in the county;
 - (6) To investigate cases for adoption and to supervise adoptive placements;
 - (7) To issue employment certificates to children under the regulations of the State Department of Labor;
 - (8) To supervise adult care homes under the rules and regulations of the Medical Care Commission;
 - (9) To assist and cooperate with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and their representatives;
 - (10) Repealed by Session Laws 2003-13, s. 7, effective April 17, 2003, and applicable to all petitions for sterilization pending and orders authorizing sterilization that have not been executed as of April 17, 2003.
 - (11) To assess reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article 3 of Chapter 7B of the General Statutes;

- (12) To accept children for placement in foster homes and to supervise placements for so long as such children require foster home care;
- (13) To respond by investigation to notification of a proposed adoptive placement pursuant to G.S. 48-3(b) and (c); and
- (14) To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and to take appropriate action as required by the Protection of the Abused, Neglected, or Exploited Disabled Adults Act, Article 6 of this Chapter, to protect these adults.
- (15) To receive and evaluate reports of financial exploitation of disabled adults, to investigate credible reports of financial exploitation under Article 6A of this Chapter, and to take appropriate action to protect these adults.

(b) The director may delegate to one or more members of his staff the authority to act as his representative. The director may limit the delegated authority of his representative to specific tasks or areas of expertise. The director may designate, subject to the approval of the Commissioner of Labor, additional personnel outside his staff to issue youth employment certificates. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5017; 1941, c. 270, s. 5; 1957, c. 100, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1971, c. 710, s. 5; 1973, c. 476, ss. 133.3, 138; c. 1262, s. 109; c. 1339, s. 2; 1977, 2nd Sess., c. 1219, s. 8; 1981, c. 275, s. 1; 1983, c. 293; 1985, c. 203, ss. 1, 2; 1991, c. 258, s. 1; 1993, c. 553, s. 31; 1995, c. 214, s. 2; c. 535, s. 4; 1997-443, s. 11A.118(a); 1998-202, s. 13(v); 2003-13, s. 7; 2005-55, s. 12; 2005-276, s. 10.42; 2011-145, s. 19.1(h); 2013-337, s. 3; 2013-382, s. 9.1(c); 2017-186, s. 2(vvvv).)

§ 108A-14. Duties and responsibilities. [Effective January 1, 2023]

- (a) The director of social services shall have the following duties and responsibilities:
 - (1) To serve as executive officer of the board of social services and act as its secretary;
 - (2) To appoint necessary personnel of the county department of social services in accordance with the merit system rules of the North Carolina Human Resources Commission;
 - (3) To administer the programs of public assistance and social services established by this Chapter under pertinent rules and regulations;
 - (4) To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county board of social services;
 - (5) To act as agent of the Social Services Commission and Department of Health and Human Services in relation to work required by the Social Services Commission and Department of Health and Human Services in the county;
 - (6) To investigate cases for adoption and to supervise adoptive placements;
 - (7) To issue employment certificates to children under the regulations of the State Department of Labor;

- (8) To supervise adult care homes under the rules and regulations of the Medical Care Commission;
- (9) To assist and cooperate with the Department of Adult Correction and the Division of Juvenile Justice of the Department of Public Safety and their respective representatives;
- (10) Repealed by Session Laws 2003-13, s. 7, effective April 17, 2003, and applicable to all petitions for sterilization pending and orders authorizing sterilization that have not been executed as of April 17, 2003.
- (11) To assess reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article 3 of Chapter 7B of the General Statutes;
- (12) To accept children for placement in foster homes and to supervise placements for so long as such children require foster home care;
- (13) To respond by investigation to notification of a proposed adoptive placement pursuant to G.S. 48-3(b) and (c); and
- (14) To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and to take appropriate action as required by the Protection of the Abused, Neglected, or Exploited Disabled Adults Act, Article 6 of this Chapter, to protect these adults.
- (15) To receive and evaluate reports of financial exploitation of disabled adults, to investigate credible reports of financial exploitation under Article 6A of this Chapter, and to take appropriate action to protect these adults.

(b) The director may delegate to one or more members of his staff the authority to act as his representative. The director may limit the delegated authority of his representative to specific tasks or areas of expertise. The director may designate, subject to the approval of the Commissioner of Labor, additional personnel outside his staff to issue youth employment certificates. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5017; 1941, c. 270, s. 5; 1957, c. 100, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1971, c. 710, s. 5; 1973, c. 476, ss. 133.3, 138; c. 1262, s. 109; c. 1339, s. 2; 1977, 2nd Sess., c. 1219, s. 8; 1981, c. 275, s. 1; 1983, c. 293; 1985, c. 203, ss. 1, 2; 1991, c. 258, s. 1; 1993, c. 553, s. 31; 1995, c. 214, s. 2; c. 535, s. 4; 1997-443, s. 11A.118(a); 1998-202, s. 13(v); 2003-13, s. 7; 2005-55, s. 12; 2005-276, s. 10.42; 2011-145, s. 19.1(h); 2013-337, s. 3; 2013-382, s. 9.1(c); 2017-186, s. 2(vvvv); 2021-180, s. 19C.9(jjj).)

§ 108A-15. Social services officials and employees as public guardians.

The director and assistant directors of social services of each county may serve as guardians for adults adjudicated incompetent under the provisions of Chapter 35A, and they shall do so if ordered to serve in that capacity by the clerk of superior court having jurisdiction of a guardianship proceeding brought under either Article. (1977, c. 725, s. 6; 1981, c. 275, s. 1; 1985, c. 361, s. 3; 1987, c. 550, s. 23.)

Part 2A. Consolidated Human Services.

§ 108A-15.1. Consolidated human services board; human services director.

(a) Except as otherwise provided by this section and subject to any limitations that may be imposed by the board of county commissioners under G.S. 153A-77, a consolidated human services board created pursuant to G.S. 153A-77(b) shall have the responsibility and authority to carry out the programs established in this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Health and Human Services in the same manner as a county social services board.

(b) In addition to the powers conferred by G.S. 153A-77(d), a consolidated human services board shall have all the powers and duties of a county board of social services as provided by G.S. 108A-9, except that the consolidated human services board may not:

- (1) Appoint the human services director.
- (2) Transmit or present the budget for social services programs.

(c) In addition to the powers conferred by G.S. 153A-77(e), a human services director shall have all the powers and duties of a director of social services provided by G.S. 108A-14, except that the human services director may:

- (1) Serve as the executive officer of the consolidated human services board only to the extent and in the manner authorized by the county manager.
- (2) Appoint staff of the consolidated human services agency only upon the approval of the county manager. (1995 (Reg. Sess., 1996), c. 690, s. 9; 1997-443, s. 11A.118(a).)

§§ 108A-15.2 through 108A-15.6. Reserved for future codification purposes.

Part 2B. Regional Social Services Departments.

§ 108A-15.7. Creation of regional social services departments.

(a) A regional social services department, including more than one county, may be formed upon agreement of the county boards of commissioners and, if applicable, either the county board of social services or consolidated human services board having jurisdiction over each of the counties involved.

(b) A regional social services department may incorporate all programs and services offered by the county departments or it may include only selected programs and services.

(c) A county may join an existing regional social services department upon agreement of the boards of commissioners having jurisdiction over each of the counties included in the region as well as the board of county commissioners and, if applicable, either the county board of social services or consolidated human services having jurisdiction over the county department seeking to join the regional department.

(d) The regional social services departments may include more than one judicial district. To promote judicial efficiency, a regional social services department shall make every effort to include complete judicial districts rather than dividing a judicial district across departments.

(e) The regional social services department shall have centralized administrative operations that are geographically located in one county but maintain a physical presence for delivery of social services in every county served by the region.

(f) A county that joins a regional social services department shall be required to contribute financially to the regional department pursuant to rules adopted by the Commission.

(g) A regional social services department shall be a public authority as defined in G.S. 159-7(b)(10). (2017-41, s. 4.1.)

§ 108A-15.8. Regional board of social services.

(a) A regional social services department shall be governed by a regional board of social services. A regional board of social services shall have the same powers and duties as a county social services board, including the appointment of the regional director of social services, with respect to those services or programs that have been assigned to the regional social services department.

(b) A regional board of social services shall be composed of 12 members. However, a regional board of social services may be increased up to a maximum number of 18 members by agreement of the boards of county commissioners in all counties that comprise the region. The agreement shall be evidenced by concurrent resolutions adopted by the affected boards of county commissioners.

(c) The county board of commissioners of each county in the region shall appoint two members to the regional board of social services, one of whom may be a county commissioner. If more than eight counties join the regional social services department, the board of county commissioners of each county in the region shall appoint one member to the regional board of social services who may be a county commissioner. The Social Services Commission shall appoint two members. The members of the regional social services board shall appoint members to fill any remaining vacancies. The composition of the board shall reasonably reflect the population makeup of the entire region and provide equitable region-wide representation. All members shall be residents of the region.

(d) Except as provided in this subsection, members of a regional board of social services shall serve terms of three years. Two of the original members shall serve terms of one year, and two of the original members shall serve terms of two years. No member shall serve more than three consecutive three-year terms. County commissioner members shall serve only as long as the member is a county commissioner.

(e) Whenever a county shall join or withdraw from an existing regional social services department, the regional board of social services shall be dissolved and a new board shall be appointed as provided in subsection (c) of this section.

(f) Vacancies shall be filled by the appointing authority for any unexpired portion of a term.

(g) A chairperson shall be elected annually by a regional board of social services. The regional social services director shall serve as secretary to the board.

(h) A majority of the actual membership, excluding vacancies, shall constitute a quorum.

(i) Upon being given written notice and an opportunity to respond, a member may be removed from office by the regional board of social services for any of the following:

- (1) Commission of a felony or other crime involving moral turpitude.
- (2) Violation of a State law governing conflict of interest.
- (3) Violation of a written policy adopted by the county board of commissioners of each county in the region.
- (4) Habitual failure to attend meetings.
- (5) Conduct that tends to bring the office into disrepute.

(j) A member may receive a per diem in an amount established by the county commissioner members of the regional board of social services. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county commissioner members of the regional board of social services.

(k) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

(l) A regional board of social services is authorized to provide liability insurance for the members of the board and the employees of the regional social services department. A regional board of social services is also authorized to contract for the services of an attorney to represent the board, the regional social services department, and its employees, as appropriate. The purchase of liability insurance pursuant to this subsection waives both the regional board of social services' and the regional social services department's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. By entering into a liability insurance contract with the regional board of social services, an insurer waives any defense based upon the governmental immunity of the regional board of social services or the regional social services department. (2017-41, s. 4.1.)

§ 108A-15.9. Dissolution of a regional social services department.

(a) Whenever the board of commissioners of each county constituting a regional social services department determines that the department is not operating in the best interests of the respective counties, they may direct that the regional social services department be dissolved.

(b) Whenever a board of commissioners of a county which is a member of a regional social services department determines that the department is not operating in the best interests of that county, it may withdraw from the regional social services department.

(c) Dissolution of a regional social services department or withdrawal from the regional social services department by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(d) Notwithstanding the provisions of subsection (a) of the section, no regional social services department shall be dissolved without prior written notification to the Department.

(e) Any budgetary surplus available to a regional social services department at the time of its dissolution shall be distributed to those counties comprising the region on the same pro rata basis that the counties appropriated and contributed funds to the regional social services department budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the regional social services department. The regional board of social services shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described above shall apply when one or more counties of a regional social services department withdraw from a region. (2017-41, s. 4.1.)

§ 108A-15.10. Regional social services director.

A regional social services director appointed by a regional social services board shall have all the powers and duties of a director of social services provided by G.S. 108A-14 and other applicable laws. The director shall also have the authority to enter contracts, in accordance with the Local Government Finance Act, Chapter 159 of the General Statutes, on behalf of the regional social services department. (2017-41, s. 4.1; 2017-102, s. 40(d).)

Part 3. Special County Attorneys for Social Service Matters.

§ 108A-16. Appointment.

With the approval of the board of social services, the board of commissioners of any county may appoint a licensed attorney to serve as a special county attorney for social service matters, or designate the county attorney as special county attorney for social service matters. (1959, c. 1124, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1981, c. 275, s. 1.)

§ 108A-17. Compensation.

The special county attorney for social service matters shall receive compensation for the performance of his duties and for his expenses in such amount as the board of commissioners may provide. His compensation shall be a proper item in the annual budget of the county department of social services. (1959, c. 1124, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1981, c. 275, s. 1.)

§ 108A-18. Duties and responsibilities.

- (a) The special county attorney shall have the following duties and responsibilities:
- (1) To serve as legal advisor to the county director, the county board of social services, and the board of county commissioners on social service matters;
 - (2) To represent the county, the plaintiff, or the obligee in all proceedings brought under Chapter 52A, the Uniform Reciprocal Enforcement of Support Act and to exercise continuous supervision of compliance with any order entered in any proceeding under that act;
 - (3) To represent the county board of social services in appeal proceedings and in any litigation relating to appeals;
 - (4) To assist the district attorney with the preparation and prosecution of criminal cases under Article 40 of Chapter 14, entitled "Protection of the Family";
 - (5) To assist the district attorney with the preparation and prosecution of proceedings authorized by Chapter 49, entitled "Bastardy";
 - (6) To perform such other duties as may be assigned to him by the board of county commissioners, the board of social services, or the director of social services.

(b) In performing any of the duties and responsibilities set out in this section, the special county attorney is authorized to call upon any director of social services or the Department of Health and Human Services for any information as he may require to perform his duties, and such director and Department are directed to assist him in performing such duties. (1959, c. 1124, ss. 2, 3; 1969, c. 546, s. 1; 1973, c. 47, s. 2; c. 476, s. 138; 1981, c. 275, s. 1; 1997-443, s. 11A.118(a).)

§§ 108A-19 through 108A-23. Reserved for future codification purposes.

Article 2.

Programs of Public Assistance.

Part 1. In General.

§ 108A-24. Definitions.

As used in Chapter 108A:

- (1) "Applicant" is any person who requests assistance or on whose behalf assistance is requested.
- (1a) Repealed by Session Laws 2001-424, s. 21.52.
- (1b) "Community service" means work exchanged for temporary public assistance.
- (1c) "County block grant" means federal and State money appropriated to implement and maintain a county's Work First Program.
- (1d) "County department of social services" means a county department of social services, consolidated human services agency, or other local agency designated to administer services pursuant to this Article.
- (1e) "County Plan" is the biennial Work First Program plan prepared by each Electing County pursuant to this Article and submitted to the Department for incorporation into the State Plan that also includes the Standard Work First Program.
- (2) "Department" is the Department of Health and Human Services, unless the context clearly indicates otherwise.
- (3) "Dependent child" is a person 17 years of age or younger or, in the medical assistance program, a person under 19 years of age. A child 18 years of age, if in high school and expected to graduate by his or her 19th birthday, may receive Work First benefits through the month he or she turns 19 years of age or graduates from high school, whichever comes first.
- (3a) "Electing County" means a county that elects to develop and is approved to administer a local Work First Program.
- (3b) "Employment" means work that requires either a contribution to FICA or the filing of a State N.C. Form D-400, or the equivalent.
- (3c) "Family" means a unit consisting of a minor child or children and one or more of their biological parents, adoptive parents, stepparents, or grandparents living together. For purposes of the Work First Program, family also includes a blood or half-blood relative or adoptive relative limited to brother, sister, great-grandparent, great-great-grandparent, uncle, aunt, great-uncle, great-aunt, great-great-uncle, great-great-aunt, nephew, niece, first cousin, stepbrother, and stepsister.
- (3d) "Federal TANF funds" means the Temporary Assistance for Needy Families block grant funds provided for in Title IV-A of the Social Security Act.
- (3e) "Fee-for-service program" means a payment model for the Medicaid and NC Health Choice programs operated by the Department of Health and Human Services pursuant to its authority under Part 6 and Part 8 of Article 2 of Chapter 108A of the General Statutes in which the Department pays enrolled providers for services provided to Medicaid and NC Health Choice recipients rather than contracting for the coverage of services through a capitated payment arrangement.

- (3f) Repealed by Session Laws 2009-489, s. 1, effective August 26, 2009.
- (3g) "FICA" means the taxes imposed by the Federal Insurance Contribution Act, 26 U.S.C. § 3101, et seq.
- (3h) "Full-time employment" means employment which requires the employee to work a regular schedule of hours per day and days per week established as the standard full-time workweek by the employer, but not less than an average of 30 hours per week.
- (4) Repealed by Session Laws 1983, c. 14, s. 3.
- (4a) "Mutual Responsibility Agreement" ("MRA") is an agreement between a county and a recipient of Work First Program assistance which describes the conditions for eligibility for the assistance and what the county will provide to assist the recipient in moving from assistance to self-sufficiency. A MRA may provide for recipient parental responsibilities and child development goals and what a county or the State will provide to assist the recipient in achieving those child development goals. Improvement in literacy shall be a part of any MRA, but a recipient shall not be penalized if unable to achieve improvement. A MRA is a prerequisite for any Work First Program assistance under this Article.
- (4b) "Parent" means biological parent or adoptive parent, and for Work First purposes, includes a stepparent.
- (4c) "Prepaid health plan" or "PHP" has the same meaning as in G.S. 108D-1.
- (5) "Recipient" is a person to whom, or on whose behalf, assistance is granted under this Article.
- (6) "Resident," unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.
- (7) "Secretary" is the Secretary of Health and Human Services, unless the context clearly indicates otherwise.
- (8) "Standard Program County" means a county that participates in the Standard Work First Program.
- (9) "Standard Work First Program" means the Work First Program developed by the Department.
- (10) "State Plan" is the biennial Work First Program plan, based upon the aggregate of the Electing County Plans and the Standard Work First Program, prepared by the Department for the State's Work First Program pursuant to this Article, and submitted sequentially to the Budget Director, to the General Assembly, to the Governor, and to the appropriate federal officials for approval.

- (11) "Temporary" is a time period, not to exceed 60 cumulative months, which meets the federal requirement of Title IV-A.
- (12) "Title IV-A" means the Social Security Act, 42 U.S.C. § 601, et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, as further amended by the Deficit Reduction Act of 2005, P.L. 109-171 and to other provisions of federal law as may apply to assistance provided in this Article.
- (13) "Work" is lawful activity exchanged for cash, goods, uses, or services.
- (14) "Work First Diversion Assistance" is a short-term cash payment that is intended to substantially reduce the likelihood of a family requiring Work First Family Assistance. Work First Diversion Assistance must be used to address a specific family crisis or episode of need and may not be used for ongoing or recurrent needs. Work First Diversion Assistance is limited to once in a 12-month period.
- (15) "Work First Family Assistance" is a program of time-limited periodic payments to assist in maintaining the children of eligible families while the adult family members engage in activities to prepare for entering and to enter the workplace.
- (16) "Work First Program" is the Temporary Assistance for Needy Families program established in this Article.
- (17) "Work First Program assistance" means the goods or services provided under the Work First Program.
- (18) "Work First Services" are services funded from appropriations made pursuant to this Article and designed to facilitate the purposes of the Work First Program. (1981, c. 275, s. 1; 1983, c. 14, s. 3; 1997-443, ss. 11A.118(a), 12.2; 2001-424, s. 21.52; 2009-489, s. 1; 2019-81, s. 3.)

§ 108A-25. Creation of programs; assumption by federally recognized tribe of programs.

(a) The following programs of public assistance are established, and shall be administered by the county department of social services or the Department of Health and Human Services under federal regulations or under rules adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

- (1) Repealed by S.L. 1997-443, s. 12.3, effective August 28, 1997.
- (2) State-county special assistance.
- (3) Food and Nutrition Services.
- (4) Foster care and adoption assistance payments.
- (5) Low income energy assistance program.

(b) The program of medical assistance is established as a program of public assistance and shall be administered by the Department of Health and Human Services in accordance with G.S. 108A-54. Medicaid eligibility administration may be delegated to the county departments of social services under rules adopted by the Department of Health and Human Services.

(b1) The Work First Program is established as a program of public assistance and shall be supervised and administered as provided in Part 2 of this Article.

(c) The Department of Health and Human Services may accept all grants-in-aid for programs of public assistance which may be available to the State by the federal government. The provisions of this Article shall be liberally construed in order that the State and its citizens may benefit fully from the federal grants-in-aid.

(d) Each Community Care network organization designated by the Department of Health and Human Services as responsible for coordinating the health care of individuals eligible for medical assistance in a county is hereby deemed to be a public agency that is a local unit of government for the sole and limited purpose of all grants-in-aid, public assistance grant programs, and other funding programs.

(e) When any federally recognized Native American tribe within the State assumes responsibility for any social services, Medicaid and NC Health Choice healthcare benefit programs, and ancillary services, including Medicaid administrative and service functions, that are otherwise the responsibility of a county under State law, then, notwithstanding any other provision of law, the county shall be relieved of the legal responsibility related to the tribe's assumption of those services. With respect to a tribe's assumption of any responsibilities for administration of any aspects of the NC Medicaid program, NC Health Choice, and the Supplemental Nutrition Assistance Program (SNAP), the State and the tribe shall execute an agreement to set forth the general terms, definitions, and conditions by which the parties shall operate. The agreement shall also include requirements and procedures regarding the allocation of all federal and other funds for all programs to be administered by the tribe. Upon the execution of the agreement, to allow the tribe to assume certain duties and responsibilities for the administration of the NC Medicaid program, NC Health Choice, and SNAP, the agreement between the State and the tribe shall require the tribe to accept the oversight authority of the State and the Department of Health and Human Services (Department) in the administration and supervision of these programs. In addition to the other necessary terms and conditions, the agreement shall include the following conditions:

- (1) All requirements as prescribed by federal law, as well as the tribe and State's responsibilities in complying with federal law, including, but not limited to, any specific provisions pertaining to accounting and auditing compliance, maintenance of liability insurance, confidentiality, reporting requirements, indemnity, waiver of immunity, or due process.
- (2) As the Department is the federally recognized single State agency for the NC Medicaid program, NC Health Choice, and SNAP, provisions stating the Department retains ultimate administrative discretion in the administration interpretation of all applicable policies, rules, and regulations regarding application processing, eligibility determinations and redeterminations, and other functions related to the eligibility process.
- (3) Provisions by the tribe to ensure that individuals who will be responsible for the tribe's duties and responsibilities under this agreement shall be employed under standards equivalent to current standards for a Merit System of Personnel Administration or any standards later prescribed by the Office of Personnel Management

under section 208 of the Intergovernmental Personnel Act of 1970, unless an exemption is obtained from the federal government. The tribe shall also provide the Department with information to verify the unemployment standards included under this condition.

- (4) Requirements and procedures for allocating to the tribe in a timely manner all federal funds, nonfederal matching funds, and State funds for State programs previously borne by the State. However, requirements and procedures for allocating funds pursuant to this subdivision shall not include any funding the tribe receives directly from federal agencies.
- (5) The Department shall, when possible and as allowed by the federal government, adopt funding flexibility for Indian Health Services when such flexibility furthers goals addressing health disparities among American Indians. (1937, c. 135, s. 1; c. 288, ss. 3, 31; 1949, c. 1038, s. 2; 1955, c. 1044, s. 1; 1957, c. 100, s. 1; 1965, c. 1173, s. 1; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1975, c. 92, s. 4; 1977, 2nd Sess., c. 1219, s. 9; 1979, c. 702, s. 1; 1981, c. 275, s. 1; 1997-443, ss. 11A.118(a), 11A.122, 12.3; 2004-203, s. 41; 2007-97, s. 3; 2010-31, s. 10.19A(b); 2014-100, s. 12C.3(c); 2015-241, s. 12C.10(a); 2017-57, s. 11H.22(a).)

§ 108A-25.1: Repealed by Session Laws 2001-424, s. 21.52.

§ 108A-25.1A. Responsibility for errors.

(a) A county department of social services shall be financially responsible for the erroneous issuance of Medicaid benefits and Medicaid claims payments resulting when the county department of social services takes any action that requires payment of Medicaid claims for an ineligible individual, for ineligible dates, or in an amount that includes a recipient's liability and for which the State cannot claim federal participation.

(b) Notwithstanding subsection (a) of this section, a county department of social services shall not be financially responsible for the erroneous issuance of Medicaid benefits and Medicaid claims payments resulting from a failure or error attributable solely to the State.

(c) The amounts to be charged back to a county department of social services for erroneous payments of claims shall be the State and federal shares of all erroneous payments, not to exceed the lesser of the amount of actual error or claims payment. (2017-57, s. 11H.22(f).)

§ 108A-25.2. Exemption from limitations for individuals convicted of certain drug-related felonies.

Individuals convicted of Class H or I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and the food and nutrition services program:

- (1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a

required substance abuse treatment program determined appropriate by the area mental health authority; or

- (2) If not committed to custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority.

A county department of social services shall require individuals who are eligible for Work First Program assistance and electronic food and nutrition benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or electronic food and nutrition benefits, if funds and programs are available and to the extent allowed by federal law. (1997-443, s. 12.4; 2007-97, s. 4; 2008-187, s. 17.)

§ 108A-25.3. Garnishment of wages to recoup fraudulent public assistance program payment.

- (a) The following definitions apply in this section:

- (1) Disposable income. - The part of the compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise which remains after the deduction of any amounts required by law to be withheld.
- (2) Fraudulent payment. - Any public assistance program payment made because of a recipient's false statement or representation or failure to disclose a material fact which occurs willfully and knowingly and with intent to deceive.
- (3) Garnishee. - The person, firm, association, or corporation owing compensation for personal services, whether denominated as wages, salary, commission, bonus, or otherwise.
- (4) Public assistance program. - Any means-tested benefit program administered or supervised by a county department of social services or the Department of Health and Human Services which is funded in whole or in part by federal, State, or county resources.

(b) In any case in which a recipient or former recipient of a public assistance program, who while a recipient, obtained or benefited from a fraudulent payment, a judge of the district court in the county where the recipient or former recipient resides or is found, or in the county where the payment was made, may enter an order of garnishment to recoup a fraudulent payment after 10 days following the entry of a judgment for a sum certain for fraudulent payments pursuant to a petition filed in the action in accordance with subsection (c) of this section. Not more than twenty percent (20%) of the recipient's or former recipient's monthly disposable income may be garnished to recoup payment in cases of fraudulent payment. The order of garnishment shall be subject to all federal and State laws or regulations that may apply to recoupment of fraudulent payments. Garnishment shall not be a remedy under this section when the recipient or former recipient is required to pay restitution for fraudulent public assistance payments pursuant to a criminal court order.

(c) A county department of social services or the Department of Health and Human Services may petition the court for an order of garnishment to recoup a fraudulent public

assistance program payment. Garnishment shall be a remedy to recoup payment only after all administrative remedies are exhausted unsuccessfully. The petition shall be verified and provide the court with facts and circumstances of the fraudulent payment to or on behalf of the recipient or former recipient, the name and address of the garnishee, the recipient's or former recipient's monthly disposable income (which may be based on information and belief), and the amount sought to be garnished from the recipient's or former recipient's disposable income. The petition shall be served on both the recipient or former recipient and the garnishee in accordance with the provisions for service of process set forth in G.S. 1A-1, Rule 4. The time period for answering or otherwise responding to process issued pursuant to this section shall be in accordance with the time periods set forth in G.S. 1A-1, Rule 12.

(d) Upon a hearing held pursuant to this section, the court may enter an order of garnishment. Provided, the court may not enter an order of garnishment if the court finds that the order jeopardizes the recipient's or former recipient's ability to become or remain financially self-sufficient and will result in the likelihood of an increased or recurring dependency on public assistance or an inability to secure basic necessities including, but not limited to, housing, food, health care, and utility costs. If an order of garnishment is entered, a copy of the same shall be served on both the recipient or the former recipient and the garnishee either personally or by certified or registered mail, return receipt requested. The order shall set forth sufficient findings of facts to support the action by the court and the amount to be garnished for each pay period. The amount garnished may be increased by an additional one dollar (\$1.00) processing fee to be assessed and retained by the garnishee for each payment under the order. The order shall be subject to review for modification and dissolution upon the filing of a motion in the cause.

(e) Upon receipt of the order of garnishment, the garnishee shall transmit without delay to the clerk of superior court the amount ordered by the court to be garnished. These funds shall be disbursed to the county department of social services to recoup fraudulent payments subject to the order of garnishment entered pursuant to this section.

(f) A garnishee who violates the terms of an order of garnishment shall be subject to punishment for contempt.

(g) The Social Services Commission shall adopt rules to implement this section. The rules shall ensure that a petition for an order of garnishment sought pursuant to this section is consistent with all federal and State laws and regulations. (1997-443, s. 11A.122; 1997-497, s. 1.)

§ 108A-25.4. Use of payments under the Low-Income Energy Assistance Program and Crisis Intervention Program.

(a) The Low-Income Energy Assistance Program Plan developed by the Department of Health and Human Services (Department) and submitted to the U.S. Department of Health and Human Services shall focus the annual energy assistance payments on the elderly population age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and disabled persons receiving services through the Division of Aging and Adult Services. The energy assistance payment shall be paid directly to the service provider by the county department of social services. The Plan for Crisis Intervention Program (CIP) shall provide assistance for vulnerable populations who meet income eligibility criteria established by the Department. The CIP payment shall be paid directly to the service provider by the county department of social services and shall not exceed six hundred dollars (\$600.00) per household in a fiscal year.

(b) The Department shall submit the Plan for each program to the U.S. Department of Health and Human Services no later than September 1 of each year and implement the Plan no later than October 1 of each year. (2011-145, s. 10.56(a).)

§ 108A-26. Certain financial assistance and in-kind goods not considered in determining assistance paid under Chapters 108A and 111.

Financial assistance and in-kind goods or services received from a governmental agency, or from a civic or charitable organization, shall not be considered in determining the amount of assistance to be paid any person under Chapters 108A and 111 of the General Statutes provided that such financial assistance and in-kind goods and services are incorporated in the rehabilitation plan of such person being assisted by the Division of Vocational Rehabilitation Services or the Division of Services for the Blind of the Department of Health and Human Services, except where such goods and services are required to be considered by federal law or regulations. (1973, c. 716; 1981, c. 275, s. 1; 1997-443, s. 11A.118(a).)

§ 108A-26.1. Information sharing of outstanding arrest warrant of applicant for or recipient of program assistance.

(a) A county department of social services shall notify an applicant for program assistance under Part 2 or Part 5 of this Article that release of confidential information from the applicant's records may not be protected if there exists an outstanding warrant for arrest against the applicant. A county department of social services shall notify a recipient under a program of public assistance under Part 2 or Part 5 of this Article at the time of renewal of the recipient's application for such program assistance that release of confidential information from the recipient's records may not be protected if there exists an outstanding warrant for arrest against the recipient.

(b) Notwithstanding G.S. 108A-80, and to the extent otherwise allowed by federal and State law, a county department of social services shall ensure that the criminal history of an applicant, or of a recipient at the time of benefits renewal, is checked in a manner and to the extent necessary to verify whether an applicant for or recipient of program assistance under Part 2 or Part 5 of this Article is (i) fleeing to avoid prosecution, custody, or confinement after conviction under the laws of the place from which the individual flees, for a crime or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or (ii) violating a condition of probation or parole imposed under federal or State law.

A criminal history check utilizing currently accessible databases shall be conducted by the county department of social services, subject to G.S. 114-19.34 and to the extent permitted by allocated county and State resources.

Nothing in this section requires fingerprints to be taken of every applicant for or recipient of a program of public assistance.

Counties are not required to allocate funds to comply with this section but are authorized to make such allocations on a voluntary basis.

(c) Nothing in this section shall be construed to authorize the disclosure of any information otherwise protected by State or federal law or regulation.

(d) This section applies to applicants for or recipients of program assistance under Part 2 or Part 5 of this Article only.

(e) The Social Services Commission shall adopt any rules necessary to implement this section, including rules addressing the sharing of confidential information between county departments of social services and law enforcement agencies.

(f) The Secretary of the Department of Health and Human Services shall promote cooperation among State and local agencies to perform the functions described in this section. The Department of Health and Human Services shall cooperate and collaborate with the Office of the State Controller, the Administrative Office of the Courts, the Department of Justice, the State Bureau of Investigation, and the Department of Public Safety to develop protocols to implement this section.

(g) Annually on April 1, each county department of social services shall report to the Department of Health and Human Services on the number of individuals who are denied benefits under this section during the preceding calendar year.

(h) Annually on May 1, the Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services of the General Assembly on the number of individuals who are denied assistance under this section. The report shall include a breakdown by county. (2013-417, s. 1.)

§ 108A-26.2. Fleeing felon or parole or probation violator; eligibility for program assistance; federal approval; review by department.

(a) Subject to subsection (b) of this section, a department of social services shall not grant public assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes if the department receives information described in G.S. 108A-26.1 that the applicant for or recipient of program assistance is subject to arrest under an outstanding warrant arising from a charge of violating conditions of parole or probation or from a felony charge against that applicant or recipient in any jurisdiction. This section does not affect the eligibility for assistance of other members of the applicant's or recipient's household. An applicant or recipient described in this section is eligible for program assistance if all other eligibility criteria of the law are met when the applicant or recipient is no longer subject to arrest under an outstanding warrant as described in this section.

(b) If federal approval is required in order to prevent the loss of federal reimbursement as a result of the application of this section to an applicant for or recipient of program assistance, the Department of Health and Human Services shall promptly take any action necessary to obtain federal approval. (2013-417, s. 2.)

§ 108A-26.5. NC FAST caseworker training and certification program.

The Department of Health and Human Services (Department) shall design and implement a training and certification program for caseworkers utilizing North Carolina Families Accessing Services Through Technology (NC FAST). The training and certification program shall be available on a statewide basis, and the Department shall provide training to caseworkers at county departments of social services at a location within reasonable travel distance from the county departments of social services multiples times per year. No later than 18 months after the Department has implemented the training and certification program, the Department shall require all caseworkers inputting data or making determinations for eligibility for State programs through NC FAST to be certified. A certification may last no longer than three years before an individual is required to be recertified. The Department may adopt and amend rules to implement this training and certification program. (2017-57, s. 11H.22(g).)

Part 2. Work First Program.

§ 108A-27. (See editor's note) Authorization and description of Work First Program; Work First Program changes; designation of Electing and Standard Program Counties.

(a) The Department shall establish, supervise and monitor the Work First Program. The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their movement to self-sufficiency through gainful employment, not the mere reduction of the welfare rolls. The Department shall ensure that the Work First Program focuses on this purpose of self-sufficiency. The ultimate goal of the Work First Program is the gradual elimination of generational poverty, and the Department shall ensure that all evaluations of the Work First Program, whether performed at the State or the county level, maintain this purpose and this goal of the Work First Program and effect an ongoing determination of whether the Work First Program is successful in facilitating families to move to self-sufficiency and in gradually eliminating generational poverty.

(b) The Work First Program in all counties shall include program administration and three categories of assistance to participants:

- (1) Work First Diversion Assistance;
- (2) Work First Family Assistance; and
- (3) Work First Services.

(c) The Department may change the Work First Program when required to comply with federal law. Any changes in federal law that necessitate a change in the Work First Program shall be effected by temporary rule until the next State Plan is approved by the General Assembly. Any change effective by the Department to comply with federal law shall be reported to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services and included in the State Plan submitted during the next session of the General Assembly following the change.

(d) The Department shall allow counties maximum flexibility in the Work First Program while ensuring that the counties comply with federal and State laws and regulations. Subject to any limitations imposed by law, the Department shall allow counties to request to be designated as either Electing Counties or Standard Program Counties in the Work First Program.

(e) All counties shall notify the Department in writing as to whether they desire to be designated as either Electing or Standard Program. A county shall submit in its notification to the Department documentation demonstrating that three-fifths of its county commissioners support its desired designation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning designation. A county that desires to be redesignated shall submit a request in writing to the Department at least six months prior to the effective date of the next State Plan. In its request for redesignation, the county shall submit documentation demonstrating that three-fifths of its county commissioners support the redesignation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning redesignation. A county's redesignation shall become effective on the effective date of the next State Plan following the redesignation. A county's designation or redesignation shall not be effected except as provided in this Article.

(f) The board of county commissioners in an Electing County shall be responsible for development, administration, and implementation of the Work First Program in that county.

(g) The county department of social services in a Standard Program County shall be responsible for administering and implementing the Standard Work First Program in that county.

(h) The Department and Electing Counties, in developing their respective plans, may distinguish among potential groups of recipients on whatever basis necessary to enhance program purposes and to maximize federal revenues, so long as the rights, including the constitutional rights of equal protection and due process, of individuals are protected. The Department and Electing Counties shall provide Work First Program assistance to qualified immigrants on the same basis as citizens to the extent permitted by federal law. (1981, c. 275, s. 1; 1997-443, s. 12.5; 1998-212, s. 12.27A(a1); 2001-424, s. 21.13(e); 2009-489, s. 2.)

Part 2. Work First Program.

§ 108A-27.01. Income eligibility and payment level for Work First Family Assistance.

The maximum net family annual income eligibility standards for Work First Family Assistance are as provided in the table below. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

Family Size	Income Level
1	\$ 4,344
2	5,664
3	6,528
4	7,128
5	7,776
6	8,376
7	8,952
8	9,256

(2013-360, s. 12C.8; 2014-100, s. 12C.2.)

§ 108A-27.1. Time limitations on assistance.

(a) Under the Standard Work First Program, unless an extension or an exemption is provided pursuant to the provisions of the Part or the State Plan, any cash assistance provided to a person or family in the employment program shall only be provided for a cumulative total of 24 months. After having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after 36 months from the last month the person or the family received cash assistance. This subsection shall not apply to child-only cases.

(b) Electing Counties may set any time limitations on assistance it finds appropriate, so long as the time limitations do not conflict with or exceed any federal time limitations. (1997-443, s. 12.6; 1998-212, s. 12.27A(f).)

§ 108A-27.2. General duties of the Department.

The Department shall have the following general duties with respect to the Work First Program:

- (1) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;

- (1a) Provide technical assistance to Electing Counties developing and implementing and to Standard Counties implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
- (1b) Reserved for future codification purposes.
- (1c) Ensure that all families with work eligible parents and parents with children under the age of 12 months receive Work First benefits in the month after compliance with their Mutual Responsibility Agreement. Failure to comply with their Mutual Responsibility Agreement shall result in no Work First Benefits the following month, unless there is good cause.
- (2) Describe authorized federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
- (3) Define requirements for assignment of child support income and compliance with child support activities;
- (4) Establish a schedule for Electing Counties to submit their County Plans to ensure that all Electing County Plans are adopted by Electing Counties by February 1 of each odd-numbered year and review and then recommend a State Plan to the General Assembly;
- (5) Ensure that the Electing County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
- (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
- (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;
- (8) Repealed by Session Laws 2003-284, s. 10.57, effective July 1, 2003.
- (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on job retention and advancement, child abuse and neglect, caseloads for child protective services and foster care, school attendance, academic and behavioral performance, and other measures of the economic security and health of children and families. The system should be developed to allow monitoring

and evaluation of impact based on both aggregated and disaggregated data. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;

- (10) Monitor the performance of Electing Counties relative to their respective Plans and the overall goals of the Work First Program. Monitor Standard Counties relative to the State Plan and the overall goals of the Standard Work First Program;
- (11) Repealed by Session Laws 2003-284, s. 10.57, effective July 1, 2003.
- (12) Report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services the counties which have requested Electing status; provide copies of the proposed Electing County Plans to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services, if requested; and make recommendations to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and
- (13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at September 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended.
- (14) Review the county Work First Program of each Electing County and recommend whether the county should continue to be designated an Electing County or whether it should be redesignated as a standard county. In conducting its review and making its recommendation, the Department shall:
 - a. Examine and consider the results of the Department's monitoring and evaluation of the impact of the Electing County's Work First Program as required under subdivision (9) of this section;
 - b. Determine whether the Electing County's Work First Program's unique design requires implementation by an Electing County or whether the Work First Program could be implemented by a county designated as a standard county;
 - c. Determine whether the Electing County's Work First Program and policies are unique and innovative in meeting the purpose of the

Work First Program as stated under G.S. 108A-27, and State and federal laws, rules, and regulations, as compared to other standard and Electing County Work First programs.

The Department shall make its recommendation and the reasons therefor to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services not later than three months prior to submitting the State Plan to the Commission for review as required under G.S. 108A-27.9(a). (1997-443, s. 12.6; 1998-212, s. 12.27A(g); 1999-237, s. 7.10(b); 1999-359, ss. 1.2(a), 2(a), (b), 6; 2001-424, s. 21.13(b), (e); 2003-284, s. 10.57; 2009-489, s. 3.)

§ 108A-27.3. Electing Counties - Duties of county boards of commissioners.

(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

- (1) Establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency;
- (2) Establish eligibility criteria for recipients except for those criteria related to sanctioning procedures mandated across the State pursuant to G.S. 108A-27.9(c);
- (3) Prescribe the method of calculating benefits for recipients;
- (4) Repealed by Session Laws 2009-489, s. 4, effective August 26, 2009.
- (5) If made a part of the county's Work First Program, develop and enter into Mutual Responsibility Agreements with Work First Program recipients and ensure that the services and resources that are needed to assist participants to comply with the obligations under their Mutual Responsibility Agreements are available;
- (6) Ensure that participants engage in the minimum hours of work activities required by Title IV-A;
- (7) Consider providing community service work for any recipient who cannot find employment;
- (8) Authorize payments of Work First Diversion Assistance and Work First Family Assistance to recipients having MRAs;
- (9) Monitor compliance with Mutual Responsibility Agreements and enforce the agreement provisions;
- (10) Repealed by Session Laws 2009-489, s. 4, effective August 26, 2009.
- (10a) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:
 - a. Ensure that time limitations on assistance have been computed correctly.

- b. Ensure that the family is informed in writing about public assistance benefits, including child care, Medicaid, and food and nutrition services, for which the family is eligible even while cash assistance is no longer available.
 - c. Provide for an extension of cash assistance benefits if the family qualifies for an extension.
 - d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.
- (11) Ensure compliance with applicable State and federal laws, rules, and regulations for the Work First Program;
 - (12) Develop, adopt, and submit to the Department a biennial County Plan;
 - (13) Repealed by Session Laws 2009-489, s. 4, effective August 26, 2009.
 - (14) Develop and implement an appeals process for the county's Work First Program that substantially complies with G.S. 108A-79 and comply with the procedures related to sanctioning by the Department for all counties in the State pursuant to G.S. 108A-27.2 and prescribed as general provisions in the State Plan pursuant to G.S. 108A-27.9(c) (1).

(b) The county board of commissioners shall not delegate the responsibilities described in subdivisions (a)(1), (a)(11), and (a)(12) of this section but may delegate other duties to public or private entities. Notwithstanding any delegation of duty, the county board of commissioners shall remain accountable for its duties under the Work First Program.

(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners and community-based organizations representative of the population to be served.

(d) The county board of commissioners shall review and approve the County Plan for submission to the Department. (1997-443, s. 12.6; 1998-212, s. 12.27A(h); 1999-359, s. 5(a); 2007-97, s. 5; 2009-489, s. 4.)

§ 108A-27.4. Electing Counties - County Plan.

(a) Each Electing County shall submit to the Department, according to the schedule established by the Department and in compliance with all federal and State laws, rules, and regulations, a biennial County Plan.

(b) An Electing County's County Plan shall have at least the following five parts:

- (1) Part I. Conditions Within the County;
- (2) Part II. Outcomes and Goals for the County;
- (3) Part III. Plans to Achieve and Measure the Outcomes and Goals;
- (4) Part IV. Administration; and
- (5) Part V. Funding Requirements.

(c) Funding requirements shall, at least, identify the amount of a county block grant for Work First Diversion Assistance, a county block grant for Work First Family Assistance, a county block grant for Work First Services, and the county's maintenance of effort contribution. A county may establish a reserve.

(d) Repealed by Session Laws 2009-489, s. 5, effective August 26, 2009.

(e) Each county shall include in its County Plan the following:

- (1) Repealed by Session Laws 2009-489, s. 5, effective August 26, 2009.
- (2) A description of the county's plans for serving families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding;
- (3) Repealed by Session Laws 2009-489, s. 5, effective August 26, 2009.
- (4) A description of the county's eligibility criteria, benefit calculation, and any other policies adopted by the county relating to eligibility, terms, and conditions for receiving Work First Program assistance, including sanctions, asset and income requirements, time limits and extensions, rewards, exemptions, and exceptions to requirements. If an Electing County Plan proposes to change eligibility requirements, benefits levels, or reduce maintenance of effort, the county shall describe the reasons for these changes and how the county intends to utilize the maintenance of effort savings;
- (5) A description of how the county plans to utilize public and private resources to assist in moving persons and families to self-sufficiency; and
- (6) Any request to the Department for waivers to rules or any proposals for statutory changes to remove any impediments to implementation of the County's Plan.
- (7) The process by which the county will review all Work First caseloads no later than three months prior to expiration of time limitations for receiving cash assistance to:
 - a. Ensure that time limitations on assistance have been computed correctly.
 - b. Ensure that the family is informed in writing about public assistance benefits, including child care, Medicaid, and food and nutrition services, for which the family is eligible even while cash assistance is no longer available.
 - c. Provide for an extension of cash assistance benefits if the family qualifies for an extension.
 - d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.

(f) Each county shall provide to the general public an opportunity to review and comment upon its County Plan prior to its submission to the Department.

(g) A county may modify its County Plan once each biennium but not at any other time unless the county notifies the Department of the proposed modification and the

Department determines that the proposed modification is consistent with State and federal law and the goals for the Work First Program.

(h) Electing Counties shall have an emergency assistance program for Work First eligible families, as defined in the electing county plan. Counties may establish income eligibility for emergency assistance at or below two hundred percent (200%) of the federal poverty level. (1997-443, s. 12.6; 1999-359, s. 5(b), (c); 2007-97, s. 6; 2007-484, s. 38; 2009-489, s. 5.)

§ 108A-27.5. Electing Counties - Duties of the Department.

In addition to the general duties prescribed in G.S. 108A-27.3, the Department shall have the following duties with respect to establishing, supervising, and monitoring the Work First Program in Electing Counties while allowing Electing Counties maximum flexibility in designing and implementing County Plans:

- (1) Repealed by Session Laws 2009-489, s. 6, effective August 26, 2009.
- (2) At the request of the counties, provide assistance to counties in their activities with private sector individuals and organizations relative to County Plans; and
- (3) Establish the baseline for the State maintenance of effort. (1997-443, s. 12.6; 2009-489, s. 6.)

§ 108A-27.6. Standard Program Counties - Duties of county departments of social services and county boards of commissioners.

(a) Except as otherwise provided in this Article, the Standard Work First Program shall be administered by the county departments of social services. The county departments of social services in Standard Program Counties shall:

- (1) In consultation with the Department and the county board of commissioners, establish outcome and performance measures for all Standard Program Counties. There exist two goals for the Work First Program: to meet or exceed the federal Work Participation Rate of fifty percent (50%) for all Work Eligible families and ninety percent (90%) for all two-parent families;
- (2) Determine eligibility of persons and families for the Work First Program;
- (3) Enter into Mutual Responsibility Agreements with participants if required under the State Plan and ensure that the services and resources that are needed to assist participants to comply with their obligations under their Mutual Responsibility Agreements are available;
- (4) Comply with State and federal law relating to Work First and Title IV-A;
- (5) Repealed by Session Laws 2009-489, s. 7, effective August 26, 2009.
- (6) Ensure that participants engage in the minimum hours of work activities required by the State Plan and Title IV-A;
- (7) Ensure that the components of the Work First Program are funded solely from authorized sources and that federal TANF funds are used

only for purposes and programs authorized by federal and State law;
and

(8),(9) Repealed by Session Laws 2009-489, s. 7, effective August 26, 2009.

(10) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:

- a. Ensure that time limitations on assistance have been computed correctly.
- b. Ensure that the family is informed about public assistance benefits, including child care, Medicaid, and food and nutrition services, for which the family is eligible even while cash assistance is no longer available.
- c. Provide for an extension of cash assistance benefits if the family qualifies for an extension.
- d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.

(b) In consultation with the Department, a county department of social services may delegate any of its duties under this Article to another public agency or private contractor. Prior to delegating any duty, a county department of social services shall submit its proposed delegation to the Department as the Department may provide. Notwithstanding any delegation of duty, a county department of social services shall remain accountable for its duties under the Work First Program.

(c),(d) Repealed by Session Laws 2009-489, s. 7, effective August 26, 2009. (1997-443, s. 12.6; 1999-359, s. 5(e); 2007-97, s. 7; 2009-489, s. 7.)

§ 108A-27.7. Standard Program County Plan.

Standard counties shall have an emergency assistance program for Work First eligible families, as defined in the standard county plan. Counties may establish income eligibility for emergency assistance at or below two hundred percent (200%) of the federal poverty level. (1997-443, s. 12.6; 1999-359, s. 5(d); 2009-489, s. 8.)

§ 108A-27.8. Standard Program Counties - Duties of Department.

(a) The Department shall establish, develop, supervise, and monitor the Standard Work First Program. In addition to its general duties prescribed in G.S. 108A-27.2, the Department shall have the following duties with respect to the Standard Work First Program and the Standard Program Counties:

- (1) Repealed by Session Laws 2009-489, s. 9, effective August 26, 2009.
- (2) Advise and assist the Social Services Commission in adopting rules necessary to implement the provisions of this Article;
- (3) Supervise disbursement of county block grants to the Standard Program Counties for Work First Services;
- (4) Make payments of Work First Family Assistance and Work First Diversion Assistance; and
- (5), (6) Repealed by Session Laws 2009-489, s. 9, effective August 26, 2009.

- (7) Develop a Mutual Responsibility Agreement for use by Standard Program Counties.
- (b) The Secretary, in consultation with the Office of State Budget and Management, may adopt temporary rules when necessary to:
 - (1) Implement provisions of the State Plan;
 - (2) Maximize federal revenues to prevent the loss of federal funds;
 - (3) Enhance the ability of the Department to prevent fraud and abuse in the Work First Program; and
 - (4) Modify the provisions in the State Plan as necessary to meet changed circumstances after approval of the State Plan.
- (c) The Social Services Commission may adopt rules in accordance with G.S. 143B-153 when necessary to implement this Article and subject to delegation by the Secretary of any rule-making authority to implement the provisions of the State Plan. (1997-443, s. 12.6; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2009-489, s. 9.)

§ 108A-27.9. State Plan.

- (a) The Department shall prepare and submit to the Director of the Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall:
 - (1) Consult with local government and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from those organizations; and
 - (2) Upon complying with subdivision (1) of this subsection, submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for review.
- (b) The State Plan shall consist of generally applicable provisions and two separate sections, one proposing the terms of the Work First Program in Electing Counties, and the other proposing the terms for the Standard Work First Program.
- (c) The State Plan shall include the following generally applicable provisions:
 - (1) Provisions to ensure that recipients who are sanctioned are provided a clear explanation of the sanction and that all recipients, including those under sanction or termination for rules infractions, are fully informed of their right to legal counsel and any other representatives they choose at their own cost;
 - (1a) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:
 - a. Any regular employee is on layoff from the same or substantially equivalent job;
 - b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or
 - c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such

as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;

- (1b) Reserved for future codification purposes.
- (1c) Provisions to ensure that all work eligible parents and all parents with a child under 12 months of age are subject to pay for performance requirements. Pay for performance requirements means that the family will receive Work First benefits in the month following a month that they comply with their Mutual Responsibility Agreement. Failure to comply with the Mutual Responsibility Agreement without good cause will result in no Work First benefits in the following month.
- (2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision (1a) of this subsection, and grievance procedures to resolve complaints by Work First Participants made pursuant to subdivision (3) of this subsection;
- (3) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the Work First Program employees in similarly situated work activities, including, but not limited to, wage and hour laws, health and safety standards, and nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit Work First Program participants from receiving additional State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;
- (4) A description of eligible federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
- (5) Requirements for assignment of child support income and compliance with child support activities;
- (6) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform; and
- (7) Anything else required by federal or State law, rule, or regulation to be included in the State Plan.

(d) The section of the State Plan proposing the terms of the Work First Program in Electing Counties shall be based upon the aggregate of the Electing County Plans and shall include federal eligibility requirements and a description of the eligibility requirements and benefit calculation in each Electing County.

The Department may modify the section in the State Plan regarding Electing Counties once a biennium or except as necessary to reflect any modifications made by an Electing County. Any changes to the section of the State Plan regarding Electing Counties shall be reported to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division within one month following the changes.

(e) The section of the State Plan describing the Standard Work First Program shall include:

- (1) Benefit levels, limitations, and payments and the method for calculating benefit levels and payments;
- (2) Eligibility criteria, including asset and income standards;
- (3) Any exceptions or exemptions proposed to work requirements;
- (4) Provisions for when extensions may be granted to a person or family who reaches the time limit for receipt of benefits;
- (5) Provisions for exceptions and exemptions to criteria, time limits, and standards;
- (6) Provisions for sanctions for recipient failure to comply with program requirements; and
- (7) through (10) Repealed by Session Laws 2009-489, s. 7, effective August 26, 2009.
- (11) A description of the Department's consultation with local governments and private sector organizations and a summary of any comments received during the 45-day public comment period.

(f) In addition to those items required to be included pursuant to subsection (e) of this section, the State Plan may include proposals to establish the following as part of the Standard Work First Program:

- (1) Demonstration projects in one or more counties to assess the value of any proposed changes in State policy or to test ways to improve programs; and
- (2) Requirement that recipients shall be required to enter into and comply with Mutual Responsibility Agreements as a condition of receiving benefits. If provided for in the State Plan, the terms and conditions of Mutual Responsibility Agreements shall be consistent with program purposes, federal law, and availability of funds.

(g) The State Plan may provide for automatic Medicaid eligibility for all Work First Program recipients.

(h) The State Plan may provide that in cases where benefits are paid only for a child, the case is considered a family case. (1997-443, s. 12.6; 1997-456, s. 55.10; 1998-212, s. 12.27A(b), (b1); 1999-359, ss. 1.2(b), 2(c); 2001-424, s. 21.13(c), (e); 2007-323, s. 10.35A(a); 2009-489, s. 10.)

§ 108A-27.10. Duties of the Director of the Budget/Governor.

- (a) The Director of the Budget shall, by May 15 of each odd-numbered year, approve and recommend adoption by the General Assembly of the State Plan.
- (b) At the beginning of every fiscal year, the Director of the Budget shall report to the General Assembly the number of permanent State employees who have been Work First Program recipients during the previous calendar year.
- (c) After the State Plan has become law, the Governor shall sign it and cause it to be submitted to federal officials in accordance with federal law. (1997-443, s. 12.6; 2007-323, s. 10.35A(b).)

§ 108A-27.11. Work First Program funding.

- (a) County block grants, except funds for Work First Family Assistance, shall be computed based on the percentage of each county's total AFDC (including AFDC-EA) and JOBS expenditures, except expenditures for cash assistance, to statewide actual expenditures for those programs in fiscal year 1995-96. The resulting percentage shall be applied to the State's total certified budget enacted by the General Assembly for each fiscal year, except for State funds budgeted for State and county demonstration projects authorized by the General Assembly and for Work First Family Assistance payments.
- (b) The following shall apply to funding for Standard Program Counties:
 - (1) The Department shall make payments of Work First Family Assistance and Work First Diversion Assistance subject to the availability of federal, State, and county funds.
 - (2) The Department shall reimburse counties for county expenditures under the Work First Program subject to the availability of federal, State, and county funds.
- (c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the federal TANF block grant funds appropriated for cash assistance by the General Assembly each fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. (1997-443, s. 12.6; 1998-212, s. 12.27A(i); 1999-359, s. 3; 2002-126, s. 10.37; 2003-284, s. 10.50.)

§ 108A-27.12. Maintenance of effort.

- (a) The Department shall define in the State Plan the services that can be provided with TANF federal funds and with State and county maintenance of effort funds. The Department shall work with counties to allow flexibility in the spending of county, State, and federal funds so as to maximize the use of resources while assuring that federal maintenance of effort requirements are met.
- (b) Counties that fail to meet maintenance of effort requirements and that fail to meet the performance indicators for reducing maintenance of effort shall submit a corrective action plan to the Department and shall be subject to G.S. 108A-27.14. The Department may reduce block grant allocations to counties that fail to meet maintenance of effort requirements and performance indicators or may use some of the county's block grant allocation to secure needed services for clients in that county. If a county fails to comply with maintenance of

effort requirements, the Director of the Budget may also withhold State funds appropriated to the county pursuant to G.S. 108A-93.

(c) The Department shall maintain the State's maintenance of effort at one hundred percent (100%) of the State certified budget enacted by the General Assembly for programs under this Part during fiscal year 1996-97. At no time shall the Department reduce or reallocate State funds previously obligated or appropriated for Work First or child welfare services.

(d) Each standard county shall maintain funding in Work First, child welfare, and related activities as defined by the Department at one hundred percent (100%) of the county funds budgeted in State Fiscal Year 1996-97 for AFDC Administration, JOBS employment and training, and AFDC Emergency Assistance (cash and services). A county may request to reduce its block grant and maintenance of effort if that county can demonstrate that it is meeting all the needs of its clients, as defined by the Department's performance indicators, without spending all of the block grant funds. The needs of clients include child protection, employment services, and related supportive services such as child care. The Department may reallocate any State or federal funds released from a county that reduced its maintenance of effort or from counties not spending their block grants. Funds reallocated to counties will require county match.

(e) During the first year a county operates as an Electing County, the county's maintenance of effort shall be no less than ninety percent (90%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97. If during the first year of operation as Electing the Electing County achieves one hundred percent (100%) of its goals as set forth in its Electing County Plan, then the Electing County may reduce its maintenance of effort to eighty percent (80%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97 for the second year of the Electing County's operation and for all years thereafter that the county maintains Electing Status.

(f) The Department may realign funds if the realignment will assure that maintenance of effort requirements are met while maximizing federal revenues.

(g) The Department of Health and Human Services shall report quarterly on the extent to which the State and counties are meeting federal maintenance of effort requirements under Temporary Assistance of Needy Families and on any realignment of funds. The Department and the counties shall work together to maximize full achievement of the State and county maintenance of effort. The Department shall make its report to members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Joint Legislative Public Assistance Committee, and to the Fiscal Research Division. (1997-443, s. 12.6; 1998-212, s. 12.27A(j); 1999-359, s. 4(a), (c).)

§ 108A-27.13. Performance standards.

(a) The Department, in consultation with the county department of social services and county board of commissioners, shall establish outcome and performance measures for all counties, both Electing and Standard. There exist two goals for the Work First Program: to meet or exceed the federal Work Participation rate of fifty percent (50%) for all Work Eligible families and ninety percent (90%) for all two-parent families. The two goals apply to both Standard and Electing Counties. The Department shall establish monitoring mechanisms and reporting requirements to assess progress toward the goals. The well-being of children and economic factors and conditions within the counties, including the increased numbers of

persons employed and increased numbers of hours worked by and wages earned by recipients, shall be considered by the Department.

(b) Repealed by Session Laws 2009-489, s. 11, effective August 26, 2009.

(c) All adult recipients of Work First Program assistance are expected to achieve full-time employment, subject to applicable exceptions. Adult recipients of Work First Program assistance shall comply with the provisions and requirements in their MRAs. (1997-443, s. 12.6; 2009-489, s. 11.)

§ 108A-27.14. Corrective action.

(a) When any county fails to meet acceptable levels of performance, the Department may take one or more of the following actions to assist the county in meeting its Work First goals:

- (1) Notify the county of the deficiencies and add additional monitoring and reporting requirements.
- (2) Require the county to develop and submit for approval by the Department a corrective action plan.

(b) If any Standard Program County fails to meet acceptable levels of performance for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, the Department may assume control of the county's Work First Program, appoint an administrator to administer the county's Work First Program, and exercise the powers assumed to administer the Work First Program either directly or through contract with private or public agencies. County funding shall continue at levels established by the State Plan when the State has assumed control of a county Work First Program. At no time after the State has assumed control of a Work First Program shall a county withdraw funds previously obligated or appropriated to the Work First Program.

(c) If an Electing County fails to achieve its Work First Program goals for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, and as a result the federal government imposes a penalty upon the State, then the county shall lose its Electing County status. (1997-443, s. 12.6.)

§ 108A-27.15. Assistance not an entitlement; appeals.

(a) Any assistance programs established under this Part, whether administered by the Department or the counties, are not entitlements, and nothing in this Part shall create any property right.

(b) The Standard Work First Program is a program of temporary public assistance for the purpose of an appeal under G.S. 108A-79. (1997-443, s. 12.6.)

§ 108A-27.16. Repealed by Session Laws 1999-237, s. 6(h).

§§ 108A-28, 108A-28.1: Repealed by Session Laws 1997-443, s. 12.14.

§ 108A-29. Priority for employment services.

(a) Repealed by Session Laws 2009-489, s. 12, effective August 26, 2009.

(b) Individuals seeking to apply or reapply for Work First Program assistance and who are not exempt from work requirements shall register with the Division of Employment Security for employment services. The point of registration shall be at an office of the Division in the county in which the individual resides or at another location designated in a

Memorandum of Understanding between the Division and the local department of social services.

(c) Individuals who are not otherwise exempt shall present verification of registration for Work First Program assistance. Unless exempt, the individual shall not be approved for Work First Program assistance until verification is received. Child-only cases are exempt from this requirement.

(d) Once an individual has registered as required in subsection (c) of this section and upon verification of the registration by the agency or contractor providing the Work First Program assistance, the individual's eligibility for Work First Program assistance may be evaluated and the application completed. Continued receipt of Work First Program benefits is contingent upon successful participation in employment services in the Mutual Responsibility Agreement, and lack of cooperation and participation in employment services may result in the termination of benefits to the individual.

(e) Repealed by Session Laws 2009-489, s. 12, effective August 26, 2009.

(f) Each county department of social services shall enter into a cooperative agreement with the local Division to operate the Job Search component on behalf of Work First Program registrants. The cooperative agreement shall include a provision for payment to the Division by the county department of social services for the cost of providing those services, not otherwise available to all clients of the Division, described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant. The county department of social services may also enter into a cooperative agreement with the community college system or any other entity to operate the Job Preparedness component. This cooperative agreement shall include a provision for payment to that entity by the county department of social services for the cost of providing those services, not otherwise available to all clients of the Division, described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant.

(g) The Division shall further assist registrants through job search, job placement, or referral to community service, if contracted to do so.

(h) An individual placed in the Job Search component of the Division or other agency providing Job Search services shall look for work and shall accept any suitable employment. If contracted, the Division shall refer individuals to current job openings and shall make job development contacts for individuals. Individuals so referred shall be required to keep a record of their job search activities on a job search record form provided by the Division, and the Division will monitor these activities. A "job search record" means a written list of dates, times, places, addresses, telephone numbers, names, and circumstances of job interviews. The Job Search component shall include at least one weekly contact with the Division. The Division shall adopt rules to accomplish this subsection.

(i) The Division of Employment Security shall notify all employers in the State of the "Exclusive No-Fault" Referral Service available through the Division of Employment Security to employers who hire personnel through Job Service referrals.

(j) All individuals referred to jobs through the Division of Employment Security shall be instructed in the procedures for applying for the Federal Earned Income Credit (FEIC). All individuals referred to jobs through the Division who qualify for the FEIC shall apply for the FEIC by filing a W-5 form with their employers.

(k) The FEIC shall not be counted as income when eligibility is determined for Work First Program assistance, Medicaid, food and nutrition services, public housing, or Supplemental Security Income.

(l) The Division of Employment Security shall work with the Department of Labor to develop a relationship with these private employment agencies to utilize their services and make referrals of individuals registered with the Division of Employment Security.

(m) An individual who has not found a job within 12 weeks of being placed in the Job Search component of the Program may also be placed in the Community Service component at the county's option.

(n) If after evaluation of an individual the Division of Employment Security believes it necessary, the Division or the county department of social services also may refer an individual to a Job Preparedness provider. The local community college should include adult high school equivalency diploma, Adult Basic Education, or Human Resources Development programs that are already in existence as a part of the Job Preparedness component. Additionally, the Division or the county department of social services may refer an individual to a literacy council. Through a Memorandum of Understanding between the Division of Employment Security, the local department of social services, and other contracted entities, a system shall be established to monitor an individual's progress through close communications with the agencies assisting the individual. The Division of Employment Security or Job Preparedness provider shall adopt rules to accomplish this subsection.

(o) The Job Preparedness component of the Program shall last a maximum of 12 weeks unless the recipient is registered and is satisfactorily progressing in a program that requires additional time to complete. Every reasonable effort shall be made to place the recipient in part-time employment or part-time community service if the time required exceeds the 12-week maximum. The county department of social services may contract with service providers to provide the services described in this section and shall monitor the provision of the services by the service providers. Registrants may participate in more than one component at a time.

(p) The Division shall expand its Labor Market Information System. The expansion shall at least include: statistical information on unemployment rates and other labor trends by county; and publications dealing with licensing requirements, economic development, and career projections, and information technology systems which can be used to track participants through the employment and training process.

(q), (r) Repealed by Session Laws 2009-489, s. 12, effective August 26, 2009.

(s) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for Work First Family Assistance, regardless of whether or not they have applied for such assistance, shall be given priority in obtaining employment services including training and community service provided by or through State agencies or counties or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons. (1961, c. 998; 1963, c. 1061; 1965, c. 939, s. 2; 1969, c. 546, s. 1; 1971, c. 283; 1973, c. 476, s. 138; 1977, c. 362; 1981, c. 275, s. 1; 1981 (Reg. Sess., 1982), c. 1282, s. 19; 1989 (Reg. Sess., 1990), c. 966, s. 1; 1997-443, s. 12.7(a); 1998-212, s. 12.27A(l), (m); 1999-340, s. 9; 2001-424, s. 21.13(d), (e); 2007-97, s. 8; 2009-489, s. 12; 2011-401, s. 3.12; 2014-115, s. 28(d).)

§ 108A-29.1. Drug screening and testing for Work First Program applicants and recipients.

(a) The Department shall require a drug test to screen each applicant for or recipient of Work First Program assistance whom the Department reasonably suspects is engaged in the illegal use of controlled substances. The Department shall provide notice of drug testing to

each applicant or recipient. The notice shall advise the applicant or recipient that drug screening, and testing if there is reasonable suspicion that an individual is engaged in the illegal use of controlled substances, will be conducted as a condition of receiving Work First Program assistance, and that the results of the drug tests will remain confidential and will not be released to law enforcement. Dependent children under the age of 18 are exempt from the requirements of this section. The Department shall require the following:

- (1) That for two-parent households, both parents comply with the requirements of this section.
- (2) That any teen parent who is emancipated pursuant to Article 35 of Chapter 7B of the General Statutes complies with the requirements of this section.
- (3) That each applicant or recipient be advised before drug testing that he or she may inform the agent administering the test of any prescription or over-the-counter medication he or she is taking.
- (4) That each applicant or recipient being tested signs a written acknowledgement that he or she has received and understood the notice and advice provided under this subsection.
- (5) That each applicant or recipient who fails a drug test understands that he or she has the right to take one or more additional tests at his or her own expense.
- (6) That each applicant or recipient who fails a drug test be provided with information regarding substance abuse, substance abuse counseling, and substance abuse treatment options, including a list of substance abuse treatment programs that may be available to the individual.

(b) An applicant or recipient who tests positive for controlled substances as a result of a drug test required under this section is ineligible to receive Work First Program assistance for one year from the date of the positive drug test except as provided in subsections (b1) and (b2) of this section. The individual may reapply after one year. However, if the individual has any subsequent positive drug tests, the individual shall be ineligible for benefits for three years from the date of the subsequent positive drug test unless the individual reapplies pursuant to subsection (b1) or (b2) of this section.

(b1) An applicant or recipient deemed ineligible under subsection (b) of this section may reapply for Work First Program assistance after the expiration of 30 days from the date of the positive drug test if the individual can document either the successful completion of or the current satisfactory participation in a substance abuse treatment program offered by a provider under subsection (e) of this section and licensed by the Department. The applicant or recipient who reapplies for Work First Program assistance after successful completion of a substance abuse program shall pass a drug test. The cost of any drug testing and substance abuse program provided under this subsection shall be the responsibility of the individual being tested and receiving treatment. An applicant or recipient who reapplies for Work First Program assistance pursuant to this subsection may reapply one time only.

(b2) An applicant or recipient deemed ineligible under subsection (b) of this section may reapply for Work First Program assistance after the expiration of 30 days from the date of the positive drug test if a qualified professional in substance abuse or a physician certified by

the American Society of Addiction Medicine determines a substance abuse program is not appropriate for the individual and that individual has passed a subsequent drug test. The cost of any drug testing provided under this subsection shall be the responsibility of the individual being tested. An applicant or recipient who reapplies for Work First Program assistance pursuant to this subsection may reapply one time only.

(c) The children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

(d) The Social Services Commission shall adopt rules pertaining to the testing of applicants and recipients under this section. The Social Services Commission shall adopt rules pertaining to the successful completion of, or the satisfactory participation in, a substance abuse treatment program under subsection (b1) of this section, including rules regarding timely reporting of completion of or participation in the substance abuse treatment programs.

(e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section.

(f) Repealed by Session Laws 2013-417, s. 4, as amended by Session Laws 2014-115, s. 66 (c), effective March 1, 2015.

(g) For the purposes of this section, reasonable suspicion that an applicant for, or recipient of, Work First Program assistance is engaged in the illegal use of controlled substances may be established only by utilizing the following methods:

- (1) A criminal record check conducted under G.S. 114-19.34 that discloses a conviction, arrest, or outstanding warrant relating to illegal controlled substances within the three years prior to the date the criminal record check is conducted.
- (2) A determination by a qualified professional in substance abuse or a physician certified by the American Society of Addiction Medicine that an individual is addicted to illegal controlled substances.
- (3) A screening tool relating to the abuse of illegal controlled substances that yields a result indicating that the applicant or recipient may be engaged in the illegal use of controlled substances.
- (4) Other screening methods, as determined by the Social Services Commission under subsection (d) of this section.

(h) Child only cases shall be exempt from the requirements of this section. (1997-443, s. 12.8; 2009-489, s. 13; 2013-417, s. 4; 2014-115, s. 66(c).)

§ 108A-30: Repealed by Session Laws 1997-443, s. 12.14.

§ 108A-31. Application for assistance.

Any person who believes that the person is eligible to receive Work First Program assistance may apply for assistance to the county department of social services in the county in which the person resides, or, in the case of residents of Electing Counties, to the public or private entity designated by the board of county commissioners. Counties shall record inquiries for and accept applications from all persons requesting to apply for Work First Program assistance. Counties shall process applications in a reasonable and timely manner. (1937, c. 288, ss. 15, 45; 1939, c. 395, s. 1; 1941, c. 232; 1945, c. 615, s. 1; 1947, c. 91, s. 3;

1953, c. 675, s. 12; 1959, c. 179, ss. 1, 2; 1969, c. 546, s. 1; 1973, c. 476, s. 138; c. 742; 1979, c. 702, s. 4; 1981, c. 275, s. 1; 1997-443, s. 12.8A.)

§§ 108A-32 through 108A-35: Repealed by Session Laws 1997-443, s. 12.14.

§ 108A-36. Assistance not assignable; checks payable to decedents.

The assistance granted by this Article shall not be transferable or assignable at law or in equity; and none of the money paid or payable as assistance shall be subject to execution, levy, attachment, garnishment, or other legal processes, or to the operation of any bankruptcy or insolvency law.

In the event of the death of a public assistance recipient during or after the first day of the month for which assistance was previously authorized by the county social services board, or county director if waived, any public assistance check or checks payable to such recipient not endorsed prior to such recipient's death shall be delivered to the clerk of superior court and by him administered under the provisions of G.S. 28A-25-6. (1937, c. 288, ss. 17, 47; 1945, c. 615, s. 1; 1953, c. 213; 1969, c. 546, s. 1; 1971, c. 446, ss. 1, 2; 1977, c. 655, ss. 1, 2; 1981, c. 275, s. 1.)

§ 108A-37. Personal representative for mismanaged public assistance.

(a) Whenever a county director of social services shall determine that a recipient of assistance is unwilling or unable to manage such assistance to the extent that deprivation or hazard to himself or others results, the director shall file a petition before a district court or the clerk of superior court in the county alleging such facts and requesting the appointment of a personal representative to be responsible for receiving such assistance and to use it for the benefit of the recipient.

(b) Upon receipt of such petition, the court shall promptly hold a hearing, provided the recipient shall receive five days' notice in writing of the time and place of such hearing. If the court, sitting without a jury, shall find at the hearing that the facts alleged in the petition are true, it may appoint some responsible person as personal representative. The personal representative shall serve without compensation and be responsible to the court for the faithful performance of his duties. He shall serve until the director of social services or the recipient shows to the court that the personal representative is no longer required or is unsuitable. All costs of court relating to proceedings under this section shall be waived.

(c) Any recipient for whom a personal representative is appointed may appeal such appointment to superior court for a hearing de novo without a jury.

(d) All findings of fact made under the proceedings authorized by this section shall not be competent as evidence in any case or proceeding which concerns any subject matter other than that of appointing a personal representative. (1959, c. 1239, ss. 1, 3; 1961, c. 186; 1969, c. 546, s. 1; 1981, c. 275, s. 1.)

§ 108A-38. Protective and vendor payments.

When necessary to comply with any present or future federal law or regulation in order to obtain federal participation in public assistance payments, the payments may be made direct to vendors to reimburse them for goods and services provided the applicants or recipients, and may be made to protective payees who shall act for the applicant or recipient for receiving and managing assistance. Payments to vendors and protective payees shall be made to the extent provided in, and in accordance with, rules of the Social Services Commission or the Department, which rules shall be subject to applicable federal laws and regulations. (1963, c.

380; 1969, c. 546, s. 1; c. 747; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 20; 1981, c. 275, s. 1; 1997-443, s. 12.9.)

§ 108A-39. Fraudulent misrepresentation.

(a) Any person whether provider or recipient, or person representing himself as such, who willfully and knowingly and with intent to deceive makes a false statement or representation or who fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, for himself or another person, attempts to obtain for himself or another person, or continues to receive or enables another person to continue to receive public assistance in the amount of not more than four hundred dollars (\$400.00) is guilty of a Class 1 misdemeanor.

(b) Any person, whether provider or recipient, or person representing himself as such who willfully and knowingly with the intent to deceive makes a false statement or representation or fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact, obtains for himself or another person, attempts to obtain for himself or another person, or continues to receive or enables another person to continue to receive public assistance in an amount of more than four hundred dollars (\$400.00) is guilty of a Class I felony.

(c) As used in this section the word "person" means person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization. (1937, c. 288, ss. 27, 57; 1963, cc. 1013, 1024, 1062; 1969, c. 546, s. 1; 1977, c. 604, s. 1; 1979, c. 510, s. 2; c. 907; 1981, c. 275, s. 1; 1993, c. 539, s. 813; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 108A-39.1: Repealed by Session Laws 1997-443, s. 12.14.

§ 108A-39.2: Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 966, s. 3.

Part 3. State-County Special Assistance.

§ 108A-40. Authorization of State-County Special Assistance Program. [Effective until contingency met - see note]

The Department is authorized to establish and supervise a State-County Special Assistance Program. This program is to be administered by county departments of social services under rules and regulations of the Social Services Commission. (1981, c. 275, s. 1; 2010-31, s. 10.19A(c).)

Part 3. State-County Special Assistance.

§ 108A-40. Authorization of State-County Special Assistance Program. [For contingent effective date, see note]

The Department is authorized to establish and supervise a State-County Special Assistance Program. County departments of social services shall administer this program under rules and regulations of the Social Services Commission. (1981, c. 275, s. 1; 2010-31, s. 10.19A(c); 2021-180, s. 9A.3A(b).)

§ 108A-41. Eligibility. [Effective until contingency met - see note]

(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by the Social Services Commission and prescribed by G.S. 108A-42(b). As used in this Part, the term "adult

care home" includes a supervised living facility for adults with intellectual and developmental disabilities licensed under Article 2 of Chapter 122C of the General Statutes.

(b) Assistance shall be granted to any person who meets all of the following criteria:

- (1) Meets one of the following:
 - a. Is 65 years of age or older.
 - b. Is between the ages of 18 and 65, and is permanently and totally disabled or is legally blind pursuant to G.S. 111-11.
- (2) **(Effective until contingency met - see Editor's note)** Has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission; and.
- (2) **(For contingent effective date, see Editor's note)** Has both (i) income at or below one hundred percent (100%) of the federal poverty level guidelines published by the United States Department of Health and Human Services and (ii) insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission.
- (3) Is one of the following:
 - a. A resident of North Carolina for at least 90 days immediately prior to receiving this assistance.
 - b. Repealed by Session Laws 2014-100, s. 12D.1(c), effective November 1, 2014.
 - c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact that requires the State to continue treating the person within the State. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181.

(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(d) The county shall also have the option of granting assistance to Certain Disabled persons as defined in the rules and regulations adopted by the Social Services Commission. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds. (1949, s. 1038, s. 2; 1961, c. 186; 1969, c. 546, s. 1; 1973, c. 717, s. 1; 1977, 2nd Sess., c. 1252, s. 1; 1979, c. 702, s. 8; 1981, c. 275, s. 1; c. 849, s. 1; 1983, c. 14, s. 2; 1995, c. 535, s. 5; 1997-210, s. 1; 2001-209, s. 3; 2010-31, s. 10.19A(d); 2014-100, s. 12D.1(a)-(c).)

§ 108A-41. Eligibility. [For contingent effective date, see note]

(a) The Department shall grant assistance under this Part to all persons residing in adult care homes, special care units, and in-home living arrangements for care found to be essential in accordance with the rules and regulations adopted by the Social Services

Commission and prescribed by G.S. 108A-42(b). As used in this Part, the term "adult care home" includes a supervised living facility for adults with intellectual and developmental disabilities licensed under Article 2 of Chapter 122C of the General Statutes.

(b) The Department shall grant assistance to any person described in subsection (a) of this section who meets all of the following criteria:

- (1) Meets one of the following:
 - a. Is 65 years of age or older.
 - b. Is between the ages of 18 and 65, and is permanently and totally disabled or is legally blind pursuant to G.S. 111-11.
- (1a) Needs placement in an adult care home or special care unit and either resides in an adult care home or special care unit or would seek placement in an adult care home or special care unit if not for the State-County Special Assistance Program.
- (2) Has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission. The following income limits are applicable for determining financial eligibility for State-County Special Assistance:
 - a. The total countable monthly income for individuals residing in adult care home facilities or in-home living arrangements without a diagnosis of Alzheimer's disease or dementia shall not exceed the basic rate established in subsection (a) of G.S. 108A-42.1 plus a personal needs allowance in an amount determined by the General Assembly.
 - b. The total countable monthly income for individuals residing in special care units or in-home living arrangements with a diagnosis of Alzheimer's disease or dementia shall not exceed the enhanced rate established in subsection (b) of G.S. 108A-42.1 plus a personal needs allowance in an amount determined by the General Assembly.
- (3) Is one of the following:
 - a. A resident of North Carolina for at least 90 days immediately prior to receiving this assistance.
 - b. Repealed by Session Laws 2014-100, s. 12D.1(c), effective November 1, 2014.
 - c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact that requires the State to continue treating the person within the State. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181.

(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and

in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(d) The county shall also have the option of granting assistance to Certain Disabled persons as defined in the rules and regulations adopted by the Social Services Commission. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds. (1949, s. 1038, s. 2; 1961, c. 186; 1969, c. 546, s. 1; 1973, c. 717, s. 1; 1977, 2nd Sess., c. 1252, s. 1; 1979, c. 702, s. 8; 1981, c. 275, s. 1; c. 849, s. 1; 1983, c. 14, s. 2; 1995, c. 535, s. 5; 1997-210, s. 1; 2001-209, s. 3; 2010-31, s. 10.19A(d); 2014-100, s. 12D.1(a)-(c); 2021-180, s. 9A.3A(b).)

§ 108A-42. Determination of disability.

(a) For purposes of G.S. 108A-41(b)(1), a person is permanently and totally disabled if:

- (1) This person was receiving aid to the disabled assistance in December 1973, and continues to be disabled under the definition of disability, having a physical or mental impairment which substantially precludes him from obtaining gainful employment and this impairment appears reasonably certain to continue without substantial improvement throughout his lifetime; or
- (2) This person applied for assistance on or after January 1, 1974, and is disabled under the Social Security standards.

(b) For purposes of G.S. 108A-41(d), a "Certain Disabled" person is a person in a private living arrangement who is age 18 but less than age 65, having a physical or mental impairment which substantially precludes him from obtaining gainful employment, which impairment appears reasonably certain to continue without substantial improvement throughout his lifetime.

(c) Disability shall be reviewed by medical consultants employed by the Department. The final decision on the disability shall be made by these medical consultants under rules and regulations adopted by the Social Services Commission. (1979, c. 702, s. 9; 1981, c. 275, s. 1; 1983, c. 14, s. 1.)

§ 108A-42.1. State-County Special Assistance Program payment rates. [For contingent effective date, see note]

(a) **Basic Rate.** - The maximum monthly rate for State-County Special Assistance recipients residing in adult care homes or in-home living arrangements without a diagnosis of Alzheimer's disease or dementia shall be one thousand one hundred eighty-two dollars (\$1,182) per month per resident. This rate shall be adjusted on January 1, 2024, and each January 1 thereafter, using the federally approved Social Security cost-of-living adjustment effective for the applicable year.

(b) **Enhanced Rate.** - The maximum monthly rate for State-County Special Assistance recipients residing in special care units or in-home living arrangements with a diagnosis of Alzheimer's disease or dementia shall be one thousand five hundred fifteen dollars (\$1,515) per month per resident. This rate shall be adjusted on January 1, 2024, and each January 1 thereafter, using the federally approved Social Security cost-of-living adjustment effective for the applicable year. (2021-180, s. 9A.3A(b).)

§ 108A-43. Application procedure.

(a) Applications under this Part shall be made to the county director of social services who, with the approval of the county board of social services and in conformity with the rules and regulations of the Social Services Commission, shall determine whether assistance shall be granted and the amount of such assistance; but the county board of social services may delegate to the county director the authority to approve or reject all applications for assistance under this Part, in which event the county director shall not be required to report his actions to the board.

(b) The amount of assistance which any eligible person may receive shall be determined with regard to the resources and necessary expenditures of the applicant, in accordance with the appropriate rules and regulations of the Social Services Commission. (1949, c. 1038, s. 2; 1961, c. 186; 1969, c. 546, s. 1; 1973, c. 476, s. 138; c. 717, s. 4; 1981, c. 275, s. 1.)

§ 108A-44. State funds to counties.

(a) Appropriations made under this Part by the General Assembly to the Department, together with grants of the federal government (when such grants are made available to the State) shall be used exclusively for assistance to needy persons eligible under this Part.

(b) Allotments shall be made annually by the Department to the counties participating in the program established by this Part.

(c) No allotment shall be used, either directly or indirectly, to replace county appropriations or expenditures. (1949, c. 1038, s. 2; 1955, c. 310, s. 3; 1961, c. 186; 1969, c. 546, s. 1; 1973, c. 717, s. 5; 1975, c. 92, s. 2; 1981, c. 275, s. 1.)

§ 108A-45. Participation.

The State-County Special Assistance Program established by this Part shall be administered by all the county departments of social services under rules and regulations adopted by the Social Services Commission and under the supervision of the Department. Provided that, assistance for certain disabled persons shall be provided solely at the option of the county. (1949, c. 1038, s. 2; 1969, c. 546, s. 1; 1973, c. 476, s. 138; c. 717, s. 6; 1975, c. 92, s. 3; 1977, 2nd Sess., c. 1252, s. 2; 1981, c. 275, s. 1; 2010-31, s. 10.19A(e).)

§ 108A-46: Repealed by Session Laws 2003-284, s. 10.53(a), effective July 1, 2003.

§ 108A-46.1. Transfer of assets for purposes of qualifying for State-county Special Assistance.

Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State-county Special Assistance. (2003-284, s. 10.53(b); 2010-31, s. 10.19A(f).)

§ 108A-47. Limitations on payments.

No payment of assistance under this Part shall be made for the care of any person in a licensed facility that is owned or operated in whole or in part by any of the following:

- (1) A member of the Social Services Commission, of any county board of social services, or of any board of county commissioners;
- (2) An official or employee of the Department, unless the official or employee has been appointed temporary manager of the facility

pursuant to G.S. 131E-237, or of any county department of social services;

- (3) A spouse of a person designated in subdivisions (1) and (2). (1979, c. 702, s. 10; 1981, c. 275, s. 1; 1995, c. 298, s. 1; c. 535, s. 6; 2010-31, s. 10.19A(g).)

§ 108A-47.1. Special Assistance in-home payments. [For contingent repeal, see note]

(a) The Department of Health and Human Services may use funds from the existing State-County Special Assistance budget to provide Special Assistance payments to eligible individuals 18 years of age or older in in-home living arrangements. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be one hundred percent (100%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment.

(b) All county departments of social services shall participate in the State-County Special Assistance in-home program by making Special Assistance in-home slots available to individuals who meet the eligibility requirements established by the Department pursuant to subsection (a) of this section. By February 15, 2013, the Department shall establish a formula to determine the need for additional State-County Special Assistance in-home slots for each county. Beginning July 1, 2014, and each July 1 thereafter, the Department shall review and revise the formula as necessary. (2007-323, s. 10.14(a); 2010-31, s. 10.19A(h); 2012-142, s. 10.23(a); 2021-180, s. 9A.3.)

Part 4. Foster Care and Adoption Assistance Payments.

§ 108A-48. State Foster Care Benefits Program.

(a) The Department is authorized to establish a State Foster Care Benefits Program with appropriations by the General Assembly for the purpose of providing assistance to children who are placed in foster care facilities by county departments of social services in accordance with the rules and regulations of the Social Services Commission. Such appropriations, together with county contributions for this purpose, shall be expended to provide for the costs of keeping children in foster care facilities.

(b) Repealed by Session Laws 2015-241, s. 12C.9(a).

(c) The Department may continue to provide benefits pursuant to this section to an individual who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age if the individual is (i) completing secondary education or a program leading to an equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational education, (iii) participating in a program or activity designed to promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing the educational or employment requirements of this subsection due to a medical condition or disability.

(d) With monthly supervision and oversight by the director of the county department of social services or a supervising agency, an individual receiving benefits pursuant to subsection (c) of this section may reside outside a foster care facility in a college or university dormitory

or other semi-supervised housing arrangement approved by the director of the county department of social services and continue to receive benefits pursuant to this section. (1981, c. 275, s. 1; 2015-241, s. 12C.9(a).)

§ 108A-49. Foster care and adoption assistance payments.

(a) Benefits in the form of foster care assistance shall be granted in accordance with the rules of the Social Services Commission to any dependent child who would have been eligible to receive Aid to Families with Dependent Children (as that program was in effect on June 1, 1995), but for his or her removal from the home of a specified relative for placement in a foster care facility; provided, that the child's placement and care is the responsibility of a county department of social services. A county department of social services shall pay, at a minimum, the monthly graduated foster care assistance payments for eligible children as set by the General Assembly. A county department of social services may make foster care assistance payments in excess of the monthly graduated rates set by the General Assembly.

(b) Adoption assistance payments for certain adoptive children shall be granted in accordance with the rules of the Social Services Commission to adoptive parents who adopt a child eligible to receive foster care maintenance payments or supplemental security income benefits; provided, that the child cannot be returned to his or her parents; and provided, that the child has special needs which create a financial barrier to adoption. A county department of social services shall pay, at a minimum, the monthly graduated adoption assistance payments for eligible children as set by the General Assembly. A county department of social services may make adoption assistance payments in excess of the monthly graduated rates set by the General Assembly.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for foster care and adoption assistance payments.

(d) Except as otherwise prohibited by federal law, the Department of Health and Human Services, Division of Social Services, shall not require a redetermination of a child's eligibility for vendor payments under any adoption assistance agreement established prior to July 1, 2011. Nothing in this subsection shall make vendor assistance an entitlement.

(e) If all other eligibility criteria are met, adoption assistance payments may continue until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age of 16 but prior to reaching the age of 18. (1981, c. 275, s. 1; 1997-443, s. 12.10; 1999-190, s. 3; 2011-383, s. 1; 2015-241, s. 12C.9(b).)

§ 108A-49.1. Foster care and adoption assistance payment rates.

(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$514.00 per child per month for children from birth through five years of age.
- (2) \$654.00 per child per month for children six through 12 years of age.
- (3) \$698.00 per child per month for children at least 13 but less than 21 years of age.

(b) The maximum rates for the State adoption assistance program are established consistent with the foster care rates as follows:

- (1) \$514.00 per child per month for children from birth through five years of age.
- (2) \$654.00 per child per month for children six through 12 years of age.

- (3) \$698.00 per child per month for children at least 13 but less than 21 years of age.

(c) The maximum rates for the State participation in human immunodeficiency virus (HIV) foster care and adoption assistance are established on a graduated scale as follows:

- (1) \$800.00 per child per month with indeterminate HIV status.
- (2) \$1,000 per child per month with confirmed HIV infection, asymptomatic.
- (3) \$1,200 per child per month with confirmed HIV infection, symptomatic.
- (4) \$1,600 per child per month when the child is terminally ill with complex care needs.

In addition to providing board payments to foster and adoptive families of HIV-infected children, any additional funds remaining that are appropriated for purposes described in this subsection shall be used to provide medical training in avoiding HIV transmission in the home.

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

(e) A county shall be held harmless from contributing fifty percent (50%) of the nonfederal share of the cost for an individual receiving benefits pursuant to G.S. 108A-48(c). (2011-145, s. 10.51; 2015-241, s. 12C.9(c); 2021-180, s. 9I.11(a).)

§ 108A-50. State benefits for certain adoptive children.

(a) The Department is authorized to establish a program of State benefits for certain adoptive children from appropriations made by the General Assembly and from grants available from the federal government to the State. This program shall be used exclusively for the purpose of meeting the needs of adoptive children who are physically or mentally handicapped, older, or otherwise hard to place for adoption.

(b) The purpose of this program is to encourage, within the limits of available funds, the adoption of certain hard-to-place children in order to make it possible for children living in, or likely to be placed in foster homes or institutions, to benefit from the stability and security of permanent homes where such children can receive continuous care, guidance, protection and love to reduce the number of such children who might be placed or remain in foster homes or institutions until they become adults.

(c) Eligibility for an adoptive child to receive assistance shall be determined by the Department under the rules and regulations of the Social Services Commission.

(d) Financial assistance under this program shall not be provided when the needed services are available free of cost to the adoptive child; or are covered by an insurance policy of the adoptive parents; or are available to the child under the Adoption Assistance Program specified in G.S. 108A-49. (1975, c. 953, s. 3; 1981, c. 275, s. 1.)

§ 108A-50.1. Special Needs Adoptions Incentive Fund.

(a) There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs, as defined by the Social Services Commission. These funds shall be matched by county funds.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section. (2003-284, s. 10.45.)

§ 108A-50.2. Adoption Promotion Fund.

(a) Funds appropriated by the General Assembly to the Department of Health and Human Services, Division of Social Services, for the Adoption Promotion Fund shall be used as provided in this section. The Division of Social Services of the Department of Health and Human 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 Adoption Promotion Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Adoption Promotion Fund may be used for post-adoption services for families whose income exceeds two hundred percent (200%) of the federal poverty level.

(b) Of the total funds appropriated for the Adoption Promotion Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31 of each State fiscal year, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

(c) The Division of Social Services shall monitor the total expenditures in the Adoption Promotion Fund and redistribute unspent funds to ensure that the funds are used in accordance with the guidelines established in subsection (a) of this section. (2009-451, s. 10.48; 2013-360, s. 12C.10(c).)

Part 5. Food and Nutrition Services.

§ 108A-51. Authorization for Food and Nutrition Services.

The Department is authorized to establish a statewide food and nutrition services program as authorized by the Congress of the United States. The Department of Health and Human Services is designated as the State agency responsible for the supervision of the food and nutrition services program. The boards of county commissioners through the county departments of social services are held responsible for the administration and operation of the food and nutrition services program. (1981, c. 275, s. 1; 1997-443, s. 11A.118(a); 2007-97, s. 9.)

§ 108A-51.1. Prohibition on certain waivers.

Except for waivers for the Disaster Supplemental Nutrition Assistance Program sought for an area that has received a Presidential disaster declaration of Individual Assistance from the

Federal Emergency Management Agency, the Department shall not seek waivers to time limits established by federal law for food and nutrition benefits for able-bodied adults without dependents required to fulfill work requirements to qualify for those benefits. (2015-294, s. 16(a).)

§ 108A-52. Determination of eligibility.

Any person who believes that he or another person is eligible to receive electronic food and nutrition benefits may apply for such assistance to the county department of social services in the county in which the applicant resides. The application shall be made in such form and shall contain such information as the Social Services Commission may require. Upon receipt of an application for electronic food and nutrition benefits, the county department of social services shall make a prompt evaluation or investigation of the facts alleged in the application in order to determine the applicant's eligibility for such assistance and to obtain such other information as the Department may require. Upon the completion of such investigation, the county department of social services shall, within a reasonable period of time, determine eligibility. (1981, c. 275, s. 1; 2007-97, s. 10.)

§ 108A-53. Fraudulent misrepresentation.

(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any electronic food and nutrition benefit to which that person is not entitled in the amount of four hundred dollars (\$400.00) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any electronic food and nutrition benefit to which he is not entitled in an amount more than four hundred dollars (\$400.00) shall be guilty of a Class I felony.

(b) Whoever presents, or causes to be presented, electronic food and nutrition benefits for payment or redemption, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Part or the regulations issued pursuant to this Part shall be guilty of a Class 1 misdemeanor.

(c) Whoever receives any electronic food and nutrition benefits for any consumable item knowing that such benefits were procured fraudulently under subsections (a) and/or (b) of this section shall be guilty of a Class 1 misdemeanor.

(d) Whoever receives any electronic food and nutrition benefits for any consumable item whose exchange is prohibited by the United States Department of Agriculture shall be guilty of a Class 1 misdemeanor. (1981, c. 275, s. 1; 1991, c. 523, s. 5; 1993, c. 539, ss. 814, 1299; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 507, s. 19.5(n); 1996, 2nd Ex. Sess., c. 18, s. 24.31(a); 2007-97, s. 11; 2008-187, s. 18.)

§ 108A-53.1. Illegal possession or use of electronic food and nutrition benefits.

(a) Any person who knowingly buys, sells, distributes, or possesses with the intent to sell, or distribute electronic food and nutrition benefits or access devices in any manner contrary to that authorized by this Part or the regulations issued pursuant thereto shall be guilty of a Class H felony.

(b) Any person who knowingly uses, transfers, acquires, alters, or possesses electronic food and nutrition benefits or access devices in any manner contrary to that authorized by this Part or the regulations issued pursuant thereto, other than as set forth in subsection (a) of this section, shall be guilty of a Class 1 misdemeanor if the value of such electronic food and nutrition benefits or access devices is less than one hundred dollars (\$100.00), or a Class A1 misdemeanor if the value of such electronic food and nutrition benefits or access devices is equal to at least one hundred dollars (\$100.00) but less than five hundred dollars (\$500.00), or a Class I felony if the value of such electronic food and nutrition benefits or access devices is equal to at least five hundred dollars (\$500.00) but less than one thousand dollars (\$1,000), or a Class H felony if the value of such electronic food and nutrition benefits or access devices equals or exceeds one thousand dollars (\$1,000). (1997-497, s. 2; 2007-97, s. 12.)

Part 6. Medical Assistance Program.

§ 108A-54. Authorization of Medical Assistance Program; administration.

(a) The Department is authorized to establish a Medicaid Program in accordance with Title XIX of the federal Social Security Act. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. In addition, the State shall pay one hundred percent (100%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended. A county is responsible for the county's cost of administering the Program in that county.

(b) Recodified as G.S. 108A-54.1B(a) by Session Laws 2013-360, s. 12H.9(a), effective July 1, 2013.

(c) The Medicaid Program shall be administered and operated in accordance with this Part and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services in accordance with G.S. 108A-54.1A and approved by the federal government.

(d) The Department of Health and Human Services shall ensure that the North Carolina Families Accessing Services through Technology (NC FAST) information technology system can provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange that will operate in North Carolina and shall provide such determinations for the Exchange.

(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:

- (1) Administer and operate the Medicaid and NC Health Choice programs, provided that the total expenditures, net of agency receipts, do not exceed the authorized budget for the Medicaid program and NC Health Choice program. None of the powers and duties enumerated in the other subdivisions of this subsection shall be

construed to limit the broad grant of authority to administer and operate the Medicaid and NC Health Choice programs.

- (2) Employ clerical and professional staff of the Division of Health Benefits, including consultants and legal counsel, necessary to carry out the powers and duties of the division. In hiring staff for the Division of Health Benefits, the Secretary may offer employment contracts for a term and set compensation for the employees, which may include performance-based bonuses based on meeting budget or other targets.
- (3) Notwithstanding G.S. 143-64.20, enter into contracts for the administration of the Medicaid and NC Health Choice programs, as well as manage such contracts, including contracts of a consulting or advisory nature.
- (4) Establish and adjust all program components, except for eligibility categories, resource limits, and income thresholds, of the Medicaid and NC Health Choice programs within the appropriated and allocated budget.
- (5) Adopt rules related to the Medicaid and NC Health Choice programs.
- (6) Develop midyear budget correction plans and strategies and then take midyear budget corrective actions necessary to keep the Medicaid and NC Health Choice programs within budget.
- (7) Approve or disapprove and oversee all expenditures to be charged to or allocated to the Medicaid and NC Health Choice programs by other State departments or agencies.
- (8) Develop and present to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Office of State Budget and Management by January 1 of each year, beginning in 2017, the following information for the Medicaid and NC Health Choice programs:
 - a. A detailed four-year forecast of expected changes to enrollment growth and enrollment mix.
 - b. What program changes will be made by the Department in order to stay within the existing budget for the programs based on the next fiscal year's forecasted enrollment growth and enrollment mix.
 - c. The cost to maintain the current level of services based on the next fiscal year's forecasted enrollment growth and enrollment mix.
- (9) Publish on its Web site and update on at least a monthly basis, at a minimum, the following information about the Medicaid and NC Health Choice programs:
 - a. Enrollment by program aid category by county.
 - b. Per member per month spending by category of service.

- c. Spending and receipts by fund along with a detailed variance analysis.
- d. A comparison of the above figures to the amounts forecasted and budgeted for the corresponding time period.

(f) The General Assembly shall determine the eligibility 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.

(g) Repealed by Session Laws 2016-121, s. 2(h), effective June 1, 2016. (1965, c. 1173, s. 1; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 24; 1981, c. 275, s. 1.; 2007-323, s. 31.16.1(c); 2008-107, s. 10.10(c); 2011-399, s. 5; 2012-75, s. 1; 2013-5, s. 2; 2013-360, ss. 12H.3, 12H.9(a); 2013-363, s. 4.9(a); 2015-245, s. 13; 2016-94, s. 12H.4; 2016-121, s. 2(h); 2018-5, s. 11H.10(a), (b).)

§ 108A-54.1: Recodified as G.S. 108A-66.1 by Session Laws 2013-360, s. 12H.10(f), effective July 1, 2013.

§ 108A-54.1A. Amendments to Medicaid State Plan and Medicaid Waivers.

(a) The Department of Health and Human Services is expressly authorized and required to take any and all necessary action to amend the State Plan and waivers in order to keep the program within the certified budget, except as provided in G.S. 108A-54(f). For purposes of this section, the term "amendments to the State Plan" includes State Plan amendments, Waivers, and Waiver amendments.

(b), (c) Repealed by Session Laws 2015-245, s. 18, effective September 23, 2015.

(d) No fewer than 10 days prior to submitting an amendment to the State Plan to the federal government, the Department shall post the amendment on its Web site and notify the members of the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division that the amendment has been posted. For any amendments to the State Plan that add or eliminate an optional service, the notice required by this subsection shall be 90 days. This notice requirement shall not apply to draft or proposed amendments submitted to the federal government for comments but not submitted for approval.

(e) Repealed by Session Laws 2015-245, s. 18, effective September 23, 2015.

(f) Any public notice required under 42 C.F.R. 447.205 shall, in addition to any other posting requirements under federal law, be posted on the Department's Web site. Upon posting such a public notice, the Department shall notify the members of the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division that the public notice has been posted. Public notices shall remain posted on the Department's Web site. (2013-360, s. 12H.2(a); 2014-100, s. 12H.21(a); 2015-245, s. 18.)

§ 108A-54.1B. Adoption of rules; State Plans, including amendments and waivers to State Plans, have effect of rules.

(a) The Department is expressly authorized to adopt temporary and permanent rules to implement or define the federal laws and regulations, the North Carolina State Plan of Medical Assistance, and the North Carolina State Plan of the Health Insurance Program for Children, the terms and conditions of eligibility for applicants and recipients of the Medical Assistance Program and the Health Insurance Program for Children, audits and program integrity, the

services, goods, supplies, or merchandise made available to recipients of the Medical Assistance Program and the Health Insurance Program for Children, and reimbursement for the services, goods, supplies, or merchandise made available to recipients of the Medical Assistance Program and the Health Insurance Program for Children.

(b) Rule-making authority granted under this section for particular circumstances or programs is in addition to any other rule-making authority granted to the Department under Chapter 150B of the General Statutes.

(c) Prior to filing a temporary rule authorized under G.S. 150B-21.1(a)(17) with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

(d) State Plans, State Plan Amendments, and Waivers approved by the Centers for Medicare and Medicaid Services (CMS) for the North Carolina Medicaid Program and the NC Health Choice program shall have the force and effect of rules adopted pursuant to Article 2A of Chapter 150B of the General Statutes. (2013-360, s. 12H.9(a), (b).)

§ 108A-54.2. Procedures for changing medical policy.

(a) The Department shall adopt rules to develop, amend, and adopt medical coverage policy for Medicaid and NC Health Choice in accordance with this section.

(b) Medical coverage policy is defined as those policies, definitions, or guidelines utilized to evaluate, treat, or support the health or developmental conditions of a recipient so as to determine eligibility, authorization or continued authorization, medical necessity, course of treatment and supports, clinical outcomes, and clinical supports treatment practices for a covered procedure, product, or service. Medical coverage policy is subject to the following:

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, the Department shall consult with and seek the advice of the Physician Advisory Group and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers who are affected by the new medical coverage policy or amendments to existing medical coverage policy.
- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
 - a. Publish the proposed new or amended medical coverage policy on the Department's Web site;
 - b. Notify all Medicaid and NC Health Choice providers of the proposed, new, or amended policy; and
 - c. Upon request, provide persons copies of the proposed medical coverage policy.
- (3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, the Department shall accept oral and written comments on the proposed new or amended policy.

- (4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:
- a. Notify all Medicaid and NC Health Choice providers of the proposed policy;
 - b. Upon request, provide persons notice of amendments to the proposed policy; and
 - c. Accept additional oral or written comments during this 15-day period.

(c) If the adoption of new or amended medical coverage policies is necessitated by an act of the General Assembly or a change in federal law, then the 45- and 15-day time periods specified in subsection (b) of this section shall instead be 30- and 10-day time periods.

(d) Repealed by Session Laws 2015-245, s. 19, effective September 23, 2015. (2006-66, s. 10.4; 2009-451, s. 10.68A(b); 2011-399, s. 4; 2013-360, s. 12H.6(a); 2015-245, s. 19.)

§ 108A-54.3: Repealed by Session Laws 2013-360, s. 12H.6(b), effective July 26, 2013.

§ 108A-54.3A. Eligibility categories and income thresholds.

The Department shall provide Medicaid coverage for individuals in accordance with federal statutes and regulations and specifically shall provide coverage for the following populations:

- (1) Families, children under the age of 21, pregnant women, and individuals who are aged, blind, or disabled, who are medically needy, subject to the following annual income levels after meeting the applicable deductible:

Family Size	Income Level
1	\$2,904
2	3,804
3	4,404
4	4,800
5	5,196
6	5,604
7	6,000
8	6,300
9	6,504
10	6,900
11	7,200
12	7,596
13	8,004
14	8,400
each additional family member	add \$396

- (2) Families and children under the age of 21, subject to the following annual income levels:

Family Size	Income Level
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1	\$5,208
2	6,828
3	8,004
4	8,928
5	9,888
6	10,812
7	11,700
8	12,432
9	13,152
10	14,028
each additional family member	add \$936

- (2a) **(For contingent effective date, see editor's note)** A parent who has qualified under subdivisions (1) and (2) of this section shall retain eligibility for Medicaid under this section so long as all of the following criteria are met:
- a. The parent has lost legal custody of a child pursuant to Subchapter I of Chapter 7B of the General Statutes.
 - b. A child of the parent is temporarily in the legal custody of State-sponsored foster care or temporarily receiving foster care assistance under Title IV-E of the Social Security Act.
 - c. The parent is making reasonable efforts to comply with a court-ordered plan of reunification, as determined by the Department.
 - d. The parent continues to meet the family income requirements under subdivision (1) or (2) of this section.
- (3) Children under the age of 6 with family incomes equal to or less than two hundred ten percent (210%) of the federal poverty guidelines.
 - (4) Children aged 6 through 18 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines.
 - (5) Children under the age of 21 who are receiving foster care or adoption assistance under Title IV-E of the Social Security Act, without regard to income.
 - (6) Children in the legal custody of State-sponsored foster care who are under the age of 21 and ineligible for Title IV-E assistance, without regard to income.
 - (7) Independent foster care adolescents ages 18, 19, and 20, as defined in 42 U.S.C. § 1396d(w)(1), without regard to income.
 - (8) Former foster care children under the age of 26 in accordance with 42 U.S.C. § 1396a(a)(10)(A)(i)(IX), without regard to income.
 - (9) Adoptive children with special or rehabilitative needs, regardless of the adoptive family's income.

- (10) **(Effective until March 31, 2027)** Pregnant women with incomes equal to or less than one hundred ninety-six percent (196%) of the federal poverty guidelines. Pregnant women shall remain eligible for coverage for 12 months postpartum.
- (10) **(Effective March 31, 2027)** Pregnant women with incomes equal to or less than one hundred ninety-six percent (196%) of the federal poverty guidelines. Coverage for pregnant women eligible under this subdivision include only services related to pregnancy and to other conditions determined by the Department as conditions that may complicate pregnancy.
- (11) Men and women of childbearing age with family incomes equal to or less than one hundred ninety-five percent (195%) of the federal poverty guidelines. Coverage for the individuals described in this subdivision shall be limited to coverage for family planning services.
- (12) Women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVIII).
- (13) Aged, blind, or disabled individuals, as defined in Subpart F of Part 435 of Subchapter C of Chapter IV of Title 42 of the Code of Federal Regulations, with incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.
- (14) Beneficiaries receiving supplemental security income under Title XVI of the Social Security Act.
- (15) Workers with disabilities, as provided in G.S. 108A-66.1.
- (16) Qualified working disabled individuals, as provided in G.S. 108A-67.
- (17) Qualified Medicare beneficiaries with incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines. Coverage for the individuals described in this subdivision shall be limited to payment of Medicare premiums and deductibles and coinsurance for Medicare-covered services.
- (18) Specified low-income Medicare beneficiaries with incomes equal to or less than one hundred twenty percent (120%) of the federal poverty guidelines. Coverage for the individuals described in this subdivision shall be limited to payment of Medicare Part B premiums.
- (19) Qualifying individuals who are Medicare beneficiaries and who have incomes equal to or less than one hundred thirty-five percent (135%) of the federal poverty guidelines may be covered within funds available for the Limited Medicare-Aid Capped Enrollment program. Coverage for the individuals described in this subdivision shall be limited to payment of Medicare Part B premiums.
- (20) Recipients of an optional State supplementation program provided in accordance with 42 U.S.C. § 1382e.
- (21) Individuals who meet eligibility criteria under a Medicaid waiver approved by the Centers for Medicare and Medicaid Services and

authorized by an act of the General Assembly, within funds available for the waiver.

- (22) Refugees, in accordance with 8 U.S.C. § 1522.
- (23) Qualified aliens subject to the five-year bar for means tested public assistance under 8 U.S.C. § 1613 and undocumented aliens, only for emergency services under 8 U.S.C. § 1611. (2020-78, s. 4D.1; 2021-62, s. 4.3; 2021-180, ss. 9D.13(a), 9D.14(b).)

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

An increase in a Medical Assistance Program recipient's income due solely to a cost-of-living adjustment to federal Social Security and Railroad Retirement payments shall be disregarded when determining income eligibility for the Medical Assistance Program. This section shall not be deemed to render a recipient eligible for the Medical Assistance Program if all other eligibility requirements are not met. (2012-142, s. 10.6(a); 2016-94, s. 12H.7.)

§ 108A-54.5. Maintenance of waivers for dependents of members of Armed Forces.

The Department of Health and Human Services shall ensure that the eligibility criteria for Medicaid home- and community-based waivers allow the dependent of a member of the Armed Forces of the United States to maintain the dependent's waiver status upon the transfer of the service member to an assignment outside of North Carolina, so long as the service member maintains the State of North Carolina as the legal residence to which the service member intends to return following completion of military service and the dependent meets Medicaid eligibility criteria and all other waiver eligibility criteria upon returning to North Carolina. Consequently, a dependent who is on the waiting list for a waiver slot shall maintain the dependent's position on the waiting list. A dependent who was receiving waiver services prior to the service member's transfer, upon the dependent's return to North Carolina, shall be reinstated to the dependent's waiver slot, if the slot remains available, or shall receive a priority position on the waiting list for the next available waiver slot. This section shall not be construed to authorize the provision of waiver services outside of North Carolina. (2016-71, s. 1.)

§ 108A-55. Payments.

(a) The Department may authorize, within appropriations made for this purpose, payments of all or part of the cost of medical and other remedial care for any eligible person when it is essential to the health and welfare of such person that such care be provided, and when the total resources of such person are not sufficient to provide the necessary care. When determining whether a person has sufficient resources to provide necessary medical care, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(b) Payments shall be made only to intermediate care facilities, hospitals and nursing homes licensed and approved under the laws of the State of North Carolina or under the laws of another state, or to pharmacies, physicians, dentists, optometrists or other providers of health-related services authorized by the Department. Payments may also be made to such fiscal intermediaries and to the capitation or prepaid health service contractors as may be authorized by the Department. Arrangements under which payments are made to capitation or

prepaid health services contracts are not subject to the provisions of Chapter 58 of the General Statutes or of Article 3 of Chapter 143 of the General Statutes. However, the Department shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Department under this subsection a standard clause which provides that the State Auditor and internal auditors of the Department may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Department shall not award a cost plus percentage of cost agreement or contract for any purpose.

(c) The Department shall reimburse providers of services, equipment, or supplies under the Medical Assistance Program in the following amounts:

- (1) The amount approved by the Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services, if CMS approves an exact reimbursement amount.
- (2) The amount determined by application of a method approved by the Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services, if CMS approves the method by which a reimbursement amount is determined, and not the exact amount.

The Department shall establish the methods by which reimbursement amounts are determined in accordance with Chapter 150B of the General Statutes. A change in a reimbursement amount becomes effective as of the date for which the change is approved by the Centers for Medicare & Medicaid Services (CMS) of the United States Department of Health and Human Services.

(d) No payments shall be made for the care of any person in a nursing home or intermediate care home which is owned or operated in whole or in part by a member of the Social Services Commission, of any county board of social services, or of any board of county commissioners, or by an official or employee of the Department or of any county department of social services or by a spouse of any such person.

(e) Medicaid is a secondary payor of claims. The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. For recipients who have primary insurance other than Medicare, Medicare Advantage, or Medicaid, the Department shall pay the lesser of the Medicaid Allowable Amount or an amount up to the actual coinsurance or deductible or both of the primary payor, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.

(f) For payments made in fiscal year 2013-2014 and for subsequent fiscal years, the Department of Health and Human Services, Division of Health Benefits, shall publish on its Web site comprehensive information on Medicaid payments made to providers. The information shall be updated annually within three months of the close of a State fiscal year to include payments for that fiscal year. The information published shall include all of the following for each individual providing Medicaid services:

- (1) Name of the individual providing the service.
- (2) Location of service provider's principal place of business.

- (3) Location of provided services, listed with both municipality and county. If an individual provides services in multiple locations, then those shall be specified and the items in subdivisions (6) through (10) of this subsection shall be provided for each location.
- (4) Practice name, hospital name, or other business name with which the individual providing service is affiliated.
- (5) Type of service provider and practice area.
- (6) Number of Medicaid patients seen.
- (7) Number of visits with Medicaid patients.
- (8) Number of procedures performed or items furnished for Medicaid patients.
- (9) Amount of Medicaid service payments received.
- (10) Amount of Medicaid supplemental payments received.
- (11) Amount of Medicaid settlement payments received.
- (12) Amount of Medicaid recoupments.

The information shall be published in a character-separated values (CSV) plain text format or other file format that may easily be imported into software used for spreadsheets, databases, and data analytics. The Department shall ensure that no protected patient information be published. (1965, c. 1173, s. 1; 1969, c. 546, s. 1; 1971, c. 435; 1973, c. 476, s. 138; c. 644; 1975, c. 123, ss. 1, 2; 1977, 2nd Sess., c. 1219, c. 25; 1979, c. 702, s. 7; 1981, c. 275, s. 1; c. 849, s. 2; 1991, c. 388, s. 1; 1993, c. 529, s. 7.3; 1998-212, s. 12.12B(c); 2010-194, s. 15; 2011-291, s. 2.22; 2011-326, s. 15(o); 2013-360, s. 12H.4; 2014-100, ss. 12H.15(a), 12H.21(b); 2019-81, s. 15(a).)

§ 108A-55.1. Medicare enrollment required.

The Department shall require State Medical Assistance Program recipients who qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social Security Act, in order to pay medical expenditures that qualify for payment under Medicare Parts B and D, except that enrollment in Part D is not required if the recipient has creditable prescription drug coverage as defined by federal law.

Failure to enroll in Medicare shall result in nonpayment of these expenditures under the State Medical Assistance Program. A provider may seek payment for services from Medicaid enrollees who are eligible for but not enrolled in Medicare Parts B and D. (2003-284, s. 10.27; 2006-66, s. 10.6.)

§ 108A-55.2. Collaboration among agencies to ensure Medicaid-related services payments to eligible students with disabilities in public schools.

The Department shall work with the Department of Public Instruction and local education agencies to develop efficient, effective, and appropriate administrative procedures and guidelines to provide maximum funding for Medicaid-related services for Medicaid-eligible students with disabilities. The procedures and guidelines shall be streamlined to ensure that local education agencies receive Medicaid reimbursement in a timely manner for Medicaid-related services and administrative outreach to Medicaid-eligible students with disabilities. (2003-284, s. 10.29A.)

§ 108A-55.3. Verification of State residency required for medical assistance.

(a) At the time of application for medical assistance benefits, the applicant shall provide satisfactory proof that the applicant is a resident of North Carolina and that the applicant is not maintaining a temporary residence or abode incident to receiving medical assistance under this Part.

(b) An applicant may meet the requirements of subsection (a) of this section by providing at least two of the following documents:

- (1) A valid North Carolina drivers license or other identification card issued by the North Carolina Division of Motor Vehicles.
- (2) A current North Carolina rent or mortgage payment receipt, or current utility bill in the name of the applicant or the applicant's legal spouse showing a North Carolina address.
- (3) A valid North Carolina motor vehicle registration in the applicant's name and showing the applicant's current address.
- (4) A document showing that the applicant is employed in this State.
- (5) One or more documents proving that the applicant's domicile in the applicant's prior state of domicile has ended, such as closing of a bank account, termination of employment, or sale of a home.
- (6) The tax records of the applicant or the applicant's legal spouse, showing a current North Carolina address.
- (7) A document showing that the applicant has registered with a public or private employment service in this State.
- (8) A document showing that the applicant has enrolled the applicant's children in a public or private school or child care facility located in this State.
- (9) A document showing that the applicant is receiving public assistance or other services requiring proof of domicile, other than medical assistance, in this State.
- (10) Records from a health department or other health care provider located in this State showing the applicant's current North Carolina address.
- (11) A written declaration made under penalty of perjury from a person who has a social, family, or economic relationship with the applicant and who has personal knowledge of the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment.
- (12) Current North Carolina voter registration card.
- (13) A document from the U.S. Department of Veterans Affairs, U.S. Department of Defense, or the U.S. Department of Homeland Security verifying the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment.

- (14) Official North Carolina school records, signed by school officials, or diplomas issued by North Carolina schools, including secondary schools, community colleges, colleges, and universities verifying the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment.
- (15) Repealed by Session Laws 2015-294, s. 14, effective October 1, 2015, and applicable to contracts entered into on or after that date.

(c) For applicants, including those who are homeless or migrant laborers, who declare under penalty of perjury that they do not have two of the verifying documents in subsection (b) of this section, any other evidence that verifies residence may be considered. However, except for applicants of emergency Medicaid, a declaration, affidavit, or other statement from the applicant or another person that the applicant meets the requirements of G.S. 108A-24(6) is insufficient in the absence of other credible evidence. For applicants of emergency Medicaid, a declaration, affidavit, or other statement from the applicant's employer, clergy, or other person with personal knowledge of the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment satisfies the requirements of this subsection.

(d) The Division of Health Benefits shall not provide payment for medical assistance provided to an applicant unless or until the applicant has met the proof of residency requirements of this section.

(e) Unless otherwise provided for under Title 19 of the Social Security Act, a child under age 18 is a resident of the state where the child's parent or legal guardian is domiciled.

(f) This section does not apply to an applicant whose eligibility for medical assistance is excepted from State residency requirements under federal law.

(g) Nothing in this section shall be construed to establish North Carolina residency for a nonqualified alien who is present in North Carolina for a temporary or unspecified period of time unless the applicant is legally admitted for employment purposes. (2005-276, s. 10.21A(a); 2011-183, s. 74; 2015-294, s. 14; 2019-81, s. 15(a).)

§ 108A-55.4. Insurers to provide certain information to Department of Health and Human Services.

- (a) As used in this section, the terms:
 - (1) "Applicant" means an applicant or former applicant of medical assistance benefits.
 - (1a) "Department" means the Department of Health and Human Services.
 - (2) "Division" means the Division of Health Benefits of the Department of Health and Human Services.
 - (3) "Health insurer" includes self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, [29 USC Section 1167(1)]), service benefit plans, managed care organizations, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for

a health care item or service as a condition of doing business in the State.

- (4) "Medical assistance" means medical assistance benefits provided under the State Medical Assistance Plan.
- (5), (6) Reserved for future codification.
- (7) "Recipient" means a present or former recipient of medical assistance benefits.
- (8) "Request" means any inquiry by the Department or Division for the purpose of determining the existence of insurance where the Department or Division may have expended public assistance benefits.
- (9) "Subscriber" means the policyholder or covered person under the insurance policy.

(b) Health insurers, and pharmacy benefit managers regulated as third-party administrators under Article 56 of Chapter 58 of the General Statutes, shall provide, with respect to a subscriber upon request of the Division or its authorized contractor, information to determine during what period the individual or the individual's spouse or dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the subscriber's name, address, identification number, social security number, date of birth and identifying number of the plan) in a manner prescribed by the Division or its authorized contractor. Notwithstanding any other provision of law, every health insurer shall provide, not more frequently than twelve times in a year and at no cost, to the Department of Health and Human Services, Division of Health Benefits, or the Department's or Division's authorized contractor, upon its request, information as necessary so that the Division may (i) identify applicants or recipients who may also be subscribers covered under the benefit plans of the health insurer; (ii) determine the period during which the individual, the individual's spouse, or the individual's dependents may be or may have been covered by the health benefit plan; and (iii) determine the nature of the coverage. To facilitate the Division or its authorized contractor in obtaining this and other related information, every health insurer shall:

- (1) Cooperate with the Division to determine whether a named individual who is a recipient of medical assistance may be covered under the insurer's health benefit plan and eligible to receive benefits under the health benefit plan for services provided under the State Medical Assistance Plan.
- (2) Respond to the request for payment within 90 working days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the benefit plan of the health insurer.
- (3) Accept the Division's right of recovery and the assignment to the Division of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State Medical Assistance Plan.

- (4) Respond to any inquiry by the Division or its authorized contractor regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service.
- (5) Notwithstanding subsection (d) of this section, agree not to deny a claim submitted by the Division solely on the basis of the date of submission of the claim, the type of format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:
 - a. The claim is submitted by the Division within the three-year period beginning on the date on which the item or service was furnished; and
 - b. Any action by the Division to enforce its rights with respect to such claim is commenced within six years of the Division's submission of the claim.
- (c) A health insurer that complies with this section shall not be liable on that account in any civil or criminal actions or proceedings.
- (d) A health insurer is obligated to reimburse the Department only if the insurer has a contractual obligation to make payment for the covered service or item. (2006-66, s. 10.8; 2006-221, ss. 9(a)-(c); 2007-442, s. 2; 2019-81, s. 15(a).)

§ 108A-55.5. Eligibility monitoring for medical assistance.

- (a) On at least a quarterly basis, the Department shall review information concerning changes in circumstances that may affect medical assistance beneficiaries' eligibility to receive medical assistance benefits. The Department shall share the information directly with, or make the information available to, the county department of social services that determined the beneficiary's eligibility.
- (b) The information reviewed by the Department shall include all of the following:
 - (1) Earned and unearned income.
 - (2) Employment status and changes in employment.
 - (3) Residency status.
 - (4) Enrollment status in other State-administered public assistance programs.
 - (5) Financial resources.
 - (6) Incarceration status.
 - (7) Death records.
 - (8) Lottery winnings.
 - (9) Enrollment status in public assistance programs outside of this State.
- (c) A county department of social services shall promptly review the information provided or made available by the Department in accordance with subsection (a) of this section to determine if the information indicates a change in circumstances that may affect a medical assistance beneficiary's eligibility to receive medical assistance benefits and take one of the following actions:
 - (1) If a review of the information does not result in the county department of social services finding a discrepancy or change in a

beneficiary's circumstances that may affect that beneficiary's eligibility to receive medical assistance benefits, the county department of social services shall take no further action.

- (2) If a review of the information does result in the county department of social services finding a discrepancy or change in a beneficiary's circumstances that may affect that beneficiary's eligibility for medical assistance benefits, the county department of social services shall provide written notice to the beneficiary that describes in sufficient detail the circumstances of the discrepancy or change in circumstances that would affect the beneficiary's eligibility for medical assistance benefits. The notice must include the following information:

- a. The beneficiary will have 12 calendar days from the time of mailing to respond.
- b. A response from the beneficiary must be in writing.
- c. Self-declarations made by the beneficiary will not be accepted as verification of information in the response.
- d. The consequences of taking no action.

(d) After the expiration of 12 calendar days from the time of mailing the notice required under subsection (c) of this section, the county department of social services shall take one of the following actions:

- (1) If a beneficiary did not respond to the notice, the county department of social services shall redetermine the beneficiary's eligibility for medical assistance benefits and provide the beneficiary with proper notice under G.S. 108A-79.
- (2) If a beneficiary responds to the notice and disagrees with the information in the notice, the county department of social services shall reinvestigate the matter and take one of the following actions:
 - a. If the county department of social services determines that there has been an error and the beneficiary's eligibility to receive medical assistance benefits is not affected, then no further action shall be taken.
 - b. If the county department of social services determines that there is no error, the county department of social services shall redetermine the beneficiary's eligibility for medical assistance benefits and provide the beneficiary with proper notice under G.S. 108A-79.
- (3) If a beneficiary responds to the notice and confirms the information in the notice is correct, then the county department of social services shall redetermine the beneficiary's eligibility for medical assistance benefits and provide the beneficiary with proper notice under G.S. 108A-79.

If, at any time after receiving a beneficiary's response to the notice, the county department of social services determines that there is a risk of fraud or misrepresentation or inadequate documentation, then the county department of social services may request additional documentation from the beneficiary.

(e) Nothing in this section shall preclude the Department or any county department of social services from receiving or reviewing additional information related to a beneficiary's eligibility for medical assistance benefits that is obtained in a manner other than that provided for under this section. (2017-57, s. 11H.20(a).)

§ 108A-56. Acceptance of federal grants.

All of the provisions of the federal Social Security Act providing grants to the states for medical assistance are accepted and adopted, and the provisions of this Part shall be liberally construed to effectuate compliance with the act, except to the extent the applicability of federal law or rules have been waived by agreement between the State and the U.S. Department of Health and Human Services. Nothing in this Part or the regulations made under its authority shall be construed to deprive a recipient of assistance of the right to choose the licensed provider of the care or service made available under this Part within the provisions of the federal Social Security Act, or valid waiver agreement. This section shall not be construed to prohibit a PHP from (i) requiring its enrollees to obtain services from providers that are under contract with the PHP or (ii) imposing utilization management criteria to a request for services, to the extent these actions are not otherwise prohibited by State or federal law or regulation, or by the Department. (1965, c. 1173, s. 1; 1969, c. 546, s. 1; 1981, c. 275, s. 1; 2019-81, s. 4.)

§ 108A-57. Subrogation rights; withholding of information a misdemeanor.

(a) As used in this section, the term "beneficiary" means (i) the beneficiary of medical assistance, including a minor beneficiary, (ii) the medical assistance beneficiary's parent, legal guardian, or personal representative, (iii) the medical assistance beneficiary's heirs, and (iv) the administrator or executor of the medical assistance beneficiary's estate.

Notwithstanding any other provisions of the law, to the extent of payments under this Part, the State shall be subrogated to all rights of recovery, contractual or otherwise, of a beneficiary against any person. Any claim brought by a medical assistance beneficiary against a third party shall include a claim for all medical assistance payments for health care items or services furnished to the medical assistance beneficiary as a result of the injury or action, hereinafter referred to as the "Medicaid claim." Any claim brought by a medical assistance beneficiary against a third party that does not state the Medicaid claim shall be deemed to include the Medicaid claim. If the beneficiary has claims against more than one third party related to the same injury, then any amount received in payment of the Medicaid claim related to that injury shall reduce the total balance of the Medicaid claim applicable to subsequent recoveries related to that injury.

(a1) If the amount of the Medicaid claim does not exceed one-third of the medical assistance beneficiary's gross recovery, it is presumed that the gross recovery includes compensation for the full amount of the Medicaid claim. If the amount of the Medicaid claim exceeds one-third of the medical assistance beneficiary's gross recovery, it is presumed that one-third of the gross recovery represents compensation for the Medicaid claim.

(a2) A medical assistance beneficiary may dispute the presumptions established in subsection (a1) of this section by applying to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of

competent jurisdiction in this State, for a determination of the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim. An application under this subsection shall be filed with the court and served on the Department pursuant to the Rules of Civil Procedure no later than 30 days after the date that the settlement agreement is executed by all parties and, if required, approved by the court, or in cases in which judgment has been entered, no later than 30 days after the date of entry of judgment. The court shall hold an evidentiary hearing no sooner than 60 days after the date the action was filed. All of the following shall apply to the court's determination under this subsection:

- (1) The medical assistance beneficiary has the burden of proving by clear and convincing evidence that the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim is less than the portion presumed under subsection (a1) of this section.
- (2) The presumption arising under subsection (a1) of this section is not rebutted solely by the fact that the medical assistance beneficiary was not able to recover the full amount of all claims.
- (3) If the beneficiary meets its burden of rebutting the presumption arising under subsection (a1) of this section, then the court shall determine the portion of the recovery that represents compensation for the Medicaid claim and shall order the beneficiary to pay the amount so determined to the Department in accordance with subsection (a5) of this section. In making this determination, the court may consider any factors that it deems just and reasonable.
- (4) If the beneficiary fails to rebut the presumption arising under subsection (a1) of this section, then the court shall order the beneficiary to pay the amount presumed pursuant to subsection (a1) of this section to the Department in accordance with subsection (a5) of this section.

(a3) Notwithstanding the presumption arising pursuant to subsection (a1) of this section, the medical assistance beneficiary and the Department may reach an agreement on the portion of the recovery that represents compensation for the Medicaid claim. If such an agreement is reached after an application has been filed pursuant to subsection (a2) of this section, a stipulation of dismissal of the application signed by both parties shall be filed with the court.

(a4) Within 30 days of receipt of the proceeds of a settlement or judgment related to a claim described in subsection (a) of this section, the medical assistance beneficiary or any attorney retained by the beneficiary shall notify the Department of the receipt of the proceeds.

(a5) The medical assistance beneficiary or any attorney retained by the beneficiary shall, out of the proceeds obtained by or on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of injury or death, distribute to the Department the amount due pursuant to this section as follows:

- (1) If, upon the expiration of the time for filing an application pursuant subsection (a2) of this section, no application has been filed, then the amount presumed pursuant to subsection (a1) of this section, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall

be paid to the Department within 30 days of the beneficiary's receipt of the proceeds, in the absence of an agreement pursuant to subsection (a3) of this section.

- (2) If an application has been filed pursuant to subsection (a2) of this section and no agreement has been reached pursuant to subsection (a3) of this section, then the Department shall be paid as follows:

a. If the beneficiary rebuts the presumption arising under subsection (a1) of this section, then the amount determined by the court pursuant to subsection (a2) of this section, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the entry of the court's order.

b. If the beneficiary fails to rebut the presumption arising under subsection (a1) of this section, then the amount presumed pursuant to subsection (a1) of this section, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the entry of the court's order.

- (3) If an agreement has been reached pursuant to subsection (a3) of this section, then the agreed amount, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, shall be paid to the Department within 30 days of the execution of the agreement by the medical assistance beneficiary and the Department.

(a6) The United States and the State of North Carolina shall be entitled to shares in each net recovery by the Department under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) It is a Class 1 misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney and to the Department the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise.

(c) This section applies to the administration of and claims payments under the NC Health Choice Program established under Part 8 of this Article.

(d) As required to ensure compliance with this section, the Department may apply to the court in which the medical assistance beneficiary's claim against the third party is pending, or if there is none, then to a court of competent jurisdiction in this State for enforcement of this section. (1973, c. 476, s. 138; c. 1031, s. 1; 1979, 2nd Sess., c. 1312, ss. 1, 2; 1981, c. 275, s. 1; 1987 (Reg. Sess., 1988), c. 1022; 1993, c. 539, s. 815; 1994, Ex. Sess., c. 24, s. 14(c); 1996, 2nd Ex. Sess., c. 18, s. 24.2(a); 2009-16, s. 4(c); 2013-274, s. 1; 2017-57, s. 11H.23; 2018-5, s. 11H.6(a); 2019-240, s. 11(a).)

§ 108A-57.1. Rules governing transfer of medical assistance benefits between counties.

Any recipient of medical assistance who moves from one county to another county of this State shall continue to receive medical assistance if eligible. The county director of social services of the county from which the recipient has moved shall transfer all necessary records relating to the recipient to the county director of social services of the county to which the recipient has moved. The county from which the recipient has moved shall pay the county portion of the nonfederal share of medical assistance payments paid for services provided to the recipient during the month following the recipient's move. Thereafter, the county to which the recipient has moved shall pay the county portion of the nonfederal share of medical assistance payments paid for the services provided to the recipient. (1998-212, s. 12.6.)

§ 108A-58: Repealed by Session Laws 2006-66, s. 10.5(a), effective July 1, 2006.

§ 108A-58.1. Ineligibility for medical assistance based on transferring assets for less than fair market value.

(a) General Rule. - Except as otherwise provided herein, an individual who is otherwise eligible to receive medical assistance under this Part is ineligible for Medicaid coverage and payment for the services specified in subsection (d) during the period specified in subsection (c) if the individual or the individual's spouse transfers an asset for less than fair market value on or after the "lookback date" specified in subsection (b).

(b) Lookback Date. -

(1) Except as otherwise provided herein, the lookback date is the date specified in 42 U.S.C. § 1396p(c)(1)(B).

(2) Notwithstanding subdivision (1), the lookback date with respect to the medical services specified in subdivision (d)(2) is the date specified in 42 U.S.C. § 1396p(c)(1)(B) or February 1, 2003, whichever is later.

(c) Penalty Period. - The penalty period for the transfer of assets for less than fair market value is the period specified in 42 U.S.C. § 1396p(c)(1)(D), (E), and (H).

(d) Medical Services. -

(1) In the case of an institutionalized individual, the transfer of assets penalty applies with respect to nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and to home- or community-based services furnished under the State's Community Alternatives Program waiver pursuant to 42 U.S.C. § 1396n(c) or (d), and pursuant to the hardship waiver under subsection (k) of this section.

(2) In the case of a noninstitutionalized individual, the transfer of assets penalty applies with respect to home health services and personal care services as defined in 42 U.S.C. § 1396d(a)(7) and (24) and, to the extent permitted by federal law, such other long-term care services specified by rules adopted by the Department of Health and Human Services pursuant to subsection (k) of this section.

(e) Assets. - Assets are the income and resources of an individual or the individual's spouse (including the individual's or spouse's home) as defined in 42 U.S.C. § 1396p(h) and

42 U.S.C. § 1396p(c)(1)(G), (I), and (J).

(f) Fair Market Value and Uncompensated Value. -

- (1) The fair market value of an asset is the value (minus any valid and legally enforceable liens, mortgages, and encumbrances against the asset) that would have been received if the asset had been sold for good and valuable consideration at the prevailing market price at the time the asset was transferred. In the case of real or personal property that is taxable under Subchapter II of Chapter 105 of the General Statutes, there is a rebuttable presumption that the fair market value of the property is its most recent value as ascertained under Subchapter II of Chapter 105 of the General Statutes (minus any valid and legally enforceable liens, mortgages, and encumbrances against the property).
- (2) The uncompensated value of an asset is its fair market value minus the amount of good and valuable consideration received in exchange for the asset's transfer.

(g) Individual. - An individual is a person who applies for or is receiving medical assistance under this Part regardless of whether the person was, at the time an asset was transferred, a Medicaid applicant or recipient. The term "individual" also includes an individual's legal representative, anyone acting at the individual's direction or request, and any person, agency, or court acting lawfully on behalf of the individual.

(h) Institutionalized and Noninstitutionalized Individuals. -

- (1) An institutionalized individual is an individual who meets the criteria set forth in 42 U.S.C. § 1396p(h)(3), regardless of whether the individual was institutionalized at the time an asset was transferred.
- (2) A noninstitutionalized individual is any individual who (i) is not an institutionalized individual, (ii) is an aged, blind, or disabled person who is categorically or medically needy pursuant to 42 C.F.R. § 120 Subpart B, C, or D or a qualified Medicare beneficiary as defined in 42 U.S.C. § 1396d(p)(1), and (iii) is not eligible for medical assistance under this Part based on his or her eligibility for an optional State supplement pursuant to 42 C.F.R. § 435.232.

(i) Exceptions. -

- (1) This section does not apply if an individual establishes by the greater weight of the evidence that the transfer was exclusively for some purpose other than establishing or retaining eligibility for medical assistance under this Part.
- (2) This section does not apply to any transfer specified in 42 U.S.C. § 1396p(c)(2)(A), (B), (C)(i), or (C)(iii).

(j) Application to Life Estates and Income Producing Real Property. - The Department of Health and Human Services may apply federal transfer of assets policies in accordance with this section to (i) life estates purchased by or on behalf of the recipient, and (ii) to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing." The Department shall exclude from countable resources any life estate in real property that is in the recipient's home and is measured by the recipient's

life. Federal transfer of assets policies applied to income producing real property shall become effective not earlier than October 1, 2001. Federal transfer of assets policies applied to real property excluded as tenancy-in-common, or as nonhomesite property made income producing in accordance with this subsection, shall become effective not earlier than October 1, 2005.

(k) **Hardship Waiver.** - The Department of Health and Human Services shall waive a transfer of assets penalty that has been imposed or is imposable under this section if the Department determines that imposition of the penalty would create an undue hardship.

(l) **Rules and Compliance with Federal Law.** -

(1) This section shall be interpreted and administered consistently with governing federal law, including 42 U.S.C. § 1396p(c).

(2) The Department of Health and Human Services shall determine and publish at least annually the average monthly cost of nursing facility services for private patients that will be used in determining the length of a penalty period under this section.

(3) The Department of Health and Human Services shall provide for a hardship waiver process in accordance with 42 U.S.C. § 1396p(c)(2)(D).

(4) The Department of Health and Human Services may adopt administrative rules that are necessary and appropriate to implement this section or the requirements of 42 U.S.C. § 1396p(c) or other federal laws governing the transfer of assets and Medicaid eligibility. (2006-66, s. 10.5(b); 2006-221, ss. 8(a)-(c).)

§ 108A-58.2. Waiver of transfer of assets penalty due to undue hardship.

(a) Prior to imposition of a period of ineligibility for long-term care services because of an asset transfer, also known as a penalty period, the county department of social services shall notify the individual of the individual's right to request a waiver of the penalty period because it will cause an undue hardship to the individual. The director of the county department of social services, or the director's designee shall grant a waiver of the penalty period due to undue hardship if the individual meets the conditions set forth in subsection (e) of this section. As used in this section, "long term care services" are those services described in 42 U.S.C. § 1396p(c)(1)(C)(i) and (ii).

(b) When a Medicaid applicant who is requesting Medicaid to pay for institutional care requests a waiver of a penalty period due to undue hardship, the determination of whether to waive the penalty period shall be processed as part of the Medicaid application and is subject to the application processing standards set forth in 10A NCAC 23C.0201.

(c) When an ongoing Medicaid recipient applies for institutional care or is receiving Medicaid payment for institutional care receives the notice described in subsection (a) of this section, the recipient has 12 calendar days from the date of the notice to request a waiver of the penalty due to undue hardship. The following are the procedures for processing the waiver request:

(1) Within five work days of receipt of a request for a waiver of the transfer of assets penalty, the county department of social services shall notify the individual in writing of the information and

documentation necessary to determine if the requirements for approving the undue hardship waiver are met.

- (2) The individual shall have 12 calendar days from the date of the notice specified in subdivision (1) of this subsection to provide the necessary information and documentation to establish the undue hardship.
- (3) If at the end of the first 12 calendar day period the necessary information and documentation has not been received by the county department of social services, the county department of social services shall again notify the individual of the necessary information and documentation. The individual shall be given an additional 12 calendar days to provide the information and documentation.
- (4) If the individual fails to request the undue hardship waiver within 12 calendar days from the date of the notice described in subsection (a) of this section, the county department of social services shall impose the transfer of assets penalty in accordance with notice requirements in G.S. 108A-79.
- (5) If by the end of the 12 calendar days from the notice described in subdivision (3) of this subsection, the necessary information and documentation has not been received by the county department of social services, the county department of social services shall deny the request for waiver of the penalty for undue hardship and notify the individual of the denial in accordance with G.S. 108A-79.
- (6) If by the end of the time allowed under subdivisions (2) and (3) of this subsection the county department of social services has received the necessary information and documentation, the county department of social services shall make a determination of whether the imposition of the penalty period would cause an undue hardship to the individual. The county department of social services shall complete the determination and notify the individual, pursuant to subsection (g) of this section, of whether the imposition of the penalty period will be waived due to undue hardship within 12 calendar days of the receipt of the necessary information and documentation.
- (7) If as part of the determination described in subdivision (6) of this subsection the county department of social services identifies the need for additional information and documentation, it shall notify the individual in writing of that information and documentation. This notice shall initiate a new period of time for the individual to provide the information and documentation as set forth in subdivisions (2) and (3) of this subsection. Within 12 calendar days of the receipt of the additional information and documentation, the county department of social services shall complete the determination and notify the individual, pursuant to subsection (g) of this section, of whether the

imposition of the penalty period will be waived due to undue hardship.

(d) As required by 42 U.S.C. § 1396p(c)(2)(D), the facility in which an institutionalized individual is residing may request an undue hardship waiver on behalf of the institutionalized individual with the written consent of the individual or the personal representative of the individual. A facility applying for a waiver for an individual residing in the facility shall adhere to the requirements of this section but is not required to advance the costs of acquiring an attorney to aid the institutionalized individual.

(e) Except as provided for in subsection (f) of this section, undue hardship exists if the imposition of the penalty period would deprive the individual of medical care, such that the individual's health or life would be endangered, or of food, clothing, shelter, or other necessities of life. The individual must provide the information and documentation necessary to demonstrate to the director of the county department of social services or the director's designee all of the following:

- (1) The individual currently has no alternative income or resources available to provide the medical care or food, clothing, shelter, or other necessities of life that the individual would be deprived of due to the imposition of the penalty.
- (2) The individual or some other person acting on the individual's behalf is making a good faith effort to pursue all reasonable means to recover the transferred asset or the fair market value of the transferred asset, including any of the following:
 - a. Seeking the advice of an attorney and pursuing legal or equitable remedies such as asset freezing, assignment, or injunction.
 - a1. Seeking modification, avoidance, or nullification of a financial instrument, promissory note, loan, mortgage or other property agreement, or other similar transfer agreement.
 - b. Cooperating with any attempt to recover the transferred asset or the fair market value of the transferred asset.
- (3) The following definitions apply in this subsection:
 - a. Health or life would be endangered. - A medical doctor with knowledge of the individual's medical condition certifies in writing that in his or her professional opinion, the individual will be in danger of death or the individual's health will suffer irreparable harm if a penalty period is imposed.
 - b. Recodified as sub-subdivision (e)(3)c1. of this section by Session Laws 2021-88, s. 9(a).
 - c. Income. - All income of the individual and the community spouse less a protected amount for the community spouse equal to the minimum monthly maintenance needs allowance as determined under 42 U.S.C. § 1396r-5(d), including in all circumstances the excess shelter allowance described under 42 U.S.C. § 1396r-5(d)(3)(A)(ii), without regard to any

adjustment that would be made under 42 U.S.C. § 1396r-5(e), plus fifty percent (50%) of the income in excess of the protected amount.

c1. Other necessities of life. - Includes basic, life sustaining utilities, including water, heat, electricity, phone, and other items or activities that without which the individual's health or life would be endangered.

d. Resources. - All resources of the individual and of the community spouse except the homesite in which the individual or community spouse has an equity interest not exceeding five hundred thousand dollars (\$500,000), a motor vehicle in which the individual or community spouse has an equity interest not exceeding thirty thousand dollars (\$30,000), personal property, and, in the case of a community spouse, a portion of such other resources in an amount equal to the community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2), so long as the amount does not exceed sixty percent (60%) of the maximum community spouse resource allowance as defined by 42 U.S.C. § 1396r-5(f)(2)(A)(ii). For purposes of this subdivision, "homesite" means the principal place of residence of the individual or the community spouse in which the individual or community spouse has an equity interest.

(f) An undue hardship does not exist when the application of a transfer of assets penalty merely causes the individual an inconvenience or restricts the individual's lifestyle.

(g) If the director of the county department of social services or the director's designee determines that:

(1) An undue hardship exists, the county department of social services shall waive the penalty period and notify the individual of approval of the waiver of the penalty in accordance with G.S. 108A-79.

(2) An undue hardship does not exist, the county department of social services shall deny the request for the waiver of the penalty and notify the individual of denial of the waiver request in accordance with G.S. 108A-79.

(h) During a penalty period that has been waived because of undue hardship, acquisition by the individual of new or increased income or resources shall be treated as a change in situation and evaluated pursuant to the rules adopted by the Department of Health and Human Services.

(i) While the determination on a request for a waiver of the penalty period due to undue hardship is pending, Medicaid shall not make payments for services in a nursing facility or in an intermediate care facility for individuals with intellectual disabilities to hold a bed for the individual, as described in 42 U.S.C. § 1396p(c)(2)(D). However, if the individual is institutionalized and receiving Medicaid payment for services, Medicaid will maintain the same level of services until the last day of the month after the latter of the following:

- (1) Expiration of the 10 workday period following the notice required by G.S. 108A-79.
- (2) The date of the decision of a local appeal hearing described in G.S. 108A-79 is issued if the individual requests an appeal of the imposition of a transfer of assets penalty period within the 10 workday period described in subdivision (1) of subsection (i) of this section. (2007-442, s. 3(a); 2021-62, s. 4.1; 2021-88, ss. 9(a), (b).)

§ 108A-59. Acceptance of medical assistance constitutes assignment to the State of right to third party benefits; recovery procedure.

(a) Notwithstanding any other provisions of the law, by accepting medical assistance, the recipient shall be deemed to have made an assignment to the State of the right to third party benefits, contractual or otherwise, to which he may be entitled.

It shall be the responsibility of the county attorney of the county from which the medical assistance benefits are received or an attorney retained by that county and/or the State to enforce this subsection, and said attorney shall be compensated for his services in accordance with the attorneys' fee arrangements approved by the Department of Health and Human Services.

(b) The responsible State agency will establish a third party resources collection unit that is adequate to assure maximum collection of third party resources.

(c) Notwithstanding any other law to the contrary, in all actions brought pursuant to subsection (a) of this section to obtain reimbursement for payments for medical services, liability shall be determined on the basis of the same laws and standards, including bases for liability and applicable defenses, as would be applicable if the action were brought by the individual on whose behalf the medical services were rendered. (1977, c. 664; 1979, 2nd Sess., c. 1312, ss. 3-5; 1981, c. 275, s. 1; 1995, c. 508, s. 2; 1997-443, s. 11A.118(a).)

§ 108A-60. Protection of patient property.

(a) It shall be unlawful for any person:

- (1) To willfully commingle or cause or solicit the commingling of the personal funds or moneys of a recipient resident of a provider health care facility with the funds or moneys of such facility; or
- (2) To willfully embezzle, convert, or appropriate or cause or solicit the embezzlement, conversion or appropriation of recipient personal funds or property to his own use or to the use of any provider or other person or entity.

(b) A violation of subdivision (a)(1) of this section shall be a Class 1 misdemeanor. A violation of subdivision (a)(2) of this section shall be a Class H felony.

(c) For purposes of this section:

- (1) "Health care facility" shall include skilled nursing facilities, intermediate care facilities, rest homes, or any other residential health care facility; and
- (2) "Person" includes any natural person, association, consortium, corporation, body politic, partnership, or other group, entity or organization; and

- (3) "Recipient" shall include current resident recipients, deceased recipients and recipients who no longer reside at such facility. (1979, c. 510, s. 1; 1981, c. 275, s. 1; 1993, c. 539, ss. 816, 1300; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 108A-61: Repealed by Session Laws 1989, c. 701.

§ 108A-61.1. Financial responsibility of a parent for a child under age 21 in a medical institution.

Notwithstanding any other provisions of the law, for the purpose of determining eligibility for medical assistance under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., the income and financial resources of the natural or adoptive parents of a person who is under the age of 21 and who requires Medicaid covered services in a medical institution shall not be counted if the patient's physician certifies, and the Division of Health Benefits or its agents approve, that continuous care and treatment are expected to exceed 12 months. For purposes of this subsection, "medical institution" means licensed acute care inpatient medical facilities providing medical, surgical, and psychiatric or substance abuse treatment, or facilities providing skilled or intermediate care, including intermediate care for individuals with intellectual disabilities. (1993, c. 386, s. 1; 2019-81, s. 15(a); 2021-62, s. 4.1; 2021-88, s. 9(c).)

§ 108A-62. Therapeutic leave for medical assistance patients.

(a) A medical assistance beneficiary at an intermediate care facility or skilled nursing facility may take therapeutic leave in accordance with this section without the facility losing reimbursement under the medical assistance program.

(b) The maximum amount of therapeutic leave days that may be taken in a calendar year by a medical assistance beneficiary are as follows:

- (1) Ninety days for a beneficiary in an intermediate care facility.
- (2) Sixty days for a beneficiary in a skilled nursing facility.

(c) No more than 15 consecutive days of therapeutic leave may be taken by a medical assistance beneficiary without the approval of one of the following:

- (1) The Division of Health Benefits of the Department.
- (2) The local management entity/managed care organization with which the beneficiary is enrolled under Chapter 122C of the General Statutes.
- (3) The prepaid health plan with which the beneficiary is enrolled under Chapter 108D of the General Statutes. (1979, c. 925; 1981, c. 275, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 120; 1991, c. 126, s. 1; 1997-443, s. 11A.118(a); 2019-81, s. 15(a); 2021-62, s. 3.1(a).)

§ 108A-63. Medical assistance provider fraud.

(a) It shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully make or cause to be made any false statement or representation of a material fact:

- (1) In any application for payment under this Part, or for use in determining entitlement to such payment; or

- (2) With respect to the conditions or operation of a provider or facility in order that such provider or facility may qualify or remain qualified to provide assistance under this Part.
- (b) It shall be unlawful for any provider of medical assistance to knowingly and willfully conceal or fail to disclose any fact or event affecting:
 - (1) His initial or continued entitlement to payment under this Part; or
 - (2) The amount of payment to which such person is or may be entitled.
- (c) Except as otherwise provided in subsection (e) of this section, any person who violates a provision of this section shall be guilty of a Class I felony.
- (d) "Provider" shall include any person who provides goods or services under this Part and any other person acting as an employee, representative or agent of such person.
- (e) In connection with the delivery of or payment for benefits, items, or services under this Part, it shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully execute, or attempt to execute, a scheme or artifice to:
 - (1) Defraud the Medical Assistance Program.
 - (2) Obtain, by means of false or fraudulent pretenses, representations, or promises of material fact, any of the money or property owned by, or under the custody or control of, the Medical Assistance Program.A violation of this subsection is a Class H felony. A conspiracy to violate this subsection is a Class I felony.
- (f) It shall be unlawful for any provider, with the intent to obstruct, delay, or mislead an investigation of a violation of this section by the Attorney General's office, to knowingly and willfully make or cause to be made a false entry in, alter, destroy, or conceal, or make a false statement about a financial, medical, or other record related to the provision of a benefit, item, or service under this Part.
- (g) It shall be unlawful for any person to knowingly and willfully solicit or receive any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in-kind:
 - (1) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part.
 - (2) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.
- (h) It shall be unlawful for any person to knowingly and willfully offer or pay any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in-kind to any person to induce such person:
 - (1) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part.
 - (2) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.
- (i) Subsections (g) and (h) of this section shall not apply to:

- (1) Contracts between the State and a public or private agency where part of the agency's responsibility is referral of a person to a provider.
- (2) Any conduct or activity that is specified in 42 U.S.C. § 1320a-7b(b)(3), as amended, or any federal regulations adopted pursuant thereto.
- (j) Nothing in subsections (g) and (h) of this section shall be interpreted or construed to conflict with 42 U.S.C. § 1320a-7b(b), as amended, or with federal common law or federal agency interpretations of the statute. (1979, c. 510, s. 1; 1981, c. 275, s. 1; 2009-554, s. 3; 2010-185, s. 1.)

§ 108A-63.1. Health care fraud subpoena to produce documents.

(a) The Attorney General, acting through the Medicaid Investigations Unit of the Department of Justice, may, when engaged in an investigation of an alleged violation of G.S. 108A-63 and prior to the arrest of a suspect, issue in writing and cause to be served a subpoena to produce documents upon any corporation or governmental entity requiring the production of any records, books, papers, electronic media, objects, or other documents which may be relevant to a criminal investigation of a violation of G.S. 108A-63.

(b) A subpoena under this section may require the custodian of records of the corporation or governmental entity to produce an affidavit certifying that the custodian made a thorough and diligent search for the documents requested and that the documents produced constitute all the records requested to the best of the custodian's knowledge, information, and belief.

(c) A subpoena under this section shall describe the documents required to be produced and prescribe a return date within a reasonable period of time, of no less than 20 days from the date of service, within which the documents can be assembled and made available.

(d) A corporation or governmental entity may comply with a subpoena issued under this section by delivering the documents to the Medicaid Investigations Unit by any of the following methods:

- (1) By hand delivery.
- (2) By mailing the documents by certified mail.
- (3) By making the documents reasonably available for transfer to an agent of the Medicaid Investigations Unit at a place of business of the corporation or governmental entity.
- (4) If agreed to by the Medicaid Investigations Unit and the corporation or governmental entity, by any other means.

(e) A corporation or governmental entity may move to quash or modify a subpoena issued under this section if it is oppressive or unreasonable or does not comply with the requirements of this section. The motion must be made before the time specified in the subpoena for production and may be made before a judge of the superior court.

(f) In the case of failure by any corporation or governmental entity without adequate excuse to obey a subpoena issued under this section, the Attorney General may invoke the aid of a judge of the superior court. The court may issue an order requiring the subpoenaed corporation or governmental entity to appear before the Attorney General to produce records. Failure to obey the order of the court may be punished as contempt of court. (2009-554, s. 2.)

§ 108A-64. Medical assistance recipient fraud.

(a) It shall be unlawful for any person to knowingly and willfully and with intent to defraud make or cause to be made a false statement or representation of a material fact in an application for assistance under this Part, or intended for use in determining entitlement to such assistance.

(b) It shall be unlawful for any applicant, recipient or person acting on behalf of such applicant or recipient to knowingly and willfully and with intent to defraud, conceal or fail to disclose any condition, fact or event affecting such applicant's or recipient's initial or continued entitlement to receive assistance under this Part.

(b1) It is unlawful for any person knowingly, willingly, and with intent to defraud, to obtain or attempt to obtain, or to assist, aid, or abet another person, either directly or indirectly, to obtain money, services, or any other thing of value to which the person is not entitled as a recipient under this Part, or otherwise to deliberately misuse a Medicaid identification card. This misuse includes the sale, alteration, or lending of the Medicaid identification card to others for services and the use of the card by someone other than the recipient to receive or attempt to receive Medicaid program coverage for services rendered to that individual.

Proof of intent to defraud does not require proof of intent to defraud any particular person.

(c) (1) A person who violates a provision of this section shall be guilty of a Class I felony if the value of the assistance wrongfully obtained is more than four hundred dollars (\$400.00).

(2) A person who violates a provision of this section shall be guilty of a Class 1 misdemeanor if the value of the assistance wrongfully obtained is four hundred dollars (\$400.00) or less.

(d) For purposes of this section the word "person" includes any natural person, association, consortium, corporation, body politic, partnership, or other group, entity or organization. (1981, c. 275, s. 1; 1993, c. 539, s. 817; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 317, s. 1.)

§ 108A-64.1. Incentives to counties to recover fraudulent Medicaid expenditures.

The Department of Health and Human Services, Division of Health Benefits, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds. (2013-360, s. 12H.5; 2019-81, s. 15(a).)

§ 108A-65. Conflict of interest.

(a) It shall be unlawful for any person who is or has been an officer or employee of State or county government, and as such is or has been responsible for the expenditure of substantial amounts of federal, State or county money under the State medical assistance plan, or any person who is the partner of the present or former officer or employee, to engage in any of the following activities relating to the State medical assistance program:

(1) Knowingly to act as agent or attorney for, or otherwise knowingly to represent, any person other than the United States, the State or a county, in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person other than the United States, the State or a county to:

- a. Any department, agency, court, board, commission, legislature or committee of the United States, the State or a county, or any officer or employee thereof,
 - b. In connection with any of the following matters in which the United States, the State, or a county is a party or has a direct and substantial interest, such as any judicial or other proceeding, legislation, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties,
 - c. In which he participated personally and substantially as an officer or an employee through decision, approval, recommendation, the rendering of advice, investigation or otherwise.
- (2) Within two years after his employment has ceased, knowingly to act as agent or attorney for, or otherwise knowingly to represent, any other person other than the United States, the State or a county, in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person other than the United States, the State or a county to:
- a. Any department, agency, court, board, commission, legislature or committee of the United States, the State, or a county, or any officer or employee thereof,
 - b. In connection with any of the following matters in which the United States, the State, or a county is a party or has a direct and substantial interest, such as, any judicial or other proceeding, legislation, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties,
 - c. Which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of responsibility.
- (3) Within two years after his employment has ceased, knowingly to aid, counsel, advise, consult or by personal presence represent any other person other than the United States, the State or a county in any formal or informal appearance before:
- a. Any department, agency, court, board, commission, legislature or committee of the United States, the State, or the county, or any officer or employee thereof,
 - b. In connection with any of the following matters in which the United States, the State, or a county is a party or has a direct and substantial interest, such as, any judicial or other proceeding, legislation, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties,
 - c. Which was actually pending under his official responsibility as an officer or employee within the period of one year prior to the termination of such responsibility.

- (4) To participate personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, rendering of advice, investigation or otherwise, in a judicial or other proceeding legislation, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as an officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.
- (b) Violation of this statute is a Class 1 misdemeanor.
- (c) The Department of Health and Human Services shall annually identify and designate by rule or regulation those positions which are filled by State or county officers or employees who are responsible for the expenditure of substantial amounts of moneys under the State medical assistance plan. (1981, c. 679, s. 1; 1993, c. 539, s. 818; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.118(a).)

§ 108A-66: Repealed by Session Laws 1989, c. 702.

§ 108A-66.1. Medicaid buy-in for workers with disabilities.

- (a) Title. - This section may be cited as the Health Coverage for Workers With Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category as permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement Act of 1999. The Department shall establish rules, policies, and procedures to implement this act in accordance with this section.
- (b) Definitions. - As used in this section, unless the context clearly requires otherwise:
 - (1) "FPG" means the federal poverty guidelines.
 - (2) "HCWD" means Health Coverage for Workers With Disabilities.
 - (3) "SSI" means Supplemental Security Income.
 - (4) "Ticket to Work" means the Ticket to Work and Work Incentives Improvement Act of 1999.
- (c) Eligibility. - An individual is eligible for HCWD if:
 - (1) The individual is at least 16 years of age and is less than 65 years of age;
 - (2) The individual meets Social Security Disability criteria, or the individual has been enrolled in HCWD and then becomes medically improved as defined in Ticket to Work and as further specified by the Department. An individual shall be determined to be eligible under this section without regard to the individual's ability to engage in, or actual engagement in, substantial gainful activity as defined in section 223 of the Social Security Act (42 U.S.C. § 423(d)(4)). In conducting annual redetermination of eligibility, the Department may not determine that an individual participating in HCWD is no longer

disabled based solely on the individual's participation in employment or earned income;

- (3) The individual's unearned income does not exceed one hundred fifty percent (150%) of FPG, and countable resources for the individual do not exceed the resource limit for the minimum community spouse resource standard under 42 U.S.C. § 1396r, and as further determined by the Department. In determining an individual's countable income and resources, the Department may not consider income or resources that are disregarded under the State Medical Assistance Plan's financial methodology, including the sixty-five-dollar (\$65.00) disregard, impairment-related work expenses, student earned-income exclusions, and other SSI program work incentive income disregards; and
- (4) The individual is engaged in a substantial and reasonable work effort (employed) as provided in this subdivision and as further defined by the Department and allowable under federal law. For purposes of this subsection, "engaged in substantial and reasonable work effort" means all of the following:
 - a. Working in a competitive, inclusive work setting, or self-employed.
 - b. Earning at least the applicable minimum wage.
 - c. Having monthly earnings above the SSI basic sixty-five-dollar (\$65.00) earned-income disregard.
 - d. Being able to provide evidence of paying applicable Medicare, Social Security, and State and federal income taxes.

The Department may impose additional earnings requirements in defining "engaged in substantial and reasonable work effort" for individuals who are eligible for HCWD based on medical improvement.

Individuals who participate in HCWD but thereafter become unemployed for involuntary reasons, including health reasons, shall have continued eligibility in HCWD for up to 12 months from the time of involuntary unemployment, so long as the individual (i) maintains a connection with the workforce, as determined by the Department, (ii) meets all other eligibility criteria for HCWD during the period, and (iii) pays applicable fees, premiums, and co-payments.

(d) Fees, Premiums, and Co-Payments. - Individuals who participate in HCWD and have countable income greater than one hundred fifty percent (150%) of FPG shall pay an annual enrollment fee of fifty dollars (\$50.00) to their county department of social services. Individuals who participate in HCWD and have countable income greater than or equal to two hundred percent (200%) of FPG shall pay a monthly premium in addition to the annual fee. The Department shall set a sliding scale for premiums, which is consistent with applicable federal law. An individual with countable income equal to or greater than four hundred fifty percent (450%) of FPG shall pay not less than one hundred percent (100%) of the cost of the

premium, as determined by the Department. The premium shall be based on the experience of all individuals participating in the Medical Assistance Program. Individuals who participate in HCWD are subject to co-payments equal to those required under the Medical Assistance Program. (2005-276, s. 10.18(a); 2006-66, s. 10.9(a); 2007-144, s. 2; 2009-451, s. 10.69; 2013-360, s. 12H.10(f).)

§ 108A-67. Medicare/Qualified Disabled Working Individuals.

Qualified disabled working individuals are eligible for the payment of the Medicare Part A premium. An individual is qualified for this payment:

- (1) If the Social Security Administration determines the individual to be a "Disabled Working Individual";
- (2) If the individual's income is less than two hundred percent (200%) of the current federal poverty level, as revised annually; and
- (3) If the individual is less than 65 years of age. (1991, c. 127.)

§ 108A-68. Drug Use Review Program; rules.

Notwithstanding the provisions of Chapter 90 of the General Statutes or of any other provision of law, the Division of Health Benefits, Department of Health and Human Services, shall adopt rules implementing the drug use review provisions of the Omnibus Budget Reconciliation Act of 1990, as amended. (1991 (Reg. Sess., 1992), c. 900, s. 128; 1997-443, s. 11A.118(a); 2019-81, s. 15(a).)

§ 108A-68.1. Certain prescription drugs exempt from prior authorization requirements.

Prior authorization shall not be required or utilized for any antihemophilic factor drugs prescribed for the treatment of hemophilia and blood disorders where there is no generically equivalent drug available. Nothing in this section shall prohibit the Secretary from implementing a disease management program. (2003-179, s. 1; 2005-83, s. 1; 2009-210, s. 1.)

§ 108A-68.2. Beneficiary lock-in program for certain controlled substances.

- (a) The following definitions apply in this section:
 - (1) Covered substances. - Any controlled substance identified as an opioid or benzodiazepine, excluding benzodiazepine sedative-hypnotics, contained in Article 5 of Chapter 90 of the General Statutes, unless one of the following conditions are met:
 - a. If the Department of Health and Human Services specifically identifies the opioid or benzodiazepine as a substance excluded from coverage by the Medicaid Beneficiary Management Lock-In Program described in its Outpatient Pharmacy Clinical Coverage Policy adopted in accordance with G.S. 108A-54.2, then the opioid or benzodiazepine is not a covered substance under this section.
 - b. If the Department of Health and Human Services specifically identifies a controlled substance contained in Article 5 of Chapter 90 of the General Statutes other than an opioid or benzodiazepine as a controlled substance covered by the

Medicaid Beneficiary Management Lock-In Program described in its Outpatient Pharmacy Clinical Coverage Policy adopted in accordance with G.S. 108A-54.2, then the controlled substance is a covered substance under this section.

- (2) Lock-in program. - A requirement that a Medicaid or NC Health Choice beneficiary select a single prescriber and a single pharmacy for obtaining covered substances.
- (3) Prepaid health plan or PHP. - As defined in G.S. 108D-1.
- (b), (c) Repealed by Session Laws 2021-62, s. 4.4, effective June 29, 2021.
- (d) This section does not apply to any lock-in program for Medicaid or NC Health Choice beneficiaries who are not enrolled in a Prepaid Health Plan.
- (e) A Prepaid Health Plan may develop a lock-in program for Medicaid or NC Health Choice beneficiaries who meet any of the following criteria:
 - (1) Have filled six or more prescriptions for covered substances in a period of two consecutive months.
 - (2) Have received prescriptions for covered substances from three or more providers in a period of two consecutive months.
 - (3) Are recommended as a candidate for the lock-in program by a provider.
- (f) A lock-in program developed pursuant to subsection (e) of this section shall comply with all of the following:
 - (1) A beneficiary shall not be subject to the lock-in program until the Prepaid Health Plan has notified the beneficiary in writing that the beneficiary will be subject to the lock-in program.
 - (2) A beneficiary subject to the lock-in program shall be given the opportunity to select a single prescriber and a single pharmacy from a list of prescribers and pharmacies in the Prepaid Health Plan's provider network. For any beneficiary who fails to select a single prescriber, the Prepaid Health Plan shall use algorithmic guidelines to assign the beneficiary a single prescriber from a list of prescribers in the Prepaid Health Plan's network. For any beneficiary who fails to select a single pharmacy, the Prepaid Health Plan shall use algorithmic guidelines to assign the beneficiary a single pharmacy from a list of pharmacies in the Prepaid Health Plan's network.
 - (3) A beneficiary shall not be required to use the single prescriber or single pharmacy selected for the lock-in program to obtain prescriptions drugs covered by the Medicaid program or the Prepaid Health Plan that are not covered substances.
- (g) A Prepaid Health Plan's use of a lock-in program developed pursuant to subsection (e) of this section shall not constitute a violation of the terms of a contract between the Prepaid Health Plan and the Department that relate to a beneficiary's ability to utilize a pharmacy of choice. (2018-49, s. 3(a); 2021-62, s. 4.4.)

§ 108A-69. Employer obligations.

- (a) As used in this section and in G.S. 108A-70:
- (1) "Health benefit plan" means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; the State Health Plan for Teachers and State Employees under Chapter 135 of the General Statutes; or a plan provided by another benefit arrangement. "Health benefit plan" does not mean a Medicare supplement policy as defined in G.S. 58-54-1(5).
 - (2) "Health insurer" means any health insurance company subject to Articles 1 through 63 of Chapter 58 of the General Statutes, including a multiple employee welfare arrangement, and any corporation subject to Articles 65 and 67 of Chapter 58 of the General Statutes; a group health plan, as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974; and the State Health Plan for Teachers and State Employees under Chapter 135 of the General Statutes.
- (b) If a parent is required by a court or administrative order to provide health benefit plan coverage for a child, and the parent is eligible for family health benefit plan coverage through an employer, the employer:
- (1) Must allow the parent to enroll, under family coverage, the child if the child would be otherwise eligible for coverage without regard to any enrollment season restrictions.
 - (2) Must enroll the child under family coverage upon application of the child's other parent or upon receipt of notice from the Department of Health and Human Services in connection with its administration of the Medical Assistance or Child Support Enforcement Program if the parent is enrolled but fails to make application to obtain coverage for the child.
 - (3) May not disenroll or eliminate coverage of the child unless:
 - a. The employer is provided satisfactory written evidence that:
 1. The court or administrative order is no longer in effect; or
 2. The child is or will be enrolled in comparable health benefit plan coverage that will take effect not later than the effective date of disenrollment; or
 - b. The employer has eliminated family health benefit plan coverage for all of its employees.
 - (4) Must withhold from the employee's compensation the employee's share, if any, of premiums for health benefit plan coverage, not to exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, as amended; and must pay this amount to the health insurer; subject to regulations, if any, adopted by the Secretary of the U.S. Department of Health and Human Services. (1993 (Reg. Sess., 1994), c. 644, s. 3; 1995, c. 193, s.

44; 1997-433, s. 3.2; 1997-443, s. 11A.118(a); 1998-17, s. 1; 1999-293, s. 8; 2007-323, s. 28.22A(o); 2007-345, s. 12.)

§ 108A-70. Recoupment of amounts spent on medical care.

(a) To the extent necessary to reimburse the Department or a PHP for expenditures for costs under this Part, and provided that claims for current and past due child support shall take priority over claims for those expenditures, the Department may garnish the wages, salary, or other employment income of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any person who meets all of the following criteria:

- (1) Is required by court or administrative order to provide health benefit plan coverage for the cost of health care services to a child eligible for medical assistance under Medicaid.
- (2) Has received payment from a third party for the costs of such services.
- (3) Has not used such payments to reimburse, as appropriate, either the other parent or guardian of the child or the provider of the services.

(b) To the extent that payment for covered services has been made under G.S. 108A-55 for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the Department of Health and Human Services is considered to have acquired the rights of the individual to payment by any other party for those health care items or services. (1993 (Reg. Sess., 1994), c. 644, s. 3; 1997-443, s. 11A.118(a); 2019-81, s. 5.)

§ 108A-70.4. Long-Term Care Partnership Program.

(a) The following definitions apply in this section:

- (1) Asset. - Resources and income.
- (2) Department. - The Department of Health and Human Services.
- (3) Division. - The Division of Health Benefits.
- (4) Estate recovery. - The placing of a statutory claim on the estate of a deceased Medicaid recipient, as provided by G.S. 108A-70.5.
- (5) Medicaid. - The federal medical assistance program established under Title XIX of the Social Security Act.
- (6) Qualified long-term care partnership policy or qualified policy. - A long-term care insurance policy approved for use in North Carolina and that meets all the requirements of the federal Deficit Reduction Act of 2005, P.L. 109-171.
- (7) Resource. - Cash or its equivalent and real or personal property that is available to an applicant or recipient.
- (8) Resource disregard. - The amount of resources of an applicant for long-term care Medicaid that is equal to the amount of benefits paid to the applicant under a qualified long-term care partnership policy.
- (9) Resource protection. - An amount equal to the resource disregard given to a Medicaid recipient during the long-term care Medicaid eligibility determination process.

(b) There is established the North Carolina Long-Term Care Partnership Program (Partnership Program) to be administered by the Division with assistance from the Department of Insurance. The Partnership Program shall:

- (1) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under Medicaid without first being required to substantially exhaust their resources.
 - (2) Provide counseling services to individuals planning for their long-term care needs.
 - (3) Reduce the financial burden on the State medical assistance program by encouraging individuals to obtain private long-term care insurance.
- (c) Under the Partnership Program, the Department shall:
- (1) Provide resource disregard to an applicant for long-term care Medicaid who has received benefits under a qualified long-term care partnership policy. The amount of the resource disregard shall be equal to the total insurance benefits paid to the individual under a qualified policy after the implementation of the Partnership Program and prior to the individual's first application for long-term care Medicaid.
 - (2) Provide resource protection by reducing any subsequent recovery by the State under G.S. 108A-70.5 from a deceased recipient's estate for payment of Medicaid paid services by the amount of resource disregard given under subdivision (1) of this subsection.

(d) The Department shall adopt rules and amendments to the State Plan to allow for resource disregard at long-term care Medicaid eligibility determination and resource protection at estate recovery. The Department and the Department of Insurance shall adopt rules to implement the provisions of the Partnership Program and to provide for its administration.

(e) Effective January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later, a qualified long-term care partnership policy shall be accompanied by a Partnership Disclosure Notice detailing in plain language the current law pertaining to the Partnership Program, resource disregard, and resource protection.

(f) The Department may enter into a reciprocal agreement with other states that enter into a national reciprocity agreement to extend the resource disregard and resource protection to residents of the State who purchased, or purchased and used, a qualified long-term care policy in another state.

(g) G.S. 108A-70.5 applies to the estate of an individual who received benefits under a qualified long-term care partnership policy. (2010-68, s. 1; 2019-81, s. 15(a).)

§ 108A-70.5. Medicaid Estate Recovery Plan.

(a) There is established in the Department of Health and Human Services, the Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act of 1993, to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. The Department shall administer the program in accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. § 1396(p).

(b) The following definitions apply in this section:

- (1) Recodified as subdivision (b)(4) of this section by Session Laws 2021-88, s. 9(d).
- (2) Estate. - All the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. The Department has all rights available to estate creditors, including the right to qualify as personal representative or collector of an estate. For individuals who have received benefits under a qualified long-term care partnership policy as described in G.S. 108A-70.4, this term also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of the interest), including assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.
- (3) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.
- (4) Medical assistance. - Medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient as follows:
 - a. If the recipient of any age is receiving medical care services as an inpatient in a nursing facility, intermediate care facility for individuals with intellectual disabilities, or other medical institution, and cannot reasonably be expected to be discharged to return home.
 - b. If the recipient is 55 years of age or older and is receiving one or more of the following medical care services:
 - 1. Nursing facility services.
 - 2. Home and community-based services.
 - 3. Hospital care.
 - 4. Prescription drugs.
 - 5. Personal care services.

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and is recoverable only for medical care services prescribed in subsection (b) of this section. The Department is a sixth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; however, judgments in favor of other sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

(d) The Department of Health and Human Services shall adopt rules pursuant to Chapter 150B of the General Statutes to implement the Plan, including rules to waive whole or partial recovery when this recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective and rules to ensure that all recipients are notified that their estates are subject to recovery at the time they become eligible to receive medical assistance.

(e) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.

(f) With regard to any recipient who has received compensation pursuant to Part 30 of Article 9 of Chapter 143B of the General Statutes, the Department shall reduce the amount of any recovery it seeks from the deceased recipient's estate under this section by the amount of the resource disregard provided for in G.S. 143B-426.56(b)(1). (1993 (Reg. Sess., 1994), c. 769, s. 25.47(a); 1997-443, s. 11A.118(a); 2002-126, s. 10.11(b); 2005-276, s. 10.21C(a); 2005-345, s. 16; 2006-66, s. 10.9B; 2007-145, s. 10; 2007-323, ss. 10.42(a), (b); 2007-442, s. 1(a); 2010-68, s. 2; 2012-18, s. 3.6; 2013-378, s. 2; 2014-100, s. 6.13(f); 2021-62, s. 4.1; 2021-88, s. 9(d), (e).)

§ 108A-70.6: Repealed by Session Laws 2007-442, s. 1(b), effective August 23, 2007.

§ 108A-70.7: Repealed by Session Laws 2007-442, s. 1(b), effective August 23, 2007.

§ 108A-70.8: Repealed by Session Laws 2007-442, s. 1(b), effective August 23, 2007.

§ 108A-70.9: Repealed by Session Laws 2007-442, s. 1(b), effective August 23, 2007.

Part 6A. Appeals Process for Certain Medicaid and NC Health Choice Determinations.

§ 108A-70.9A. Definitions; Medicaid recipient appeals.

(a) Definitions. - The following definitions apply in this Part:

- (1) Adverse determination. - A determination by the Department to deny, terminate, suspend, or reduce a Medicaid service or an authorization for a Medicaid service through the fee-for-service program. An adverse benefit determination as defined in G.S. 108D-1 is not an adverse determination for purposes of this Part.
- (1a) Adverse disenrollment decision. - As defined in G.S. 108D-1.
- (1b) Contested Medicaid case. - A case commenced by (i) a Medicaid recipient appealing an adverse determination under this Part or (ii) a Medicaid or a NC Health Choice recipient appealing an adverse disenrollment determination under G.S. 108D-5.9.
- (2) OAH. - The Office of Administrative Hearings.
- (3) Recipient. - A recipient and the recipient's parent, guardian, or legal representative, unless otherwise specified.

(b) Medicaid Recipient Appeals. - Notwithstanding any provision of State law or rules to the contrary, this section shall govern the process used by a Medicaid recipient to appeal an adverse determination made by the Department and the process used by a Medicaid or NC Health Choice recipient to appeal an adverse disenrollment determination by the Department.

(c) Notice. - Except as otherwise provided by federal law or regulation, at least 10 days before the effective date of an adverse determination, the Department shall notify the recipient, and the provider, if applicable, in writing of the adverse determination and of the recipient's right to appeal the adverse determination. The Department shall not be required to notify a recipient's parent, guardian, or legal representative unless the recipient's parent, guardian, or legal representative has requested in writing to receive the notice. The notice shall be mailed on the date indicated on the notice as the date of the determination. The notice shall include:

- (1) An identification of the recipient whose services are being affected by the adverse determination, including the recipient's full name and Medicaid identification number.
- (2) An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.
- (3) The specific regulation, statute, or medical policy that supports or requires the adverse determination.
- (4) The effective date of the adverse determination.
- (5) An explanation of the recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.
- (6) An explanation of how the recipient can request a hearing and a statement that the recipient may represent himself or herself or use legal counsel, a relative, or other spokesperson.
- (7) A statement that the recipient will continue to receive Medicaid services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the recipient, whichever is less, if the recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.
- (8) The name and telephone number of a contact person at the Department to respond in a timely fashion to the recipient's questions.
- (9) The telephone number by which the recipient may contact a Legal Aid/Legal Services office.
- (10) The appeal request form described in subsection (e) of this section that the recipient may use to request a hearing.

(c1) Notice Availability. - The Department shall make available to OAH a copy of the notice of adverse determination required under subsection (c) of this section. The information contained in the notice is confidential unless the recipient appeals the adverse determination under subsection (d) of this section. OAH may dispose of these records after one year.

(d) Appeals. - Except as provided by this section and G.S. 108A-70.9B, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The recipient shall request a hearing within 30 days of the mailing of the notice required by subsection (c) of this section by filing an appeal request with OAH. Where a request for hearing concerns the reduction, modification, or termination of Medicaid services, including the failure to act upon a timely request for reauthorization with reasonable promptness, upon the receipt of a timely appeal, the Department shall reinstate the services to the level or manner prior to action by the Department as permitted by federal law or regulation. The Department may not influence, limit, or interfere with the recipient's decision to request a hearing.

(e) Appeal Request Form. - Along with the notice required by subsection (c) of this section, the Department shall also provide the recipient with an appeal request form which shall be no more than one side of one page. The form shall include the following:

- (1) A statement that, in order to request an appeal, the recipient must file the form with OAH within 30 days of mailing of the notice, and the form may be filed by either (i) sending the form by mail or fax to the address or fax number listed on the form or (ii) calling the telephone number on the form and providing the information requested on the form.
- (2) The recipient's name, address, telephone number, and Medicaid identification number.
- (3) A preprinted statement that indicates that the recipient would like to appeal the specific adverse determination of which the recipient was notified in the notice.
- (3a) The option for the recipient to request an expedited appeal.
- (4) A statement informing the recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.
- (5) A space for the recipient's signature and date.

(e1) Expedited Appeal Request. - In accordance with 42 C.F.R. § 431.224, a recipient may request that an appeal under subsection (d) of this section be expedited if the time otherwise permitted for a hearing could jeopardize the recipient's life, health, or ability to attain, maintain, or regain maximum function. With regard to a request for an expedited appeal, all of the following apply:

- (1) The recipient shall submit any additional documentation from a licensed health care professional with relevant excerpts from the recipient's medical record that was not already provided with regard to the adverse determination to demonstrate the need for an expedited appeal.
- (2) The Department shall determine if the recipient's request meets the criteria for an expedited appeal.
- (3) If the Department determines that the recipient's request does not meet the criteria for an expedited appeal, then (i) the Department shall make reasonable efforts to give the recipient, or the recipient's parent, guardian, or legal representative, oral notice of the denial as expeditiously as possible and shall follow up with a written notice of denial and (ii) the recipient's appeal shall not be subject to the expedited time frame in subdivision (4) of this subsection. The denial is not appealable.
- (4) If the Department determines that the recipient's request meets the criteria for an expedited appeal, then (i) the mediation procedure under G.S. 108A-70.9B(c) shall not apply to the appeal request and (ii) the decision required under G.S. 108A-70.9B(g) shall be made as expeditiously as possible.

(f) Final Decision. - After a hearing before an administrative law judge, the judge shall return the decision to the Department in accordance with G.S. 150B-37. The Department shall notify the recipient of the final decision and of the right to judicial review of the decision

pursuant to Article 4 of Chapter 150B of the General Statutes. (2010-31, s. 10.30(a); 2011-398, s. 32; 2019-81, s. 6; 2021-62, ss. 2.1(a)-(c), 2.2(a), (b).)

§ 108A-70.9B. Contested Medicaid cases.

(a) Application. - This section applies only to contested Medicaid cases as defined in this Part. Except as otherwise provided by Article 1A of Chapter 108D of the General Statutes, G.S. 108A-70.9A, and this section governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid or NC Health Choice recipient is subject to the provisions of Article 3 of Chapter 150B of the General Statutes. To the extent any provision in this section, Article 1A of Chapter 108D of the General Statutes, or G.S. 108A-70.9A conflicts with another provision in Article 3 of Chapter 150B of the General Statutes, this section, Article 1A of Chapter 108D of the General Statutes, and G.S. 108A-70.9A control.

(b) Simple Procedures. - Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may limit and simplify the procedures that apply to a contested Medicaid case involving a Medicaid or NC Health Choice recipient in order to complete the case as quickly as possible.

- (1) To the extent possible, OAH shall schedule and hear contested Medicaid cases within 55 days of submission of a request for appeal.
- (2) Hearings shall be conducted telephonically or by video technology with all parties, however the recipient may request that the hearing be conducted in person before the administrative law judge. An in-person hearing shall be conducted in Wake County, however, for good cause shown, the in-person hearing may be conducted in the county of residence of the recipient or a nearby county. Good cause shall include, but is not limited to, the recipient's impairments limiting travel or the unavailability of the recipient's treating professional witnesses. The Department shall provide written notice to the recipient of the use of telephonic hearings, hearings by video conference, and in-person hearings before the administrative law judge, and how to request a hearing in the recipient's county of residence.
- (3) The simplified procedure may include requiring that all prehearing motions be considered and ruled on by the administrative law judge in the course of the hearing of the case on the merits. An administrative law judge assigned to a contested Medicaid case shall make reasonable efforts in a case involving a Medicaid or NC Health Choice recipient who is not represented by an attorney to assure a fair hearing and to maintain a complete record of the hearing.
- (4) The administrative law judge may allow brief extensions of the time limits contained in this section for good cause and to ensure that the record is complete. Good cause includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances. Continuances shall only be granted in accordance with rules adopted by OAH and shall

not be granted on the day of the hearing, except for good cause shown. If a petitioner fails to make an appearance at a hearing that has been properly noticed via certified mail by OAH, OAH shall immediately dismiss the contested case, unless the recipient moves to show good cause within three business days of the date of dismissal.

(5) The notice of hearing provided by OAH to the recipient shall include the following information:

- a. The recipient's right to examine at a reasonable time before the hearing and during the hearing the contents of the recipient's case file and documents to be used by the Department in the hearing before the administrative law judge.
- b. The recipient's right to an interpreter during the appeals process.
- c. Circumstances in which a medical assessment may be obtained at agency expense and be made part of the record. Qualifying circumstances include those in which (i) a hearing involves medical issues, such as a diagnosis, an examining physician's report, or a medical review team's decision; and (ii) the administrative law judge considers it necessary to have a medical assessment other than that performed by the individual involved in making the original decision.

(c) Mediation. - Upon receipt of an appeal request form as provided by G.S. 108A-70.9A(e) or other clear request for a hearing by a Medicaid or NC Health Choice recipient, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the recipient within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the Department within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested Medicaid case until it has received notice from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation.

(d) Burden of Proof. - The recipient has the burden of proof on all issues submitted in a contested Medicaid case to OAH and has the burden of going forward. The administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence.

(e) New Evidence. - The recipient shall be permitted to submit evidence regardless of whether obtained prior to or subsequent to the Department's actions and regardless of whether the Department had an opportunity to consider the evidence in making its adverse determination. When the evidence is received, at the request of the Department, the administrative law judge shall continue the hearing for a minimum of 15 days and a maximum of 30 days to allow for the Department's review of the evidence. Subsequent to review of the evidence, if the Department reverses its original decision, it shall immediately inform the administrative law judge.

(f) **Issue for Hearing.** - For each adverse determination and each adverse disenrollment determination, the hearing shall determine whether the Department substantially prejudiced the rights of the recipient and if the Department, based upon evidence at the hearing, did any of the following:

- (1) Exceeded its authority or jurisdiction.
- (2) Acted erroneously.
- (3) Failed to use proper procedure.
- (4) Acted arbitrarily or capriciously.
- (5) Failed to act as required by law or rule.

(g) **Decision.** - The administrative law judge assigned to a contested Medicaid case shall hear and decide the case without unnecessary delay. The judge shall prepare a written decision and send it to the parties in accordance with G.S. 150B-37. (2010-31, s. 10.30(a); 2011-398, s. 33; 2014-100, s. 12H.27(b); 2019-81, s. 6.)

§ 108A-70.9C. Informal review permitted.

Nothing in this Part shall prevent the Department from engaging in an informal review of a contested Medicaid case with a recipient prior to issuing a notice of adverse determination under G.S. 108A-70.9A(c) or a notice of resolution under G.S. 108D-5.7. (2010-31, s. 10.30(a); 2019-81, s. 6.)

Part 7. Medical Assistance Provider False Claims Act.

§ 108A-70.10. Short title.

This Part may be cited as the Medical Assistance Provider False Claims Act. (1997-338, s. 1.)

§ 108A-70.11. Definitions.

Definitions. - As used in this Part:

- (1) "Attorney General" means the Attorney General or any Deputy, Assistant, or Associate Attorney General.
- (2) "Claim" means an application for payment or approval or for use in determining entitlement to payment presented to the Medical Assistance Program in any form, including written, electronic, or magnetic, which identifies a service, good, or accommodation as reimbursable under the Medical Assistance Program.
- (3) "Damages" means the difference between what the Medical Assistance Program paid a provider and the amount it would have paid the provider in the absence of a violation of this section and may be established by statistical sampling methods.
- (4) "Knowingly" means that a provider, with respect to the information:
 - a. Has actual knowledge of the information;
 - b. Acts in deliberate ignorance of the truth or falsity of the information; or
 - c. Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

- (5) "Medical Assistance Program" means the Division of Health Benefits and its fiscal agent. (1997-338, s. 1; 2019-81, s. 15(a).)

§ 108A-70.12. Liability for certain acts; damages; effect of repayment.

(a) Liability for Certain Acts. - It shall be unlawful for any provider of medical assistance under the Medical Assistance Program to:

- (1) Knowingly present, or cause to be presented to the Medical Assistance Program a false or fraudulent claim for payment or approval; or
- (2) Knowingly make, use, or cause to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Medical Assistance Program.

Each claim presented or caused to be presented in violation of this section is a separate violation.

(b) Damages. -

- (1) Except as provided in subdivision (2) of this subsection, a court shall assess against any provider of medical assistance under the Medical Assistance Program who violates this section a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000) plus three times the amount of damages which the Medicaid Assistance Program sustained because of the act of the provider.
- (2) A court may assess a penalty of not less than two times the amount of damages which the Medical Assistance Program sustains because of the act of the provider if a court finds that:
 - a. The provider committing a violation of this section furnished officials of the State responsible for investigating false claims violations with all information known to the provider about the violation within 30 days after the date the provider first obtained the information;
 - b. The provider fully cooperated with any State investigation of the violation; and
 - c. At the time the provider furnished the State with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the provider did not have actual knowledge of the existence of an investigation into the violation.
- (3) In addition to the damages and penalty assessed by the court pursuant to subdivision (1) or (2) of this subsection, a provider violating this section shall also be liable for the costs of a civil action brought to recover any penalty or damages, interest on the damages at the maximum legal rate in effect on the date the payment was made to the provider for the period from the date upon which payment was made to the provider to the date upon which repayment is made by the

provider to the Medical Assistance Program, and the costs of the investigation.

- (4) As applied to providers that are subject to certification review by the Division of Health Service Regulation, a violation of Medicaid provider certification standards in providing a service, good, or accommodation shall not be considered an independent basis for liability under this Act. However, liability may be imposed if a false or fraudulent claim is presented as set forth in subsection (a) of this section in connection with that service, good, or accommodation.

(c) Effect of Repayment. - Intent to repay or repayment of any amounts obtained by a provider as a result of any acts described in subsection (a) of this section shall not be a defense to or grounds for dismissal of an action brought pursuant to this section. However, a court may consider any repayment in mitigation of the amount of any penalties assessed. (1997-338, s. 1; 2007-182, s. 1.)

§ 108A-70.13. False claims procedure.

(a) The Attorney General shall have the authority to investigate, institute proceedings, compromise and settle any investigation or action, and perform all duties in connection with any civil action to enforce G.S. 108A-70.12.

(b) A civil action under G.S. 108A-70.12 may not be brought more than six years after the date the violation of G.S. 108A-70.12 is committed, or more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the State of North Carolina charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(c) In any action brought under G.S. 108A-70.12, the State shall be required to prove all essential elements of the cause of action, including damages, by the greater weight of the evidence.

(d) Notwithstanding any other provision of law or rule, a final judgment rendered in favor of the State in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under G.S. 108A-70.12.

(e) No criminal or administrative action need be brought against any provider as a condition for establishing civil liability under G.S. 108A-70.12. The civil liability under G.S. 108A-70.12 is in addition to any other criminal, civil, and administrative liabilities or penalties that may be prescribed by law. However, treble and double damages and civil penalties provided by G.S. 108A-70.12 shall not be assessed against a provider if treble or double damages or civil penalties have been previously assessed against the provider for the same claims under the federal False Claims Act, 31 U.S.C. § 3729, et seq., or the federal Civil Monetary Penalty Law, 42 U.S.C. § 1320a-7a. In the event that any provider is found liable under the provisions of this Act and is subsequently found liable for the same claim under the federal False Claims Act, or the appropriate sections of the federal Civil Monetary Penalty Law, the State and the Medical Assistance Program shall pay to the federal government on behalf of the provider any amounts, other than restitution, recovered or otherwise obtained by the State under this Act, not to exceed the amount of the federal damages and penalties.

(f) The amount of damages and number of violations of G.S. 108A-70.12 shall be established by the trial judge or, in the event of a jury trial, by jury verdict. The amount of penalties, treble or double damages, interest, cost of the investigation, and cost of the civil action shall be determined by the trial judge as prescribed in G.S. 108A-70.12(b).

(g) Venue for any action brought pursuant to G.S. 108A-70.12 shall be in either Wake County or in any county in which claim originated, or in which any statement or record was made, or acts done, or services, goods, or accommodations rendered in connection with any act constituting part of the violation of G.S. 108A-70.12. (1997-338, s. 1.)

§ 108A-70.14. Civil investigative demand.

(a) If the Attorney General has reasonable cause to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to an investigation or that would lead to the discovery of relevant information in an investigation of a violation of G.S. 108A-70.12, the Attorney General may serve upon the person, before bringing an action under G.S. 108A-70.12 or other false claims law, a civil investigative demand to appear and be examined under oath, to answer written interrogatories under oath, and to produce any documents or objects for their inspection and copying.

(b) The civil investigative demand shall:

- (1) Be served upon the person in the manner required for service of process in civil actions and may be served by the Attorney General or investigator assigned to the North Carolina Department of Justice;
- (2) Describe the nature of the conduct constituting the violation under investigation;
- (3) Describe the class or classes of any documents or objects to be produced with sufficient definiteness to permit them to be fairly identified;
- (4) Contain a copy of any written interrogatories to be answered;
- (5) Prescribe a reasonable date and time at which the person shall appear to testify, answer any written interrogatories, or produce any document or object;
- (6) Advise the person that objections to or reasons for not complying with the demand may be filed with the Attorney General on or before that date and time;
- (7) Specify a place for the taking of testimony;
- (8) Designate a person to whom answers to written interrogatories shall be submitted and to whom any document or object shall be produced; and
- (9) Contain a copy of subsections (b) and (c) of this section.

(c) The date within which to answer any written interrogatories and within which any document or object must be produced shall be more than 30 days after the civil investigative demand has been served upon the person. The date within which a person must appear to testify shall be more than 15 days after the demand has been served upon a person who resides out-of-state or more than 10 days after the demand has been served upon a person who resides in-state.

(d) The person before whom the oral examination is to be taken shall put the person to be examined on oath and shall personally, or by someone acting under the person's direction and in the person's presence, record the testimony of the person to be examined. The Attorney General may exclude from the place where the examination is held all persons except the person giving the testimony, the attorney or other representative of the person giving the testimony, the Attorney General conducting the examination, the investigator assisting the Attorney General, the stenographer, and any other person agreed upon by the Attorney General and the person giving the testimony. When the testimony is transcribed, the person shall have a reasonable opportunity to examine and read the transcript, unless an examination and reading are waived by the person. Any changes in form or substance which the person desires to make shall be entered and identified upon the transcript by the person. The transcript shall then be signed by the person, unless the person in writing waives the signing, is ill, cannot be found, or refuses to sign.

(e) Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. If a person objects to any interrogatory, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(f) The production of documents and objects in response to a civil investigative demand served under this section shall be made under a sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available. Upon written agreement between the person served with the civil investigative demand and the Attorney General, the person may substitute copies for originals of all or any part of the documents requested.

(g) No person shall be excused from testifying, answering interrogatories, or producing documents or objects in response to a civil investigative demand on the ground that the testimony, answers, documents, or objects required of the person may tend to incriminate the person. However, no testimony, answers, documents, or objects compelled pursuant to G.S. 108A-70.14 may be used against the person in a criminal action, except a prosecution for perjury or for contempt arising from a failure to comply with an order of the court.

(h) Any person appearing for oral testimony under a civil investigative demand issued pursuant to this section shall be entitled to the same fees and allowances paid to witnesses in the General Court of Justice of the State of North Carolina.

(i) If a person objects to or otherwise fails to comply with a civil investigative demand served upon the person under subsection (a) of this section, the Attorney General may file an action in superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in either Wake County or the county in which the person resides. Notice of a hearing on the action to enforce the demand and a copy of the action shall be served upon the person in the same manner as prescribed in the Rules for Civil Procedure. If

the court finds that the demand is proper, that there is reasonable cause to believe that there may have been a violation of G.S. 108A-70.12, and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe.

(j) If the person fails to comply with an order entered pursuant to subsection (i) of this section, the court may:

- (1) Adjudge the person to be in contempt of court;
- (2) Grant injunctive relief against the person to whom the demand is issued to restrain the conduct which is the subject of the investigation;
or
- (3) Grant any other relief as the court may deem proper.

(k) Any transcript of oral testimony, answers to written interrogatories, and documents and objects produced pursuant to this section may be used in connection with any civil action brought under G.S. 108A-70.12.

(l) The North Carolina Rules of Civil Procedure shall apply to this section to the extent that the rules are not inconsistent with the provisions of this section. (1997-338, s. 1.)

§ 108A-70.15. Employee remedies.

(a) In the absence of fraud or malice, no person who furnishes information to officials of the State responsible for investigating false claims violations shall be liable for damages in a civil action for any oral or written statement made or any other action that is necessary to supply information required pursuant to this Part.

(b) Any employee of a provider who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under G.S. 108A-70.12, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under G.S. 108A-70.12, shall be entitled to all relief necessary to make the employee whole. Relief shall include reinstatement with the same seniority status as the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate court for the relief provided in this section. (1997-338, s. 1.)

§ 108A-70.16. Uniformity of interpretation.

This Part shall be so interpreted and construed as to be consistent with the federal False Claims Act, 31 U.S.C. § 3729, et seq., and any subsequent amendments to that act. (1997-338, s. 1.)

§ 108A-70.17. Reserved for future codification purposes.

Part 8. Health Insurance Program for Children.

§ 108A-70.18. Definitions.

As used in this Part, unless the context clearly requires otherwise, the term:

- (1) "Comprehensive health coverage" means creditable health coverage as defined under Title XXI.

- (2) "Family income" has the same meaning as used in determining eligibility for the Medical Assistance Program.
- (3) "FPL" or "federal poverty level" means the federal poverty guidelines established by the United States Department of Health and Human Services, as revised each April 1.
- (4) "Medical Assistance Program" means the State Medical Assistance Program established under Part 6 of Article 2 of Chapter 108A of the General Statutes.
- (4a) Repealed by Session Laws 2015-96, s. 1, effective June 19, 2015.
- (5) "Program" means The Health Insurance Program for Children established in this Part.
- (6) "State Plan" means the State Child Health Plan for the State Children's Health Insurance Program established under Title XXI.
- (7) "Title XXI" means Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552, codified in scattered sections of 42 U.S.C.
- (8) "Uninsured" means the applicant for Program benefits is not covered under any private or employer-sponsored comprehensive health insurance plan on the date of enrollment. (1998-1, s. 1; 1998-166, s. 6; 2000-67, s. 11.8(a); 2000-140, s. 90(d); 2001-424, s. 21.22(b); 2008-107, s. 10.13(d); 2015-96, s. 1.)

§ 108A-70.19. Short title; purpose; no entitlement.

This Part may be cited as "The Health Insurance Program for Children Act of 1998." The purpose of this Part is to provide comprehensive health insurance coverage to uninsured low-income children who are residents of this State. Coverage shall be provided from federal funds received, State funds appropriated, and other nonappropriated funds made available for this purpose. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to coverage under the Program. (1998-1, s. 1.)

§ 108A-70.20. Program established.

The Health Insurance Program for Children is established. The Program shall be known as North Carolina Health Choice for Children, and it shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Administration of claims processing shall be as described in 42 C.F.R. 447.45(d)(1). (1998-1, s. 1; 2008-107, s. 10.13(e); 2015-96, s. 2.)

§ 108A-70.20A: Repealed by Session Laws 2015-96, s. 3, effective June 19, 2015.

§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans.

(a) Eligibility. - The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

- (1) Children must:

- a. Be between the ages of 6 through 18;
- b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
- c. Be uninsured;
- d. Be in a family whose family income is above one hundred thirty-three percent (133%) and less than or equal to two hundred eleven percent (211%) of the federal poverty level;
- e. Be a resident of this State and eligible under federal law; and
- f. Have paid the Program enrollment fee required under this Part.

(2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.

(3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.

If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term "responsible parent" means a person who is under a court order to pay child support.

(4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) Benefits. - All health benefits changes of the Program shall meet the coverage requirements set forth in this subsection. Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under [the] North Carolina Medicaid Program except for the following:

- (1) No services for long-term care.
- (2) No nonemergency medical transportation.
- (3) No EPSDT.
- (4) Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.

In addition to the benefits provided under the North Carolina Medicaid Program, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

- (1), (1a) Repealed by Session Laws 2011-145, s. 10.41(b), effective July 1, 2011.
- (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. NCHC recipients must obtain optical services, supplies, and solutions from NCHC enrolled, licensed or certified ophthalmologists, optometrists, or opticians. In accordance with G.S. 148-134, NCHC providers must order complete eyeglasses, eyeglass lenses, and ophthalmic frames through Nash Optical Plant. Eyeglass lenses are limited to NCHC-approved single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to NCHC-approved frames made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require prior approval. Requests for medically necessary complete eyeglasses, eyeglass lenses, and ophthalmic frames outside of the NCHC-approved selection require prior approval. Requests for medically necessary fabrication of complete eyeglasses or eyeglass lenses outside of Nash Optical Plant require prior approval. Upon prior approval refractions may be covered more often than once every 12 months.
- (3) Under the North Carolina Health Choice Program for Children, the co-payment for nonemergency visits to the emergency room for children whose family income is less than or equal to one hundred fifty-nine percent (159%) of the federal poverty level is ten dollars (\$10.00). The co-payment for children whose family income is above one hundred fifty-nine percent (159%) and less than or equal to two hundred eleven percent (211%) of the federal poverty level is twenty-five dollars (\$25.00).
- (4) Over the counter medications: Selected over the counter medications provided the medication is covered under the State Medical Assistance Plan. Coverage shall be subject to the same policies and approvals as required under the Medicaid program.
- (5) Routine diagnostic examinations and tests: annual routine diagnostic examinations and tests, including x-rays, blood and blood pressure

checks, urine tests, tuberculosis tests, and general health check-ups that are medically necessary for the maintenance and improvement of individual health are covered.

No benefits are to be provided for services and materials under this subsection that do not meet the standards accepted by the American Dental Association.

The Department shall provide services to children enrolled in the NC Health Choice Program through Community Care of North Carolina (CCNC) and shall pay Community Care of North Carolina providers the per member, per month fees as allowed under Medicaid.

(b1) Payments. - Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, amounts allowable for prescription drugs under Medicaid. For all other providers, services provided to children enrolled in the Program shall be provided at rates equivalent to one hundred percent (100%) of Medicaid rates, less any co-payments assessed to enrollees under this Part.

(c) Annual Enrollment Fee. - There shall be no enrollment fee for Program coverage for enrollees whose family income is less than or equal to one hundred fifty-nine percent (159%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty-nine percent (159%) and less than or equal to two hundred eleven percent (211%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. - There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is less than or equal to one hundred fifty-nine percent (159%) of the federal poverty level, except that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each outpatient generic prescription drug, for each outpatient brand-name prescription drug for which there is no generic substitution available, and for each covered over-the-counter medication. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is three dollars (\$3.00). Families covered under the Program whose family income is above one hundred fifty-nine percent (159%) of the federal poverty level shall be responsible for copayments to providers as follows:

- (1) Five dollars (\$5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
- (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- (3) A one dollar (\$1.00) fee for each outpatient generic prescription drug, for each outpatient brand-name prescription drug for which there is no generic substitution available, and for each covered over-the-counter medication. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is ten dollars (\$10.00).
- (4) Twenty dollars (\$20.00) for each emergency room visit unless:
 - a. The child is admitted to the hospital, or

- b. No other reasonable care was available as determined by the Department.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) Cost-Sharing Limitations. - The Department shall establish maximum annual cost-sharing limits per individual or family, provided that the total annual aggregate cost-sharing, including enrollment fees, with respect to all children in a family receiving benefits under this section shall not exceed five percent (5%) of the family's income for the year involved.

(f) Coverage From Private Plans. - The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

- (1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
- (2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
- (3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
- (4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g), (h) Repealed by Session Laws 2015-241, s. 12H.14(a), effective September 18, 2015.

(i) Benefits provided to an enrollee in the Program may be subject to lifetime maximum limits set forth in Medicaid and NC Health Choice medical coverage policies adopted pursuant to G.S. 108A-54.2. (1998-1, s. 1; 1999-237, s. 11.9; 2002-126, s. 10.20(a); 2003-284, s. 10.29(a); 2005-276, ss. 10.22(b), 10.22(c), 10.22(d); 2007-323, s. 28.22A(o); 2007-345, s. 12; 2008-107, ss. 10.12(b), (c), 10.13(f), (k); 2008-118, s. 1.6(b), (c); 2009-16, s. 4(d); 2009-451, s. 10.35(a); 2011-145, s. 10.41(b); 2013-360, s. 12H.10(g); 2015-96, s. 4; 2015-241, ss. 12H.2(f), 12H.14(a), (b), 12H.25(b), 12H.26(b); 2015-245, s. 22; 2017-102, s. 16.)

§ 108A-70.22: Repealed by Session Laws 2008-107, s. 10.13(g), effective July 1, 2008.

§ 108A-70.23: Repealed by Session Laws 2011-145, s. 10.41(c), effective July 1, 2011.

§ 108A-70.24: Repealed by Session Laws 2008-107, s. 10.13(i), effective July 1, 2008.

§ 108A-70.25. State Plan for Health Insurance Program for Children.

(a) The NC Health Choice program shall be administered and operated in accordance with this Part and the NC Health Choice State Plan, as periodically amended by the Department of Health and Human Services and approved by the federal government.

(b) The requirements in G.S. 108A-54.1A shall apply to NC Health Choice State Plan amendments in the same manner in which they apply to Medicaid State Plan amendments. (1998-1, s. 1; 2011-291, s. 2.23; 2013-360, s. 12H.2(b).)

§ 108A-70.26. Application process; outreach efforts; appeals.

(a) **Application.** - The Department shall use an application form for the Program that is concise, relatively easy for the applicant to comprehend and complete, and only as lengthy as necessary for identifying applicants, determining eligibility for the Program or Medicaid, and providing information to applicants on requirements for application submission and proof of eligibility. Application forms shall be obtainable from public health departments and county departments of social services. Applications shall be processed by the county department of social services and may be submitted by mail. The Department may adopt rules for the submission and processing of applications and for securing the proof of eligibility for benefits under this Part.

The application form for the Program shall have printed on it or attached to it a notice stating substantially: "The Health Insurance Program for Children is a federally and State funded program that may be discontinued if federal funds are not provided for its continuation."

(b) **Outreach Efforts.** - The Department shall adopt procedures to ensure that the Program is adequately publicized statewide and to comply with federal outreach requirements. The Department shall make information about the Program available through the Internet and shall explore the feasibility of securing a 24-hour toll-free telephone number to facilitate access to Program information. In order to avoid duplication of efforts, in developing outreach procedures the Department shall establish system linkages to ensure the collaboration and coordination of information between and among the Program and such ongoing programs and efforts as:

- WIC Program.
- Maternal and Child Health Block Grant.
- Children's Special Health Services.
- Smart Start.
- Head Start.

The Department shall seek private and federal grant funds for outreach activities. The Department shall also seek the participation of the private sector in providing no-cost or low-cost avenues for publicizing the Program in local communities and statewide. The Department may work with the State Health Plan Purchasing Alliance Board to develop programs that utilize the expertise and resources of the Alliances in outreach activities to employees of small businesses.

(c) **Appeals.** - A person who is dissatisfied with the action of a county department of social services with respect to the determination of eligibility for benefits under the Program may appeal the action in accordance with G.S. 108A-79. (1998-1, s. 1.)

§ 108A-70.27. (See editor's note) Data collection; reporting.

(a) The Department shall ensure that the following data are collected, analyzed, and reported in a manner that will most effectively and expeditiously enable the State to evaluate Program goals, objectives, operations, and health outcomes for children:

- (1) Number of applicants for coverage under the Program;
- (2) Number of Program applicants deemed eligible for Medicaid;
- (3) Number of applicants deemed eligible for the Program, by income level, age, and family size;
- (4) Number of applicants deemed ineligible for the Program and the basis for ineligibility;
- (5) Number of applications made at county departments of social services, public health departments, and by mail;
- (6) Total number of children enrolled in the Program to date and for the immediately preceding fiscal year;
- (7) Total number of children enrolled in Medicaid through the Program application process;
- (8) Trends showing the Program's impact on hospital utilization, immunization rates, and other indicators of quality of care, and cost-effectiveness and efficiency;
- (9) Trends relating to the health status of children;
- (10) Other data that would be useful in carrying out the purposes of this Part.

(b) Repealed by Session Laws 2013-360, s. 12A.8(e), effective July 1, 2013.

(c) The Division of Health Benefits shall provide to the Department data required under this section that are collected by this Division. Data shall be reported by the Division of Health Benefits in sufficient detail to meet federal reporting requirements under Title XXI. (1998-1, s. 1; 2011-145, s. 10.41(d); 2011-291, ss. 2.24, 2.25; 2013-360, s. 12A.8(e); 2015-96, s. 5; 2019-81, s. 15(a).)

§ 108A-70.28. Fraudulent misrepresentation.

(a) It shall be unlawful for any person to knowingly and willfully, and with intent to defraud, make or cause to be made a false statement or representation of a material fact in an application for coverage under this Part or intended for use in determining eligibility for coverage.

(b) It shall be unlawful for any applicant, recipient, or person acting on behalf of the applicant or recipient to knowingly and willfully, and with intent to defraud, conceal, or fail to disclose any condition, fact, or event affecting the applicant's or recipient's initial or continued eligibility to receive coverage or benefits under this Part.

(c) It is unlawful for any person knowingly, willingly, and with intent to defraud, to obtain or attempt to obtain, or to assist, aid, or abet another person, either directly or indirectly, to obtain money, services, or any other thing of value to which the person is not entitled as a recipient under this Part, or otherwise to deliberately misuse a Program identification card. This misuse includes the sale, alteration, or lending of the Program identification card to others for services and the use of the card by someone other than the recipient to receive or attempt to receive Program coverage for services rendered to that individual.

Proof of intent to defraud does not require proof of intent to defraud any particular person.

(d) A person who violates a provision of this section shall be guilty of a Class I felony.

(e) For purposes of this section the word "person" includes any natural person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization. (1998-1, s. 1.)

§ 108A-70.29. Program review process.

(a) Review of Eligibility and Program Enrollment Decisions. - Eligibility and Program enrollment decisions for Program applicants or recipients shall be reviewable pursuant to G.S. 108A-79. Program recipients shall remain enrolled in the NC Health Choice Program during the review of a decision to terminate or suspend enrollment. This subsection does not apply to requests for disenrollment from a PHP under Article 1A of Chapter 108D of the General Statutes.

(b) Review of Fee-for-Service Program Health Services Decisions. - This subsection applies only to health services decisions for services being provided to NC Health Choice recipients through the fee-for-service program as defined in G.S. 108A-24. This subsection does not apply to adverse benefit determinations as defined in G.S. 108D-1. In accordance with 42 C.F.R. § 457.1130 and 42 C.F.R. § 457.1150, a Program recipient may seek review of any delay, denial, reduction, suspension, or termination of health services, in whole or in part, including a determination about the type or level of services, through a two-level review process.

- (1) Internal review. - Within 30 days from the date of the decision subject to review under this subsection, a recipient may request a first-level internal review, which shall be conducted by the Clinical Medical Director of the Division of Health Benefits or the Director's clinical designee.
- (2) External review. - If the recipient is dissatisfied with the first-level review decision, then within 15 days after the internal review decision is rendered the recipient may request a second-level independent external review by the Department of Health and Human Services Hearing Office. The external review process shall comply with the provisions of 42 C.F.R. § 457.1140. The Department's Hearing Office shall assign the matter to a hearing officer who will preside over the review. The hearing may be in person at the Hearing Office in Raleigh or by telephone. Recipients may:
 - a. Represent themselves or have representatives of their choosing in the review process.
 - b. Review, in a timely manner, their files and other applicable information relevant to the review of the decision.
 - c. Fully participate in the review process, including the opportunity to present supplemental information during the review process.
- (3) Time frames. - The hearing officer shall render a written decision within 90 calendar days of the date the recipient requested first-level review, as specified at 42 C.F.R. § 457.1160. If the recipient's physician or health plan determines that operating under the standard 90-day time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, then each level of review must be completed within 72 hours, except that

this expedited time frame may be extended by up to 14 calendar days if the recipient requests an extension.

- (4) Coverage of services during review. - When the decision is a reduction, suspension, termination, or denied request for increase of existing services, notwithstanding the request for review, the services shall be covered in accordance with the decision under review, and services which are terminated or suspended services shall not be covered, unless and until the decision is overturned on review.

(c) Review of decisions pursuant to Programmatic changes. - The Program review process set forth in this section shall not apply to instances in which the sole basis for the decision is a provision in the State plan or in Federal or State law requiring an automatic change in eligibility, enrollment, or a change in coverage under the health benefits package that affects all applicants or enrollees or a group of applicants or enrollees without regard to their individual circumstances.

(d) Notice. - A recipient shall receive timely written notice of any decision subject to review under this section in accordance with the requirements of 42 C.F.R. § 457.1180. The notice shall include the reasons for the decision, an explanation of applicable rights to review of that decision, the standard and expedited time frames for review, the manner in which a review can be requested, and the circumstances under which enrollment may continue pending review.

(e) Rule-Making authority. - The Department shall have the authority to adopt rules for the implementation and operation of the Program review process.

(f) Additional Rule-Making Authority. - The Department of Health and Human Services shall have the authority to adopt rules for the transition and operation of the North Carolina Health Choice Program. Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes for enrolling providers to participate in the NC Health Choice Program, for regulating provider participation in the NC Health Choice Program, and for other operational issues regarding the NC Health Choice Program. (2010-70, s. 1; 2010-96, s. 39(a); 2011-145, s. 10.41(e); 2019-81, ss. 7, 15(a).)

Part 9. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

§ 108A-70.30: Recodified as Part 33 of Article 7 of Chapter 143B, G.S. 143B-344.46, by Session Laws 2013-360, s. 15.22(h), effective July 1, 2013.

§ 108A-70.31: Reserved for future codification purposes.

§ 108A-70.32: Reserved for future codification purposes.

§ 108A-70.33: Reserved for future codification purposes.

§ 108A-70.34: Reserved for future codification purposes.

§ 108A-70.35: Reserved for future codification purposes.

Part 10. Medicaid Eligibility Decision Processing Timeliness.

§ 108A-70.36. Applicability.

If a federally recognized Native American tribe within the State has assumed responsibility for the Medicaid program pursuant to G.S. 108A-25(e), then this Part applies to the tribe in the same manner as it applies to county departments of social services. (2016-94, s. 12H.17(b).)

§ 108A-70.37. Timely decision standards.

The county department of social services shall render a decision on an individual's application for Medicaid within 45 calendar days from the date of application, except for applications in which a disability determination has already been made or is needed. For those applications, the county department of social services shall render a decision on an individual's eligibility within 90 calendar days from the date of application. (2016-94, s. 12H.17(b).)

§ 108A-70.38. Timely processing standards.

(a) The Department shall require counties to comply with timely processing standards. The timely processing standards are the average processing time standards and the percentage processed timely standards set forth in G.S. 108A-70.39 and G.S. 108A-70.40. The Department shall monitor county department of social services' compliance with these standards in accordance with this Part.

(b) For purposes of this Part, processing time is the number of days between the date of application and the date of disposition of the application, except in cases where an eligibility determination is dependent upon receipt of information related to one or more of the following:

- (1) Medical expenses sufficient to meet a deductible.
- (2) The applicant's need for institutionalization.
- (3) The applicant's plan of care for the home- and community-based waivers.
- (4) The disability decision made by the Disability Determination Services Section of the Division of Vocational Rehabilitation of the Department.
- (5) Medical records needed to determine emergency dates for nonqualified aliens.
- (6) The applicant's application or other information from the federally facilitated marketplace.
- (7) The applicant's application or other information in connection with an application for a Low Income Subsidy for Medicare prescription drug coverage.

In these cases, processing time shall exclude the number of days between the date when the county determines all eligibility criteria other than the criteria in subdivisions (1) through (7) of this subsection and the date when the county receives the information related to the criteria in subdivisions (1) through (7) of this subsection.

(c) Processing times for the following types of cases shall be excluded from the calculation of the average processing time and percent processed timely:

- (1) Newborns who are automatically enrolled based on their mother's eligibility.
- (2) Applications for individuals who are presumptively eligible for Medicaid.

- (3) Active cases in which an individual who is eligible for one program is transferred to another program, regardless of whether the transfer occurs between allowable or nonallowable program categories.
- (4) Cases in which an individual transfers from an open case to another case, including establishing a new administrative case for the individual.
- (5) Actions to post eligibility to a terminated or denied case within one year of the termination or denial.
- (6) Cases that are reopened because they were terminated in error or because reopening of the terminated case is allowed by policy.
- (7) Cases in which the eligibility decision was appealed and the decision was reversed or remanded.

(d) The Department may, in its discretion, exclude days, other than those required by subsection (b) of this section, from the calculation of processing time under this section if the Department determines that the delay was caused by circumstances outside the control of county departments of social services. The Department also may, in its discretion, exclude types of cases, other than those described in subsection (c) of this section, from the calculation of processing time. When the Department exercises its discretion pursuant to this subsection, the Department's determination regarding circumstances outside the control of county departments of social services and the Department's decision to exclude types of cases shall be applied uniformly to all county departments of social services. (2016-94, s. 12H.17(b).)

§ 108A-70.39. Average processing time standards.

(a) Average processing time is calculated by finding the processing time for each case that received a disposition during a given month and finding the average of those processing times.

(b) The standard for average processing time is 90 days for cases in which the individual has applied for the Medicaid Aid to the Disabled category (M-AD) and 45 days for all other cases. (2016-94, s. 12H.17(b).)

§ 108A-70.40. Percentage processed timely standards.

(a) Percentage processed timely is the percentage of cases that received a timely disposition in a given month. The percentage processed timely is calculated by expressing the number of cases during a given month with a processing time equal to or less than the standard set in G.S. 108A-70.37 as a percentage of the total cases receiving a disposition during that month. When the deadline for meeting the timely decision standard in G.S. 108A-70.37 falls on a weekend or holiday, an application that receives a disposition on the first workday following the deadline shall be considered timely for purposes of calculating the percentage processed timely.

(b) The Department is authorized to adopt rules to establish a percentage standard for each county department of social services that will be the percentage processed timely standard for that county department of social services. Until the Department adopts rules establishing percentage standards for each county, the percentage processed timely standards are those established in 10A NCAC 23C .0203 as of April 2016. (2016-94, s. 12H.17(b).)

§ 108A-70.41. Corrective action.

(a) If for any three consecutive months or for any five months out of a period of 12 consecutive months a county department of social services fails to meet either the average processing time standard or the percentage processed timely standard or both standards, the Department and the county department of social services shall enter into a joint corrective action plan to improve the timely 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 12 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 18 months.
- (2) A plan for improving timely 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) Acknowledgement 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-70.42. (2016-94, s. 12H.17(b).)

§ 108A-70.42. Temporary assumption of Medicaid eligibility administration.

(a) If a county department of social services fails to successfully complete its joint corrective action plan, the Department shall give the county department of social services, the county manager, and the board of social services or the consolidated human services board created pursuant to G.S. 153A-77(b) at least 90 days' notice that the Department intends to temporarily assume Medicaid eligibility administration, in accordance with subsection (b) of this section. The notice shall include the following information:

- (1) The date on which the Department intends to temporarily assume administration of Medicaid eligibility decisions.
- (2) The performance requirements in the joint corrective action plan that the county department of social services failed to meet.
- (3) Notice of the county department of social services' right to appeal the decision to the Office of Administrative Hearings, pursuant to Article 3 of Chapter 150B of the General Statutes.

(b) Notwithstanding any provision of law to the contrary, if a county department of social services fails to successfully complete its joint corrective action plan, the Department shall temporarily assume Medicaid eligibility administration for the county upon giving notice as required by subsection (a) of this section. During a period of temporary assumption of Medicaid eligibility administration, the following shall occur:

- (1) The Department shall administer the Medicaid eligibility function in the county. Administration by the Department may include direct

operation by the Department, including supervision of county Medicaid eligibility workers, or contracts for operation to the extent permitted by federal law and regulations.

- (2) The county department of social services is divested of Medicaid administration authority.
- (3) The Department shall direct and oversee the expenditure of all funding for the administration of Medicaid eligibility in the county.
- (4) The county shall continue to pay the nonfederal share of the cost of Medicaid eligibility administration and shall not withdraw funds previously obligated or appropriated for Medicaid eligibility administration.
- (5) The county shall pay the nonfederal share of additional costs incurred to ensure compliance with the timely processing standards required by this Part.
- (6) The Department shall work with the county department of social services to develop a plan for the county department of social services to resume Medicaid eligibility administration and perform Medicaid eligibility determinations in a timely manner.
- (7) The Department shall inform the county board of commissioners, the county manager, the county director of social services, and the board of social services or the consolidated human services board created pursuant to G.S. 153A-77(b) of key activities and any ongoing concerns during the temporary assumption of Medicaid eligibility administration.

(c) Upon the Department's determination that Medicaid eligibility determinations can be performed in a timely manner based on the standards set forth in G.S. 108A-70.39 and G.S. 108A-70.40 by the county department of social services, the Department shall notify the county department of social services, the county manager, and the board of social services or the consolidated human services board created pursuant to G.S. 153A-77(b) that temporary assumption of Medicaid eligibility administration will be terminated and the effective date of termination. Upon termination, the county department of social services resumes its full authority to administer Medicaid eligibility determinations. (2016-94, s. 12H.17(b).)

§ 108A-70.43. Reporting.

No later than November 1 of each year, the Department shall submit a report for the prior fiscal year 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 containing the following information:

- (1) The annual statewide percentage of Medicaid applications processed in a timely manner for the fiscal year.
- (2) The statewide average number of days to process Medicaid applications for each month in the fiscal year.
- (3) The annual percentage of Medicaid applications processed in a timely manner by each county department of social services for the fiscal

year.

- (4) The average number of days to process Medicaid applications for each month for each county department of social services.
- (5) The number of months during the fiscal year that each county department of social services met the timely processing standards under G.S. 108A-70.38.
- (6) The number of months during the fiscal year that each county department of social services failed to meet the timely processing standards under G.S. 108A-70.38.
- (7) A description of all corrective action activities conducted by the Department and county departments of social services in accordance with G.S. 108A-70.36.
- (8) A description of how the Department plans to assist county departments of social services in meeting timely processing standards for Medicaid applications, for every county in which the performance metrics for processing Medicaid applications in a timely manner do not show significant improvement compared to the previous fiscal year. (2017-57, s. 11H.21.)

Part 11. Medicaid Eligibility Determinations Accuracy and Quality Assurance.

§ 108A-70.45. Applicability.

If a federally recognized Native American tribe within the State has assumed responsibility for the Medicaid program pursuant to G.S. 108A-25(e), then this Part applies to the tribe in the same manner as it applies to county departments of social services. (2017-57, s. 11H.22(c).)

§ 108A-70.46. Audit of county Medicaid determinations.

(a) Beginning January 1, 2019, the Department of Health and Human Services, Division of Central Management and Support, 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 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.

(b) Beginning 18 months after the Department has implemented the training and certification program under G.S. 108A-26.5, the Department shall include in its audits required under this section 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. (2017-57, s. 11H.22(c), (h); 2018-5, s. 11H.5(a), (d).)

§ 108A-70.47. Medicaid eligibility determination processing accuracy standards.

(a) The Department shall require county departments of social services to comply with accuracy standards set forth in rule for the processing of Medicaid eligibility determinations.

The Department shall set the following standards:

- (1) Accuracy standards with regards to errors that caused an ineligible Medicaid recipient to be approved for Medicaid benefits.
 - (2) Accuracy standards with regards to errors that caused the denial of benefits to an applicant that should have been approved for Medicaid benefits.
 - (3) Accuracy standards with regards to errors made during the eligibility determination process that did not change the outcome of the eligibility determination.
- (b) Standards under this section shall be developed by the Department in consultation with the State Auditor. (2017-57, s. 11H.22(c).)

§ 108A-70.48. Quality assurance.

The Department shall require county departments of social services to comply with quality assurance minimum standards set forth in rule. The quality assurance standards shall be based upon best practices and shall be developed by the Department in consultation with the State Auditor. (2017-57, s. 11H.22(c).)

§ 108A-70.49. Corrective action.

(a) If the Department's 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. (2017-57, s. 11H.22(c); 2018-5, s. 11H.5(b).)

§ 108A-70.50. Temporary assumption of Medicaid eligibility administration.

(a) If a county department of social services fails to successfully complete its joint corrective action plan, the Department shall give the county department of social services, the county manager, and the board of social services or the consolidated human services board, created pursuant to G.S. 153A-77(b), at least 90 days' notice that the Department intends to temporarily assume Medicaid eligibility administration, in accordance with subsection (b) of this section. The notice shall include the following information:

- (1) The date on which the Department intends to temporarily assume administration of Medicaid eligibility determinations.
- (2) The performance requirements in the joint corrective action plan that the county department of social services failed to meet.
- (3) Notice of the county department of social services' right to appeal the decision to the Office of Administrative Hearings, pursuant to Article 3 of Chapter 150B of the General Statutes.

(b) Notwithstanding any provision of law to the contrary, if a county department of social services fails to successfully complete its joint corrective action plan, the Department shall temporarily assume Medicaid eligibility administration for the county upon giving notice as required by subsection (a) of this section. During a period of temporary assumption of Medicaid eligibility administration, the following shall occur:

- (1) The Department shall administer the Medicaid eligibility function in the county. Administration by the Department may include direct operation by the Department, including supervision of county Medicaid eligibility workers or contracts for operation to the extent permitted by federal law and regulations.
- (2) The county department of social services is divested of the authority to administer Medicaid eligibility determinations.
- (3) The Department shall direct and oversee the expenditure of all funding for the administration of Medicaid eligibility in the county.
- (4) The county shall continue to pay the nonfederal share of the cost of Medicaid eligibility administration and shall not withdraw funds previously obligated or appropriated for Medicaid eligibility administration.
- (5) The county shall pay the nonfederal share of additional costs incurred to ensure compliance with the accuracy and quality assurance standards required by this Part.
- (6) The Department shall work with the county department of social services to develop a plan for the county department of social services to resume Medicaid eligibility administration and perform Medicaid eligibility determinations more accurately.

- (7) The Department shall inform the county board of commissioners, the county manager, the county director of social services, and the board of social services or the consolidated human services board, created pursuant to G.S. 153A-77(b), of key activities and any ongoing concerns during the temporary assumption of Medicaid eligibility administration.

(c) Upon the Department's determination that Medicaid eligibility determinations can be performed accurately and with proper quality assurance by the county department of social services based on the standards adopted under G.S. 108A-70.47 and G.S. 108A-70.48, the Department shall notify the county department of social services, the county manager, and the board of social services or the consolidated human services board, created pursuant to G.S. 153A-77(b), that temporary assumption of Medicaid eligibility administration will be terminated and the effective date of termination. Upon termination, the county department of social services resumes its full authority to administer Medicaid eligibility determinations. (2017-57, s. 11H.22(c).)

§ 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 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 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 audit result for each standard adopted under G.S. 108A-70.47 for each county of department services in the prior fiscal year.
- (4) The number of years in the preceding 10-year period that 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 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. (2017-57, s. 11H.22(c); 2018-5, s. 11H.5(c).)

Article 3.

Social Services Programs.

§ 108A-71. Authorization of social services programs.

The Department is hereby authorized to accept all grants-in-aid available for programs of social services under the Social Security Act, other federal laws or regulations, State appropriations and other non-federal sources. The Department is designated as the single State agency responsible for administering or supervising the administration of such programs. It is the intent of this Article that programs of social services be administered so that the State and its citizens may benefit fully from any grants-in-aid. (1981, c. 275, s. 1.)

§ 108A-72. Social services checks payable to decedents.

In the event of the death of a recipient of a cash payment service, any check or checks payable to such recipient but not endorsed prior to such recipient's death shall be returned to the issuing agency, made void, and reissued to the provider of the service. (1981, c. 275, s. 1.)

§ 108A-73. Services appeals and confidentiality of records.

The provisions of Article 4 on public assistance and social services appeals and confidentiality of records shall be applicable to social services programs authorized under this Article. (1981, c. 275, s. 1.)

§ 108A-74. Counties and regional social services departments required to enter into annual written agreement for all social services programs other than medical assistance; local department failure to comply with the written agreement or applicable law; corrective action; State intervention in or control of service delivery.

(a) Notwithstanding any other provision of law to the contrary, the Secretary may take action in accordance with this section to ensure the delivery of social services programs other than medical assistance in accordance with State laws and applicable rules. As used in this section, the following definitions shall apply:

- (1) Board of social services. - The governing body responsible for oversight of the department of social services, includes a county social services board, a regional board of social services, a consolidated human services board, or a board of county commissioners that has assumed the powers and duties of a social services governing board pursuant to G.S. 153A-77(a), whichever applies.
- (2) Child welfare services or program. - Child protective services, foster care, and adoption services related to juveniles alleged to be abused, neglected, or dependent as required by Chapter 7B of the General Statutes.
- (3) Department of social services. - The department responsible for administration of the social services and programs of public assistance in a county. It includes a county department of social services, a consolidated human services agency, or a regional social services department, whichever applies.

- (4) Director of social services. - The person responsible for managing and administering the department of social services, including a county social services director, a regional social services director, or a human services director, whichever applies.
- (5) Social services programs other than medical assistance. - Social services and public assistance programs established in this Chapter other than the medical assistance program (Chapter 108A, Article 2, Part 6). This includes, but is not limited to, child welfare programs, adult protective services, guardianship services for adults, and programs of public assistance established in Chapter 108A. It also includes the child support enforcement program, as established in Chapter 110, Article 9.
 - (a1) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.
 - (a2) The Secretary shall require all counties and regional social services departments to enter into a written agreement each year that specifies mandated performance requirements and administrative responsibilities with regard to all social services programs other than medical assistance, [subject to the following:]
 - (1) The mandated performance requirements shall be based upon standardized metrics utilizing data and outcome measures derived from the Social Services System Transparency and Wellness Dashboard and other reliable data sources.
 - (2) The administrative responsibilities shall address, at a minimum, staff training, data submission to the Department, and communication with the Department.
 - (3) The written agreement may be standardized or may be tailored to address issues in specific jurisdictions.
 - (4) The written agreement shall authorize the Department to withhold State or federal funds in the event the department fails to satisfy mandated performance requirements or comply with the terms of the agreement or applicable law.
 - (a3) If a department of social services fails to comply with the terms of the written agreement, the mandated performance measures, or other applicable law for three consecutive months or for five months within any consecutive 12-month period for those terms or mandated performance measures that are measured less than annually, or fails to comply for two consecutive 12-month periods for those terms or mandated performance measures that are measured on an annual basis, the Secretary and the department of social services shall enter into a joint corrective action plan within 60 working days. The Secretary may also require a corrective action plan more quickly in urgent circumstances, regardless of whether the circumstances are directly related to a mandated performance requirement specified in the written agreement. The board of social services and the county manager shall be notified of any joint corrective action plan.
 - (a4) The corrective action plan shall include each of the following components:
 - (1) The duration of the joint corrective action plan, not to exceed 12 months. If the Secretary determines that the department of social

services has not shown measurable progress within six months, or at the half-way point if the duration of the plan is less than 12 months, the Secretary may summarily conclude that the department of social services has failed to successfully complete the joint corrective plan and may proceed with steps necessary to temporarily assume administrative responsibilities of the department of social services. If the Secretary determines the department of social services has shown measurable progress within six months, or at the half-way point if the duration of the plan is less than 12 months, the Secretary may extend the joint corrective action plan by six months, but in no case shall a joint corrective action plan exceed 18 months.

- (2) The performance requirements for the department of social services that constitute successful completion of the joint corrective action plan.
- (3) A schedule and plan for providing updates to the board of social services and county manager regarding the department's progress implementing the corrective action plan.
- (4) An acknowledgement that failure to successfully complete the joint corrective action plan shall result in temporary assumption of all or part of the department of social services administration.

(b) If the Secretary determines that a department of social services has failed to successfully complete the joint corrective action plan, then the Secretary shall give the board of county commissioners, the department of social services, the county manager, and the board of social services at least 30 days' notice that the Secretary, through the Division of Social Services, intends to temporarily assume all or part of the department's social services administration in accordance with subsection (c) of this section. In a regional department of social services, notice shall be provided to boards of county commissioners and county managers for all counties served by the region.

(c) Notwithstanding any provision of law to the contrary, if a department of social services fails to successfully complete its joint corrective action plan, the Secretary shall direct the Division of Social Services to temporarily assume all or part of the department's social services administration no later than 30 calendar days after providing notice as required by subsection (b) of this section. During the period the Secretary assumes administration of the social services program, the following shall occur:

- (1) The Secretary, through the Division of Social Services shall administer all or part of the social services program in a county or region. Administration by the Secretary may include direct operation by the Department, including supervision of program staff or contracts for operation, to the extent permitted by federal law.
- (2) The department of social services shall be divested of administrative authority for any component of the program the Secretary assumes.
- (3) The director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as it pertains to the programs or services to be

assumed. The Secretary may assign any of the powers and duties of the director of social services to an employee of the Department or a contractor, as the Secretary deems necessary and appropriate to continue the provision of services in the county. If the local director of social services has delegated any authority to staff pursuant to G.S. 108A-14(b), delegated authority shall remain in effect until the Secretary, or the Secretary's designee, specifically revokes the delegation.

- (4) The Secretary shall direct and oversee the expenditure of all funding for the administration of the components of the program assumed by the Secretary.
- (5) The county shall not withdraw funds previously obligated or appropriated for program administration and services. The county shall continue to pay the county's or region's nonfederal share for the program services and administration.
- (6) The Secretary shall work with the county and the department of social services to develop a plan for the department to resume program administration.
- (7) The Secretary shall inform the appropriate board or boards of county commissioners, the county manager or managers, the director of social services, and the board of social services of key activities and ongoing concerns during the temporary assumption of social services program administration.

(c1) Upon the Secretary's determination that the department of social services is able to meet performance requirements and that program administration responsibilities should be restored to the department of social services, the Secretary shall notify the board of county commissioners, the department of social services, the county manager, and the board of social services that the temporary assumption of program administration will be terminated and the effective date of the termination. Upon termination, the department of social services shall resume its full authority to administer the program or programs that were assumed.

(d) through (g) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.

(h) If the Secretary determines that a county department of social services is not providing child protective, foster care, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so, and the failure to provide the services poses a substantial threat to the safety and welfare of children in the county who receive or are eligible to receive the services, then the Secretary, after providing written notification of intent to the chair of the county board of commissioners, to the chair of the county board of social services, and to the county director of social services, and after providing them with an opportunity to be heard, shall withhold funding for the particular service or services in question and shall ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of Health and Human Services.

(i) In the event that the Secretary assumes control of service delivery pursuant to subsection (h) of this section, the county director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable

State law as the powers pertain to the services in question. Upon assumption of control of service delivery, the Secretary may assign any of the powers and duties of the county director of social services to the Director of the Division of Social Services of the Department of Health and Human Services or to a contractor as the Secretary deems necessary and appropriate to continue the provision of the services in the county.

(j) In the event the Secretary takes action under this section, the Department of Health and Human Services shall, in conjunction with the county board of commissioners, the county board of social services, and the county director of social services, develop and implement a corrective plan of action. The Department of Health and Human Services shall also keep the chair of the county board of commissioners, the chair of the county board of social services, and the county director of social services informed of any ongoing concerns or problems with the delivery of the services in question.

(k) Upon the Secretary taking action pursuant to subsection (h) of this section, county funding of the services in question shall continue and at no time during the period of time that the Secretary is taking action shall a county withdraw funds previously obligated or appropriated for the services. Upon the Secretary's assumption of the control of service delivery, the county shall also pay the nonfederal share of any additional cost that may be incurred to operate the services in question at the level necessary to comply fully with State law and Social Services Commission rules.

(l) During the period of time that the Secretary is taking action pursuant to subsection (h) of this section, the Department of Health and Human Services shall work with the county board of commissioners, the county board of social services, and the county director of social services to enable service delivery to be returned to the county if and when the Secretary has determined that services can be provided by the county in accordance with State law and applicable rules. (1997-390, s. 10; 1997-443, s. 11A.118(a); 2017-41, ss. 3.1(a), 3.2(a); 2017-41, s. 40(a)-(c); 2019-240, s. 12(a)-(d).)

§ 108A-75. Report of oversight of social services programs.

(a) The Department shall report to the Joint Legislative Oversight Committee on Health and Human Services (Committee) by August 1 of every year regarding oversight of the local administration of social services programs other than medical assistance.

(b) The reports shall include, at a minimum:

- (1) A copy of the template for the written agreement required by G.S. 108A-74(a1).
- (2) An evaluation of the implementation of the requirement for a written agreement.
- (3) A summary of any oversight action taken by the Department pursuant to the agreement or G.S. 108A-74, including a list of any federal or State funds that were withheld as a result of the State's oversight.

(c) Beginning August 1, 2021, the reports required in this section shall also include:

- (1) A summary [of] the circumstances involved with the issuance of any corrective action plans or temporary assumption of local program administration by the State pursuant to G.S. 108A-74.
- (2) Recommendations for legislative changes related to the authority of the State to supervise local social services administration pursuant to G.S. 108A-74 and related laws. (2017-41, s. 3.3.)

Article 4.

Public Assistance and Social Services Appeals and Access to Records.

§ 108A-79. Appeals.

(a) A public assistance applicant or recipient shall have a right to appeal the decision of the county board of social services, county department of social services, or the board of county commissioners granting, denying, terminating, or modifying assistance, or the failure of the county board of social services or county department of social services to act within a reasonable time under the rules and regulations of the Social Services Commission or the Department. Each applicant or recipient shall be notified in writing of his right to appeal upon denial of his application for assistance and at the time of any subsequent action on his case.

(b) In cases involving termination or modification of assistance, no action shall become effective until 10 workdays after notice of this action and of the right to appeal is mailed or delivered by hand to the recipient; provided, however, termination or modification of assistance may be effective immediately upon the mailing or delivery of notice in the following circumstances:

- (1) When the modification is beneficial to the recipient; or
- (2) When federal regulations permit immediate termination or modification upon mailing or delivery of notice and the Social Services Commission or the Department of Health and Human Services promulgates regulations adopting said federal law or regulations. When federal and State regulations permit immediate termination or modification, the recipient shall have no right to continued assistance at the present level pending a hearing, as would otherwise be provided by subsection (d) of this section.

(c) The notice of action and the right to appeal shall comply with all applicable federal and State law and regulations; provided, such notice shall, at a minimum contain a clear statement of:

- (1) The action which was or is to be taken;
- (2) The reasons for which this action was or is to be taken;
- (3) The regulations supporting this action;
- (4) The applicant's or recipient's right to both a local and State level hearing, or to a State level hearing in the case of the food and nutrition services program, on the decision to take this action and the method for obtaining these hearings;
- (4a) With regard to the Medicaid and NC Health Choice programs only, the option to request an expedited appeal in accordance with subsection (j1) of this section.
- (5) The right to be represented at the hearings by a personal representative, including an attorney obtained at the applicant's or recipient's expense;
- (6) In cases involving termination or modification of assistance, the recipient's right upon timely request to continue receiving assistance

at the present level pending an appeal hearing and decision on that hearing.

An applicant or recipient may give notice of appeal by written or oral statement to the county department of social services, which shall record such notice by completing a form developed by the Department.

Such notice of appeal must be given within 60 days from the date of the action, or 90 days from the date of notification in the case of the food and nutrition services program. Failure to give timely notice of appeal constitutes a waiver of the right to a hearing except that, for good cause shown, the county department of social services may permit an appeal notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(d) If there is such timely appeal in cases not involving disability, in the first instance the hearing shall consist of a local appeal hearing before the county director or a designated representative of the county director, provided whoever hears the local appeal shall not have been involved directly in the initial decision giving rise to the appeal. If there is such timely appeal in cases involving disability, the county director or a designated representative of the county director shall within five days of the request for an appeal forward the request to the Department of Health and Human Services, and the Department shall designate a hearing officer who shall promptly hold a hearing in the county according to the provisions of subsections (i) and (j) of this section. In cases involving termination or modification of assistance (other than cases of immediate termination or modification of assistance pursuant to subsection (b) (2) of this section), the recipient shall continue to receive assistance at the present level pending the decision at the initial hearing, whether that be the local appeal hearing decision or, in cases involving questions of disability, the Department of Health and Human Services hearing decision, provided that in order to continue receiving assistance pending the initial hearing decision the recipient must request a hearing on or before the effective date of the termination or modification of assistance.

(e) The local appeal hearing shall be held not more than five days after the request for it is received. The recipient may, for good cause shown as defined by rule or regulation of the Social Services Commission or the Department, petition the county department of social services, in writing, for a delay, but in no event shall the local appeal hearing be held more than 15 days after the receipt of the request for hearing. At the local appeal hearing:

- (1) The appellant and the county department may be represented by personal representatives, including attorneys, obtained at their expense.
- (2) The appellant or his personal representative and the county department shall present such sworn evidence and law or regulations as bear upon the case. The hearing need not be recorded or transcribed, but the director or his representative shall summarize in writing the substance of the hearing.
- (3) The appellant or his personal representative and the county department may cross-examine witnesses and present closing arguments summarizing their views of the case and the law.
- (4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which

pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules and regulations promulgated pursuant to G.S. 108A-80.

(f) The director or his designated representative shall make the decision based upon the evidence presented at the hearing and all applicable regulations, and shall prepare a written statement of his decision citing the regulations and evidence to support it. This written statement of the decision will be served by certified mail on the appellant within five days of the local appeal hearing. If the decision terminating or modifying the appellant's benefits is affirmed, the assistance shall be terminated or modified, not earlier than the date the decision is mailed, and any assistance received during the time of the appeal is subject to recovery.

(g) If the appellant is dissatisfied with the decision of the local appeal hearing, he may within 15 days of the mailing notification of the decision take a further appeal to the Department. However, assistance may not be received pending this further appeal. Failure to give timely notice of further appeal constitutes a waiver of the right to a hearing before an official of the Department except that, for good cause shown, the Department may issue an order permitting a review of the local appeal hearing notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(h) Subsections (d)-(g) of this section shall not apply to the food and nutrition services program. The first appeal for an electronic food and nutrition benefit recipient or his representative shall be to the Department. Pending hearing, the recipient's assistance shall be continued at the present level upon timely request.

(i) If there is an appeal from the local appeal hearing decision, or from an electronic food and nutrition benefit recipient or his representative where there is no local hearing, or if there is an appeal of a case involving questions of disability the county director shall notify the Department according to its rules and regulations. The Department shall designate a hearing officer who shall promptly hold a de novo administrative hearing in the county after giving reasonable notice of the time and place of such hearing to the appellant and the county department of social services. Such hearing shall be conducted according to applicable federal law and regulations and Article 3, Chapter 150B, of the General Statutes of North Carolina; provided the Department shall adopt rules and regulations to ensure the following:

- (1) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine his case file and all documents and records which the county department of

social services intends to use at the hearing together with those portions of other public assistance or social services case files which pertain to the appeal. Those portions of the public assistance or social services case files which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to portions of the public assistance or social services case file, the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-80.

- (2) At the appeal hearing, the appellant and personnel of the county department of social services may present such sworn evidence, law and regulations as bear upon the case.
- (3) The appellant and county department shall have the right to be represented by the person of his choice, including an attorney obtained at his own expense.
- (4) The appellant and county department shall have the right to cross-examine the other party as well as make a closing argument summarizing his view of the case and the law.
- (5) The appeal hearing shall be recorded; however, no transcript will be prepared unless a petition for judicial review is filed pursuant to subsection (k) herein, in which case, the transcript will be made a part of the official record. In the absence of the filing of a petition for a judicial review, the recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed.
- (6) Notwithstanding G.S. 150B-28 or any other provision of State law, discovery shall be no more extensive or formal than that required by federal law and regulations applicable to such hearings.

(j) After the administrative hearing, the hearing officer shall prepare a proposal for decision, citing pertinent law, regulations, and evidence, which shall be served upon the appellant and the county department of social services or their personal representatives. The appellant and the county department of social services shall have the opportunity to present oral and written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who is to make the final decision. The final decision shall be based on, conform to, and set forth in detail the relevant evidence, pertinent State and federal law and regulations, and matters officially noticed. The decision shall be rendered not more than 90 days, or 45 days in the case of the food and nutrition services program, from the date of request for the hearing, unless the hearing was delayed at the request of the appellant. If the hearing was delayed at the appellant's request, the decision may only be delayed for the

length of time the appellant requested a delay. The final decision shall be served upon the appellant and upon the county department of social services by certified mail, with a copy furnished to either party's attorney of record. In the absence of a petition for judicial review filed pursuant to subsection (k) herein, the final decision shall be binding upon the appellant, the county department of social services, the county board of social services, and the board of county commissioners.

(j1) In accordance with 42 C.F.R. § 431.224, a Medicaid or NC Health Choice applicant or recipient may request that an appeal from the local appeal hearing decision under subsection (g) of this section or an appeal of a case involving disability be expedited if the time otherwise permitted for a hearing could jeopardize the recipient's life, health, or ability to attain, maintain, or regain maximum function. With regard to a request for an expedited appeal, all of the following apply:

- (1) The appellant shall submit any documentation that was not previously submitted to demonstrate the need for an expedited appeal. For cases not involving disability, this documentation shall include documentation from a licensed health care professional. For cases involving disability, this documentation shall include relevant excerpts from the appellant's medical record, including physical examinations, signs, symptoms, and laboratory findings.
- (2) The Department shall determine if the appellant's request meets the criteria for an expedited appeal.
- (3) If the Department determines that the appellant's request does not meet the criteria for an expedited appeal, then (i) the Department shall make reasonable efforts to give the appellant, or the appellant's authorized representative, oral notice of the denial as expeditiously as possible and shall follow up with a written notice of denial and (ii) the appeal shall not be subject to the expedited time frame in subdivision (4) of this subsection. The denial is not appealable.
- (4) If the Department determines that the appellant's request meets the criteria for an expedited appeal, both the proposal for decision and the final decision required under subsection (j) of this section shall be made as expeditiously as possible.
- (5) This subsection does not grant an appellant any greater assistance than the appellant is otherwise entitled to under this section while the appellant's appeal is pending.

(k) Any applicant or recipient who is dissatisfied with the final decision of the Department may file, within 30 days of the receipt of notice of such decision, a petition for judicial review in superior court of the county from which the case arose. Failure to file a petition within the time stated shall operate as a waiver of the right of such party to review, except that, for good cause shown, a judge of the superior court resident in the district or holding court in the county from which the case arose may issue an order permitting a review of the agency decision under this Chapter notwithstanding such waiver. The hearing shall be conducted according to the provisions of Article 4, Chapter 150B, of the North Carolina General Statutes. The court shall, on request, examine the evidence excluded at the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if the evidence was improperly excluded,

the court shall consider it. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case, including excluded evidence, to determine whether the final decision is in error under federal and State law, and under the rules and regulations of the Social Services Commission or the Department of Health and Human Services. Furthermore, the court shall set the matter for hearing within 15 days from the filing of the record under G.S. 150B-47 and after reasonable written notice to the Department of Health and Human Services and the applicant or recipient. Nothing in this subsection shall be construed to abrogate any rights that the county may have under Article 4 of Chapter 150B.

(I) In the event of conflict between federal law or regulations and State law or regulations, the federal law or regulations shall control. (1937, c. 288, ss. 18, 48; 1939, c. 395, s. 1; 1957, c. 100, s. 1; 1969, c. 546, s. 1; cc. 735, 754; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, ss. 14-18; 1979, c. 691; 1981, c. 275, s. 1; c. 419, ss. 1-3; c. 420, ss. 1-3; 1987, c. 599, ss. 1-3; c. 827, s. 1; 1997-443, s. 11A.118(a); 2007-97, s. 13; 2021-62, s. 2.2(c), (d).)

§ 108A-80. Confidentiality of records.

(a) Except as provided in subsections (b) and (b1) of this section, it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the Department or the county boards of social services, or county departments of social services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal law, rules and regulations, and the rules of the Social Services Commission or the Department.

(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of Work First Family Assistance in Standard Program Counties and State-County Special Assistance, their addresses, and the amounts of the monthly grants. An Electing County whose checks are not being issued by the State shall furnish a copy of the recipient check register monthly to its county auditor showing a complete list of all recipients of Work First Family Assistance in the Electing County, their addresses, and the amounts of the monthly payments. These registers shall be public records open to public inspection during the regular office hours of the county auditor, but the registers or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor.

(b1) The Department may share confidential information concerning a person receiving public assistance or social services with a local school administrative unit and with the Department of Public Instruction. Disclosure is limited to that information necessary to establish, coordinate, or maintain appropriate educational services for the person receiving public assistance or social services.

(c) Any listing of recipients of benefits under any public assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed public assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a Class 1 misdemeanor.

(d) The Social Services Commission may adopt rules governing access to case files for social services and public assistance programs, except the Medical Assistance Program. The Secretary of the Department of Health and Human Services shall have the authority to adopt rules governing access to medical assistance case files. (1937, c. 288, ss. 18, 48; 1939, c. 395, s. 1; 1957, c. 100, s. 1; 1969, c. 546, s. 1; cc. 735, 754; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 19; 1981, c. 275, s. 1; c. 419, s. 4; 1993, c. 539, ss. 819, 820; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, ss. 11A.118(a), 12.12; 2010-31, s. 10.19A(i); 2014-100, s. 8.39(a).)

§§ 108A-81 through 108A-85. Reserved for future codification purposes.

Article 5.

Financing of Programs of Public Assistance and Social Services.

§ 108A-86. Financial transactions between the State and counties.

The Secretary shall have the power to promulgate rules and regulations establishing procedures for the counties to follow in financing programs of public assistance and social services under Article 2 and Article 3. (1981, c. 275, s. 1.)

§ 108A-87. Allocation of nonfederal shares.

(a) The nonfederal share of the annual cost of each public assistance and social services program and related administrative costs may be divided between the State and counties as determined by the General Assembly and in a manner consistent with federal laws and regulations.

(b) The nonfederal share of the annual cost of public assistance and social services programs and related administrative costs provided to Indians living on federal reservations held in trust by the United States on their behalf shall be borne entirely by the State.

(c) Notwithstanding subsections (a) and (b) of this section, when the Eastern Band of Cherokee Indians assumes responsibility for a program described under G.S. 108A-25(e), the following shall occur:

(1) Nonfederal matching funds and State funds for State programs designated to Jackson and Swain counties to serve the Eastern Band of Cherokee Indians for programs previously borne by the State shall be allocated directly to the Eastern Band of Cherokee Indians rather than to those counties and shall not exceed the amount expended by the State for fiscal year 2014-2015 for programs or services assumed by the Eastern Band of Cherokee Indians, as applicable, plus the growth rate equal to the growth in State-funded nonfederal share for all counties. Any fund sources from which the tribe receives funds directly from federal agencies are excluded from the requirements of this subdivision.

(2) Any portion of nonfederal matching funds borne by counties for public assistance and social services programs and related administrative costs shall be borne by the Eastern Band of Cherokee Indians.

- (3) Nothing in this section shall be construed to prevent the Eastern Band of Cherokee Indians from providing further nonfederal matching funds to maximize their receipt of federal funds. (1965, c. 708; 1969, c. 546, s. 1; 1973, c. 476, s. 138; 1981, c. 275, s. 1; 2014-100, s. 12C.3(d); 2015-241, s. 12C.10(b).)

§ 108A-88. Determination of State and county financial participation.

Before February 15 of each year, the Secretary shall notify the county board of commissioners, the county manager, the director of social services, and the director of public health of each county of the amount of State and federal moneys estimated to be available, as best can be determined, to that county for programs of public assistance, social services, public health, and related administrative costs, as well as the percentage of county participation expected to be required for the budget for the succeeding fiscal year. In odd-numbered years, in making such notification, the Secretary shall notify the counties of any changes in funding levels, formulas, or programs relating to public assistance and public health proposed by the Governor to the General Assembly in the proposed budget and budget report submitted under the State Budget Act. Counties shall be notified of additional changes in the proposed budget of the Governor that are made by the General Assembly or the United States Congress subsequent to the February 15 estimates. (1937, c. 288, ss. 9, 21, 39, 51; 1943, c. 505, s. 8; 1969, c. 546, s. 1; 1973, c. 476, s. 138; c. 1418, s. 1; 1977, c. 1089, s. 1; 1977, 2nd Sess., c. 1219, s. 21; 1979, 2nd Sess., c. 1198; 1981, c. 275, s. 1; 2001-424, s. 21.16; 2006-203, s. 26.)

§ 108A-89. State Public Assistance Contingency Loan Program.

(a) The Department is authorized and empowered to establish a program known as the "State Public Assistance Contingency Loan Program." The purpose of this program shall be to make loans available to counties whose actual expenditures, excluding related administrative costs, exceed the estimates for public assistance programs only provided by the Department under G.S. 108A-88.

(b) Loans shall be made to the counties at any time during the fiscal year by the Department, when satisfied of the county's need for such loan under this Article.

(c) A loan provided under this section shall be used by a county only to pay the county share of public assistance costs that exceeds the estimate provided by the Department under G.S. 108A-88 in order to sustain an adequate program of public assistance in that county.

(d) Any amount borrowed by a county from the "State Public Assistance Contingency Fund" during one fiscal year shall be repaid to said fund within the next two fiscal years. (1973, c. 1418, s. 2; 1977, c. 1089, s. 2; 1977, 2nd Sess., c. 1219, s. 22; 1981, c. 275, s. 1.)

§ 108A-90. Counties to levy taxes.

(a) Whenever the Secretary or his representative assigns a portion of the nonfederal share of public assistance expenses to the counties under the rules and regulations of the Social Services Commission or the Department, the board of commissioners of each county shall levy and collect the taxes required to meet the county's share of such expenses.

(b) The board of county commissioners may combine any or all of the separate special taxes for each program of public assistance and for the related administrative costs of such programs in place of levying separate special taxes for each item. This consolidated tax shall be sufficient, when combined with other funds available for use for public assistance expenses

from any other source of county income and revenue (including borrowing in anticipation of collection of taxes), to meet the financial requirements of public assistance programs, and the related administrative costs of each program. The appropriations and expenditures for each of the several programs and for related administrative costs shall be separately stated and accounted for. (1937, c. 288, ss. 9, 39; 1969, c. 546, s. 1; 1971, c. 780, s. 35; 1973, c. 476, s. 138; c. 1418, s. 4; 1981, c. 275, s. 1.)

§108A-91. Appropriations not to revert.

County appropriations for public assistance expenses or related administrative costs shall not lapse or revert, and the unexpended balances may be considered in making further public assistance or administrative appropriations. At any time during the fiscal year, any county may transfer county funds from one public assistance program to another and between programs of public assistance and administration if such action appears to be both necessary and feasible, provided the county secures the approval of the Secretary or his representative. (1953, c. 891; 1967, c. 554; 1969, c. 546, s. 1; 1973, c. 476, s. 138; c. 1418, s. 5; 1981, c. 275, s. 1.)

§ 108A-92: Repealed by Session Laws 1997-443, s. 12.14.

§ 108A-93. Withholding of State moneys from counties failing to pay public assistance costs.

The Director of the Budget may withhold from any county that does not pay its full share of public assistance costs to the State and has not obtained a loan for repayment under G.S. 108A-89, any State moneys appropriated from the General Fund for public assistance and related administrative costs, or may direct the Secretary of Revenue and State Controller to withhold any tax owed to a county under G.S. 105-113.82, Subchapter VIII of Chapter 105 of the General Statutes, or Chapter 1096 of the Session Laws of 1967. The Director of the Budget shall notify the chair of the board of county commissioners of the proposed action prior to the withholding of funds. (1981, c. 859, s. 16; 1985, c. 114, s. 13; 1995, c. 41, s. 9.)

§§ 108A-94 through 108A-98. Reserved for future codification purposes.

Article 6.

Protection of the Abused, Neglected or Exploited Disabled Adult Act.

§ 108A-99. Short title.

This Article may be cited as the "Protection of the Abused, Neglected, or Exploited Disabled Adult Act." (1973, c. 1378; s. 1; 1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-100. Legislative intent and purpose.

Determined to protect the increasing number of disabled adults in North Carolina who are abused, neglected, or exploited, the General Assembly enacts this Article to provide protective services for such persons. (1973, c. 1378, s. 1; 1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-101. Definitions.

(a) The word "abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.

(b) The word "caretaker" shall mean an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract.

(c) The word "director" shall mean the director of the county department of social services in the county in which the person resides or is present, or his representative as authorized in G.S. 108A-14.

(d) The words "disabled adult" shall mean any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to an intellectual disability, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.

(e) A "disabled adult" shall be "in need of protective services" if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to perform or obtain for his essential services.

(f) The words "district court" shall mean the judge of that court.

(g) The word "emergency" refers to a situation where (i) the disabled adult is in substantial danger of death or irreparable harm if protective services are not provided immediately, (ii) the disabled adult is unable to consent to services, (iii) no responsible, able, or willing caretaker is available to consent to emergency services, and (iv) there is insufficient time to utilize procedure provided in G.S. 108A-105.

(h) The words "emergency services" refer to those services necessary to maintain the person's vital functions and without which there is reasonable belief that the person would suffer irreparable harm or death. This may include taking physical custody of the disabled person.

(i) The words "essential services" shall refer to those social, medical, psychiatric, psychological or legal services necessary to safeguard the disabled adult's rights and resources and to maintain the physical or mental well-being of the individual. These services shall include, but not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, and protection from exploitation. The words "essential services" shall not include taking the person into physical custody without his consent except as provided for in G.S. 108A-106 and in Chapter 122C of the General Statutes.

(j) The word "exploitation" means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.

(k) The word "indigent" shall mean indigent as defined in G.S. 7A-450.

(l) The words "lacks the capacity to consent" shall mean lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including but not limited to provisions for health or mental health care, food, clothing, or shelter, because of physical or mental incapacity. This may be reasonably determined by the director or he may seek a physician's or psychologist's assistance in making this determination.

(m) The word "neglect" refers to a disabled adult who is either living alone and not able to provide for himself or herself the services which are necessary to maintain the person's mental or physical health or is not receiving services from the person's caretaker. A person is not receiving services from his caretaker if, among other things and not by way of limitation,

the person is a resident of one of the State-owned psychiatric hospitals listed in G.S. 122C-181(a)(1), the State-owned Developmental Centers listed in G.S. 122C-181(a)(2), or the State-owned Neuro-Medical Treatment Centers listed in G.S. 122C-181(a)(3), the person is, in the opinion of the professional staff of that State-owned facility, mentally incompetent to give consent to medical treatment, the person has no legal guardian appointed pursuant to Chapter 35A, or guardian as defined in G.S. 122C-3(15), and the person needs medical treatment.

(n) The words "protective services" shall mean services provided by the State or other government or private organizations or individuals which are necessary to protect the disabled adult from abuse, neglect, or exploitation. They shall consist of evaluation of the need for service and mobilization of essential services on behalf of the disabled adult. (1973, c. 1378, s. 1; 1975, c. 797; 1979, c. 1044, ss. 1-4; 1981, c. 275, s. 1; 1985, c. 589, s. 34; 1987, c. 550, s. 24; 1989, c. 770, s. 29; 1991, c. 258, s. 2; 2007-177, s. 4; 2019-76, s. 14.)

§ 108A-102. Duty to report; content of report; immunity.

(a) Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the director.

(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult; the name and address of the disabled adult's caretaker; the age of the disabled adult; the nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and other pertinent information.

(c) Anyone who makes a report pursuant to this statute, who testifies in any judicial proceeding arising from the report, or who participates in a required evaluation shall be immune from any civil or criminal liability on account of such report or testimony or participation, unless such person acted in bad faith or with a malicious purpose. (1973, c. 1378, s. 1; 1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-103. Duty of director upon receiving report.

(a) Any director receiving a report that a disabled adult is in need of protective services shall make a prompt and thorough evaluation to determine whether the disabled adult is in need of protective services and what services are needed. The evaluation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. When necessary for a complete evaluation of the report, the director shall have the authority to review and copy any and all records, or any part of such records, related to the care and treatment of the disabled adult that have been maintained by any individual, facility or agency acting as a caretaker for the disabled adult. This shall include but not be limited to records maintained by facilities licensed by the North Carolina Department of Health and Human Services. Use of information so obtained shall be subject to and governed by the provisions of G.S. 108A-80 and Article 3 of Chapter 122C of the General Statutes. The director shall have the authority to conduct an interview with the disabled adult with no other persons present. After completing the evaluation the director shall make a written report of the case indicating whether he believes protective services are needed and shall notify the individual making the report of his determination as to whether the disabled adult needs protective services.

(b) The staff and physicians of local health departments, area mental health, developmental disabilities, and substance abuse authorities, and other public or private agencies shall cooperate fully with the director in the performance of his duties. These duties include immediate accessible evaluations and in-home evaluations where the director deems this necessary.

(c) The director may contract with an agency or private physician for the purpose of providing immediate accessible medical evaluations in the location that the director deems most appropriate.

(d) The director shall initiate the evaluation described in subsection (a) of this section as follows:

- (1) Immediately upon receipt of the complaint if the complaint alleges a danger of death in an emergency as defined in G.S. 108A-101(g).
- (2) Within 24 hours if the complaint alleges danger of irreparable harm in an emergency as defined by G.S. 108A-101(g).
- (3) Within 72 hours if the complaint does not allege danger of death or irreparable harm in an emergency as defined by G.S. 108A-101(g).
- (4) Repealed by Session Laws 2000, c. 131, s. 1.

The evaluation shall be completed within 30 days for allegations of abuse or neglect and within 45 days for allegations of exploitation. (1973, c. 1378, s. 1; 1975, c. 797; 1981, c. 275, s. 1; 1985, c. 589, s. 35; c. 658, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 6; 1991, c. 636, s. 19(c); 1997-443, s. 11A.118(a); 1999-334, s. 1.10; 2000-131, s. 1.)

§ 108A-104. Provision of protective services with the consent of the person; withdrawal of consent; caretaker refusal.

(a) If the director determines that a disabled adult is in need of protective services, he shall immediately provide or arrange for the provision of protective services, provided that the disabled adult consents.

(b) When a caretaker of a disabled adult who consents to the receipt of protective services refuses to allow the provision of such services to the disabled adult, the director may petition the district court for an order enjoining the caretaker from interfering with the provision of protective services to the disabled adult. The petition must allege specific facts sufficient to show that the disabled adult is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services. If the judge finds by clear, cogent, and convincing evidence that the disabled adult is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services, he may issue an order enjoining the caretaker from interfering with the provision of protective services to the disabled adult.

(c) If a disabled adult does not consent to the receipt of protective services, or if he withdraws his consent, the services shall not be provided. (1973, c. 1378, s. 1; 1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-105. Provision of protective services to disabled adults who lack the capacity to consent; hearing, findings, etc.

(a) If the director reasonably determines that a disabled adult is being abused, neglected, or exploited and lacks capacity to consent to protective services, then the director may petition the district court for an order authorizing the provision of protective services. The petition must allege specific facts sufficient to show that the disabled adult is in need of protective services and lacks capacity to consent to them.

(b) The court shall set the case for hearing within 14 days after the filing of the petition. The disabled adult must receive at least five days' notice of the hearing. He has the right to be present and represented by counsel at the hearing. If the person, in the determination of the judge, lacks the capacity to waive the right to counsel, then a guardian ad

litem shall be appointed pursuant to G.S. 1A-1, Rule 17, and rules adopted by the Office of Indigent Defense Services. If the person is indigent, the cost of representation shall be borne by the State.

(c) If, at the hearing, the judge finds by clear, cogent, and convincing evidence that the disabled adult is in need of protective services and lacks capacity to consent to protective services, he may issue an order authorizing the provision of protective services. This order may include the designation of an individual or organization to be responsible for the performing or obtaining of essential services on behalf of the disabled adult or otherwise consenting to protective services in his behalf. Within 60 days from the appointment of such an individual or organization, the court will conduct a review to determine if a petition should be initiated in accordance with Chapter 35A; for good cause shown, the court may extend the 60 day period for an additional 60 days, at the end of which it shall conduct a review to determine if a petition should be initiated in accordance with Chapter 35A. No disabled adult may be committed to a mental health facility under this Article.

(d) A determination by the court that a person lacks the capacity to consent to protective services under the provisions of this Chapter shall in no way affect incompetency proceedings as set forth in Chapters 33, 35 or 122 of the General Statutes of North Carolina, or any other proceedings, and incompetency proceedings as set forth in Chapters 33, 35, or 122 shall have no conclusive effect upon the question of capacity to consent to protective services as set forth in this Chapter. (1973, c. 1378, s. 1; 1975, c. 797; 1977, c. 725, s. 3, 1979, c. 1044, s. 5; 1981, c. 275, s. 1; 1985, c. 658, s. 2; 1987, c. 550, s. 25; 2000-144, s. 36.)

§ 108A-106. Emergency intervention; findings by court; limitations; contents of petition; notice of petition; court authorized entry of premises; immunity of petitioner.

(a) Upon petition by the director, a court may order the provision of emergency services to a disabled adult after finding that there is reasonable cause to believe that:

- (1) A disabled adult lacks capacity to consent and that he is in need of protective service;
- (2) An emergency exists; and
- (3) No other person authorized by law or order to give consent for the person is available and willing to arrange for emergency services.

(b) The court shall order only such emergency services as are necessary to remove the conditions creating the emergency. In the event that such services will be needed for more than 14 days, the director shall petition the court in accordance with G.S. 108A-105.

(c) The petition for emergency services shall set forth the name, address, and authority of the petitioner; the name, age and residence of the disabled adult; the nature of the emergency; the nature of the disability if determinable; the proposed emergency services; the petitioner's reasonable belief as to the existence of the conditions set forth in subsection (a) above; and facts showing petitioner's attempts to obtain the disabled adult's consent to the services.

(d) Notice of the filing of such petition and other relevant information, including the factual basis of the belief that emergency services are needed and a description of the exact services to be rendered shall be given to the person, to his spouse, or if none, to his adult children or next of kin, to his guardian, if any. Such notice shall be given at least 24 hours prior to the hearing of the petition for emergency intervention; provided, however, that the court may issue immediate emergency order ex parte upon finding as fact (i) that the conditions specified in G.S. 108A-106(a) exist; (ii) that there is likelihood that the disabled adult may suffer irreparable injury or death if such order be delayed; and (iii) that reasonable

attempts have been made to locate interested parties and secure from them such services or their consent to petitioner's provision of such service; and such order shall contain a show-cause notice to each person upon whom served directing such person to appear immediately or at any time up to and including the time for the hearing of the petition for emergency services and show cause, if any exists, for the dissolution or modification of the said order. Copies of the said order together with such other appropriate notices as the court may direct shall be issued and served upon all of the interested parties designated in the first sentence of this subsection. Unless dissolved by the court for good cause shown, the emergency order ex parte shall be in effect until the hearing is held on the petition for emergency services. At such hearing, if the court determines that the emergency continues to exist, the court may order the provision of emergency services in accordance with subsections (a) and (b) of this section.

(e) Where it is necessary to enter a premises without the disabled adult's consent after obtaining a court order in compliance with subsection (a) above, the representative of the petitioner shall do so.

- (f) (1) Upon petition by the director, a court may order that:
- a. The disabled adult's financial records be made available at a certain day and time for inspection by the director or his designated agent; and
 - b. The disabled adult's financial assets be frozen and not withdrawn, spent or transferred without prior order of the court.
- (2) Such an order shall not issue unless the court first finds that there is reasonable cause to believe that:
- a. A disabled adult lacks the capacity to consent and that he is in need of protective services;
 - b. The disabled adult is being financially exploited by his caretaker; and
 - c. No other person is able or willing to arrange for protective services.
- (3) Provided, before any such inspection is done, the caretaker and every financial institution involved shall be given notice and a reasonable opportunity to appear and show good cause why this inspection should not be done. And, provided further, that any order freezing assets shall expire ten days after such inspection is completed, unless the court for good cause shown, extends it.

(g) No petitioner shall be held liable in any action brought by the disabled adult if the petitioner acted in good faith. (1975, c. 797; 1981, c. 275, s. 1; 1985, c. 658, s. 3.)

§ 108A-107. Motion in the cause.

Notwithstanding any finding by the court of lack of capacity of the disabled adult to consent, the disabled adult or the individual or organization designated to be responsible for the disabled adult shall have the right to bring a motion in the cause for review of any order issued pursuant to this Article. (1973, c. 1378, s. 1; 1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-108. Payment for essential services.

At the time the director, in accordance with the provisions of G.S. 108A-103 makes an evaluation of the case reported, then it shall be determined, according to regulations set by the Social Services Commission, whether the individual is financially capable of paying for the essential services. If he is, he shall make reimbursement for the costs of providing the needed essential services. If it is determined that he is not financially capable of paying for such

essential services, they shall be provided at no cost to the recipient of the services. (1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-109. Reporting abuse.

Upon finding evidence indicating that a person has abused, neglected, or exploited a disabled adult, the director shall notify the district attorney. (1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-110. Funding of protective services.

Any funds appropriated by counties for home health care, boarding home, nursing home, emergency assistance, medical or psychiatric evaluations, and other protective services and for the development and improvement of a system of protective services, including additional staff, may be matched by State and federal funds. Such funds shall be utilized by the county department of social services for the benefit of disabled adults in need of protective services. (1975, c. 797; 1981, c. 275, s. 1.)

§ 108A-111. Adoption of standards.

The Department and the administrative office of the court shall adopt standards and other procedures and guidelines with forms to insure the effective implementation of the provisions of this Article. (1975, c. 797; 1981, c. 275, s. 1.)

Article 6A.

Protection of Disabled and Older Adults From Financial Exploitation.

§ 108A-112. Legislative intent and purpose.

Determined to fight the growing problem of fraud and financial exploitation targeting disabled and older adults in North Carolina, the General Assembly enacts this Article to facilitate the collection of records needed to investigate and prosecute such incidents. (2013-337, s. 4.)

§ 108A-113. Definitions.

As used in this Article, the following definitions apply:

- (1) Customer. - A person who is a present or former holder of an account with a financial institution.
- (2) Disabled adult. - An individual 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).
- (3) Financial exploitation. - The illegal or improper use of a disabled adult's or older adult's financial resources for another's profit or pecuniary advantage.
- (4) Financial institution. - A banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in lending money or receiving or soliciting money on deposit.
- (5) Financial record. - An original of, a copy of, or information derived from a record held by a financial institution pertaining to a customer's

relationship with the financial institution and identified with or identifiable with the customer.

- (6) Investigating entity. - A law enforcement agency investigating alleged financial exploitation of a disabled adult or an older adult, or a county department of social services investigating alleged financial exploitation of a disabled adult.
- (7) Law enforcement agency. - Any duly accredited State or local government agency possessing authority to enforce the criminal statutes of North Carolina.
- (8) Older adult. - An individual 65 years of age or older.
- (9) Promptly. - As soon as practicable, with reasonable allowance to be made for the time required to retrieve older data or records that are not readily or immediately retrievable due to their current storage media. (2013-337, s. 4.)

§ 108A-114. Financial institutions encouraged to offer disabled adult and older adult customers the opportunity to submit a list of trusted persons to be contacted in case of financial exploitation.

All financial institutions are encouraged, but not required, to offer to disabled adult and older adult customers the opportunity to submit, and periodically update, a list of persons that the disabled adult or older adult customer would like the financial institution to contact in case of suspected financial exploitation of the disabled adult or older adult customer. No financial institution, or officer or employee thereof, who acts in good faith in offering to its customer the opportunity to submit and update a list of such contact persons may be held liable in any action for doing so. (2013-337, s. 4.)

§ 108A-115. Duty to report suspected fraud; content of report; immunity for reporting.

(a) Any financial institution, or officer or employee thereof, having reasonable cause to believe that a disabled adult or older adult is the victim or target of financial exploitation shall report such information to the following:

- (1) Persons on the list provided by the customer under G.S. 108A-114, if such a list has been provided by the customer. The financial institution may choose not to contact persons on the provided list if the financial institution suspects that those persons are financially exploiting the disabled adult or older adult.
- (2) The appropriate local law enforcement agency.
- (3) The appropriate county department of social services, if the customer is a disabled adult.

(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult or older adult, the nature of the suspected financial exploitation, and any other pertinent information.

(c) No financial institution, or officer or employee thereof, who acts in good faith in making a report under this section may be held liable in any action for doing so. (2013-337, s. 4.)

§ 108A-116. Production of customers' financial records in cases of suspected financial exploitation; immunity; records may not be used against account owner.

(a) An investigating entity may, under the conditions specified in this section, petition the district court to issue a subpoena directing a financial institution to provide to the investigating entity the financial records of a disabled adult or older adult customer. The petition shall be filed in the county of residence of the disabled adult or older adult customer whose financial records are being subpoenaed. The court shall hear the case within two business days after the filing of the petition. The court shall issue the subpoena upon finding that all of the following conditions are met:

- (1) The investigating entity is investigating, pursuant to the investigating entity's statutory authority, a credible report that the disabled adult or older adult is being or has been financially exploited.
- (2) The disabled adult's or older adult's financial records are needed in order to substantiate or evaluate the report.
- (3) Time is of the essence in order to prevent further exploitation of that disabled adult or older adult.

(b) Delivery of the subpoena may be effected by hand, via certified mail, return receipt requested, or through a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f) (2) and may be addressed to the financial institution's local branch or office vice president, its local branch or office manager or assistant branch or office manager, or the agent for service of process listed by the financial institution with the North Carolina Secretary of State or, if there is none, with the agent for service of process listed by the financial institution in any state in which it is domiciled.

(b1) A financial institution may challenge the subpoena by filing a motion to quash or modify the subpoena within ten days after receipt of delivery of the subpoena pursuant to subsection (b) of this section. The subpoena may be challenged only for the following reasons:

- (1) There is a procedural defect with the subpoena.
- (2) The subpoena contains insufficient information to identify the records subject to the subpoena.
- (3) The financial institution is otherwise prevented from promptly complying with the subpoena.
- (4) The petition was filed or subpoena requested for an improper purpose or based upon insufficient grounds.
- (5) The subpoena subjects the financial institution to an undue burden or is otherwise unreasonable or oppressive.

Within two business days after the motion is filed, the court shall hear the motion and issue an order upholding, modifying, or quashing the subpoena.

(c) Upon receipt of a subpoena delivered pursuant to subsection (b) of this section identifying the disabled adult or older adult customer or, if the subpoena is challenged pursuant to subsection (b1) of this section, entry of a court order upholding or modifying a subpoena, a financial institution shall promptly provide to the head of an investigating entity, or his or her designated agent, the financial records of a disabled adult or older adult customer.

(d) All produced copies of the disabled adult's or older adult's financial records, as well as any information obtained pursuant to the duty to report found in G.S. 108A-115, shall be kept confidential by the investigating entity unless required by court order to be disclosed to a

party to a court proceeding or introduced and admitted into evidence in an open court proceeding.

(e) No financial institution or investigating entity, or officer or employee thereof, who acts in good faith in providing, seeking, or obtaining financial records or any other information in accordance with this section, or in providing testimony in any judicial proceeding based upon the contents thereof, may be held liable in any action for doing so.

(f) No customer may be subject to indictment, criminal prosecution, criminal punishment, or criminal penalty by reason of or on account of anything disclosed by a financial institution pursuant to this section, nor may any information obtained through such disclosure be used as evidence against the customer in any criminal or civil proceeding. Notwithstanding the foregoing, information obtained may be used against a person who is a joint account owner accused of financial exploitation of a disabled adult or older adult joint account holder, but solely for criminal or civil proceedings directly related to the alleged financial exploitation of the disabled adult or older adult joint account holder.

(g) The petition and the court's entire record of the proceedings under this section is not a matter of public record. Records qualifying under this subsection shall be maintained separately from other records, shall be withheld from public inspection, and may be examined only by order of the court. (2013-337, s. 4; 2014-115, s. 44(a).)

§ 108A-117. Notice to customer; delayed notice.

(a) Upon the issuance of a subpoena pursuant to G.S. 108A-116, the investigating entity shall immediately provide the customer with written notice of its action by first-class mail to the customer's last known address, unless an order for delayed notice is obtained pursuant to subsection (b) of this section. The notice shall be sufficient to inform the customer of the name of the investigating entity that has obtained the subpoena, the financial records subject to production pursuant to the subpoena, and the purpose of the investigation.

(b) An investigating entity may include in its application for a subpoena pursuant to G.S. 108A-116 a request for an order delaying the customer notice required pursuant to subsection (a) of this section. The court issuing the subpoena may order a delayed notice in accordance with subsection (c) of this section if it finds, based on affidavit or oral testimony under oath or affirmation before the issuing court, that all of the following conditions are met:

- (1) The investigating entity is investigating a credible report that the adult is being or has been financially exploited.
- (2) There is reason to believe that the notice will result in at least one of the following:
 - a. Endangering the life or physical safety of any person.
 - b. Flight from prosecution.
 - c. Destruction of or tampering with evidence.
 - d. Intimidation of potential witnesses.
 - e. Serious jeopardy to an investigation or official proceeding.
 - f. Undue delay of a trial or official proceeding.

(c) Upon making the findings required in subsection (b) of this section, the court shall enter an ex parte order granting the requested delay for a period not to exceed 30 days. If the court finds there is reason to believe that the notice may endanger the life or physical safety of any person, the court may order that the delay be for a period not to exceed 180 days. An order delaying notice shall direct that:

- (1) The financial institution not disclose to any person the existence of the investigation, of the subpoena, or of the fact that the customer's financial records have been provided to the investigating entity for the duration of the period of delay authorized in the order;
- (2) The investigating entity deliver a copy of the order to the financial institution along with the subpoena that is delivered pursuant to G.S. 108-116(b); and
- (3) The order be sealed until otherwise ordered by the court.

(d) Upon application by the investigating entity, further extensions of the delay of notice may be granted by order of a court in the county of residence of the disabled adult or older adult customer whose financial records are being subpoenaed, upon a finding of the continued existence of the conditions set forth in subdivisions (1) and (2) of subsection (b) of this section, and subject to the requirements of subsection (c) of this section. If the initial delay was granted for a period not to exceed 30 days, the delay may be extended by additional periods of up to 30 days each and the total delay in notice granted under this section shall not exceed 90 days. If the initial delay was granted for a period not to exceed 180 days, the delay may be extended by additional periods of up to 180 days each and may continue to be extended until the court finds the notice would no longer endanger the life or physical safety of any person.

(e) Upon the expiration of the period of delay of notice granted under this section, including any extensions thereof, the customer shall be served with a copy of the notice required by subsection (a) of this section. (2013-337, s. 4; 2014-115, s. 44(b).)

§ 108A-118: Reserved for future codification purposes.

§ 108A-119: Reserved for future codification purposes.

Article 7.

Hospital Provider Assessment Act.

§ 108A-120: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-121: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-122: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-123: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-124: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-125: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-126: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-127: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-128: Repealed by Session Laws 2020-88, s. 15.1(a), effective July 1, 2021.

§ 108A-129: Reserved for future codification purposes.

Article 7A.

Hospital Assessment Act.

§ 108A-130: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-131: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-132: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-133: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-134: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-135: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-136: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-137: Reserved for future codification purposes.

§ 108A-138: Reserved for future codification purposes.

§ 108A-139: Reserved for future codification purposes.

§ 108A-140: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-141: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-142: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-143: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

§ 108A-144: Repealed by Session Laws 2021-61, s. 1, effective July 1, 2020.

Article 7B.

Hospital Assessment Act.

Part 1. General.

§ 108A-145.1. Short title and purpose.

This Article shall be known as the "Hospital Assessment Act." This Article does not authorize a political subdivision of the State to license a hospital for revenue or impose a tax or assessment on a hospital. (2021-61, s. 2.)

§ 108A-145.3. Definitions.

The following definitions apply in this Article:

- (1) Acute care hospital. - A hospital licensed in North Carolina that is not a freestanding psychiatric hospital, a freestanding rehabilitation hospital, a long-term care hospital, or a State-owned and State-operated hospital.
- (2) Base capitation rate. - A periodic per-enrollee or per-event amount paid by the Department to prepaid health plans for the delivery of Medicaid and NC Health Choice services in accordance with Article 4 of Chapter 108D of the General Statutes applicable to a particular rating group and appearing in a Medicaid managed care capitation rate certification, as adjusted by the Department and allowed by CMS in accordance with Part 438 of Subchapter C of Chapter IV of Title 42 of the Code of Federal Regulations.
- (3) Capitated contract plan type. - Any type of capitated prepaid health plan contract defined in G.S. 108D-1.
- (4) CMS. - Centers for Medicare and Medicaid Services.
- (5) Critical access hospital. - As defined in 42 C.F.R. § 400.202.
- (6) Federal medical assistance percentage (FMAP). - The federal share of North Carolina Medicaid service costs as calculated by the federal Department of Health and Human Services in accordance with section 1905(b) of the Social Security Act, in effect at the start of the applicable assessment quarter, expressed as a decimal.
- (7) Hospital costs. - A hospital's costs as calculated using the most recent available Hospital Cost Report Information System's cost report data available through CMS, including both inpatient and outpatient components.
- (8) Inpatient hospital financing percentage. - For the 2021-2022 State fiscal year, the inpatient hospital financing percentage is sixty-five and seventy-four hundredths percent (65.74%), expressed as a decimal. For each subsequent State fiscal year, the inpatient hospital financing percentage is the sum of the inpatient hospital financing percentage for the previous State fiscal year plus the market basket percentage, divided by the sum of one plus the market basket percentage.
- (9) Inpatient hospital services. - As defined in the Medicaid State Plan, excluding payments made under the graduate medical education methodology and the disproportionate share hospital methodology.
- (10) Inpatient portion of the statewide capitation rate. - The amount of the statewide capitation rate applicable to a particular rating group that is attributed to inpatient hospital facility health services in the applicable

Medicaid managed care rate certification, expressed as a statewide weighted average of all PHP regions.

- (11) Market basket percentage. - The hospital inpatient prospective payment system market basket minus the multifactor productivity adjustment established in rule by CMS and in effect on March 1 of the previous State fiscal year, expressed as a decimal.
- (12) Medicaid managed care capitation rate certification. - A rate certification for any capitated contract plan type that contains the rates paid to prepaid health plans and that has been submitted to CMS under 42 C.F.R. § 438.7 and, except as otherwise provided in this subdivision, (i) has been approved by CMS and (ii) is in effect during the applicable time period. If, on the first day of any assessment quarter, CMS has not approved a rate certification for a particular capitated contract plan type for that quarter, then the Medicaid managed care capitation rate certification for that capitated contract plan type is the rate certification submitted to CMS under 42 C.F.R. § 438.7 applicable to that quarter.
- (12a) Medicare Economic Index. - The index published by the Medicare Economic Index Technical Advisory Panel established by the Secretary of the United States Department of Health and Human Services, under the authority in 42 U.S.C. § 217a, and in effect on March 1 of the previous State fiscal year.
- (13) Outpatient hospital financing percentage. - Twenty-seven and sixty-nine hundredths percent (27.69%), expressed as a decimal.
- (14) Outpatient hospital services. - As defined in the Medicaid State Plan.
- (15) Outpatient portion of the statewide capitation rate. - The amount of the statewide capitation rate applicable to a particular rating group that is attributed to outpatient hospital facility services and emergency room facility services in the applicable Medicaid managed care capitation rate certifications, expressed as a statewide weighted average of all PHP regions.
- (16) Paid capitation. - The total amount of the capitation payments made by the Department to all prepaid health plans for a particular rating group (i) attributable to the base capitation rate in the applicable Medicaid managed care capitation rate certification and (ii) adjusted by the Department as a result of retroactively implementing any base capitation rate adjustment that is approved by CMS or allowed under Part 438 of Subchapter C of Chapter IV of Title 42 of the Code of Federal Regulations.
- (17) Previous data collection period. - The period beginning on the eleventh day of the month that is four months prior to the start of the applicable assessment quarter and ending on the tenth day of the month prior to the start of the applicable assessment quarter.

- (18) Private acute care hospital. - An acute care hospital that (i) is not qualified to certify public expenditures as described in 42 C.F.R. § 433.51(b), (ii) is not a critical access hospital, and (iii) is not part of the UNC Health Care System.
- (19) Private hospital historical assessment share. - Eighty and twenty-five hundredths percent (80.25%), expressed as a decimal.
- (20) Public acute care hospital. - An acute care hospital that (i) is qualified to certify public expenditures as described in 42 C.F.R. § 433.51(b), (ii) is not a critical access hospital, (iii) is not part of the UNC Health Care System, and (iv) is not the primary affiliated teaching hospital for the East Carolina University Brody School of Medicine.
- (21) Public hospital historical assessment share. - Nineteen and seventy-five hundredths percent (19.75%), expressed as a decimal.
- (22) Rating group. - A category of beneficiaries or maternity services for which a periodic per-enrollee or per-event amount appears in a Medicaid managed care capitation rate certification.
- (23) State's annual Medicaid payment. - An annual amount equal to one hundred ten million dollars (\$110,000,000) for the period July 1, 2021, through June 30, 2022, increased each year over the prior year's payment by the market basket percentage.
- (24) Statewide capitation rate. - A periodic per-enrollee or per-event amount paid by the Department to prepaid health plans for the delivery of Medicaid and NC Health Choice services in accordance with Article 4 of Chapter 108D of the General Statutes applicable to a particular rating group, expressed as a statewide weighted average for the applicable capitated contract plan type for all PHP regions and appearing in a Medicaid managed care capitation rate certification, as adjusted by the Department and allowed by CMS in accordance with Part 438 of Subchapter C of Chapter IV of Title 42 of the Code of Federal Regulations.
- (25) Third-party coverage. - Liability by any individual, entity, or program for the payment of all or part of the expenditures for medical assistance under the Medicaid State Plan that has been identified by the Department before making the medical assistance expenditure.
- (26) University of North Carolina Health Care System (UNC Health Care System). - As established in G.S. 116-37 and including the following hospitals:
 - a. The University of North Carolina Hospitals at Chapel Hill.
 - b. Rex Hospital, Inc.
 - c. Chatham Hospital, Incorporated.
 - d. UNC Rockingham Health Care, Inc.
 - e. Caldwell Memorial Hospital, Incorporated. (2021-61, s. 2; 2021-180, ss. 9D.13A(a), 9D.13A(g), 9D.13A.(h).)

§ 108A-145.5. Due dates and collections.

(a) Assessments under this Article are calculated, imposed, and due quarterly in the time and manner prescribed by the Secretary and shall be considered delinquent if not paid within seven calendar days of this due date.

(b) With respect to any hospital owing a past-due assessment amount under this Article, the Department may withhold the unpaid amount from Medicaid or NC Health Choice payments otherwise due or impose a late payment penalty. The Secretary may waive a penalty for good cause shown.

(c) In the event the data necessary to calculate an assessment under this Article is not available to the Secretary in time to impose the quarterly assessment, the Secretary may defer the due date for the assessment to a subsequent quarter. (2021-61, s. 2.)

§ 108A-145.7. Assessment appeals.

A hospital may appeal a determination of the assessment amount owed through a reconsideration review. The pendency of an appeal does not relieve a hospital from its obligation to pay an assessment amount when due. (2021-61, s. 2.)

§ 108A-145.9. Allowable costs; patient billing.

(a) Assessments paid under this Article may be included as allowable costs of a hospital for purposes of any applicable Medicaid reimbursement formula, except that assessments paid under this Article shall be excluded from cost settlement.

(b) Assessments imposed under this Article may not be added as a surtax or assessment on a patient's bill. (2021-61, s. 2.)

§ 108A-145.11. Rulemaking authority.

The Secretary may adopt rules to implement this Article. (2021-61, s. 2.)

§ 108A-145.13. Repeal.

If CMS determines that an assessment under this Article is impermissible or revokes approval of an assessment under this Article, then that assessment shall not be imposed and the Department's authority to collect the assessment is repealed. (2021-61, s. 2.)

Part 2. Modernized Hospital Assessments.**§ 108A-146.1. Public hospital assessment.**

(a) The public hospital assessment imposed under this Part shall apply to all public acute care hospitals.

(b) The public hospital assessment shall be assessed as a percentage of each public acute care hospital's hospital costs. The assessment percentage shall be calculated quarterly by the Department of Health and Human Services in accordance with this Part. The percentage for each quarter shall equal the aggregate assessment collection amount under G.S. 108A-146.5 multiplied by the public hospital historical assessment share and divided by the total hospital costs for all public acute care hospitals holding a license on the first day of the assessment quarter. (2021-61, s. 2.)

§ 108A-146.3. Private hospital assessment.

(a) The private hospital assessment imposed under this Part shall apply to all private acute care hospitals.

(b) The private hospital assessment shall be assessed as a percentage of each private acute care hospital's hospital costs. The assessment percentage shall be calculated quarterly by the Department of Health and Human Services in accordance with this Part. The percentage for each quarter shall equal the aggregate assessment collection amount under G.S. 108A-146.5 multiplied by the private hospital historical assessment share and divided by the total hospital costs for all private acute care hospitals holding a license on the first day of the assessment quarter. (2021-61, s. 2.)

§ 108A-146.5. Aggregate assessment collection amount.

The aggregate assessment collection amount is an amount of money that is calculated by subtracting the intergovernmental transfer adjustment component under G.S. 108A-146.13 from the sum of all of the following:

- (1) One-fourth of the State's annual Medicaid payment.
- (2) The managed care component under G.S. 108A-146.7.
- (3) The fee-for-service component under G.S. 108A-146.9.
- (4) The GME component under G.S. 108A-146.11.
- (5) Beginning April 1, 2022, and ending March 31, 2027, the postpartum coverage component under G.S. 108A-146.12.
- (6) Beginning April 1, 2024, the home and community-based services component under G.S. 108A-146.12A. (2021-61, s. 2; 2021-180, s. 9D.13A(b).)

§ 108A-146.7. Managed care component.

(a) The managed care component is an amount of money that is a portion of the total paid capitation for all rating groups in all capitated contracted plan types for the previous data collection period and is calculated in accordance with this section. The managed care component consists of an inpatient subcomponent and an outpatient subcomponent.

(b) The inpatient subcomponent is an amount calculated for each rating group by multiplying the paid capitation for the applicable rating group in the previous data collection period by the percentage that is calculated by (i) multiplying the inpatient portion of the statewide capitation rate for the applicable rating group by the inpatient hospital financing percentage, (ii) multiplying that product by the difference of one minus the FMAP, and (iii) dividing that product by the statewide capitation rate for the applicable rating group.

(c) The outpatient subcomponent is an amount calculated for each rating group by multiplying the paid capitation for the applicable rating group in the previous data collection period by the percentage that is calculated by (i) multiplying the outpatient portion of the statewide capitation rate for the applicable rating group by the outpatient hospital financing percentage, (ii) multiplying that product by the difference of one minus the FMAP, and (iii) dividing that product by the statewide capitation rate for the applicable rating group.

(d) The managed care component is calculated by adding together the aggregate inpatient subcomponents for all rating groups and the aggregate outpatient subcomponents for all rating groups. (2021-61, s. 2.)

§ 108A-146.9. Fee-for-service component.

(a) The fee-for-service component is an amount of money that is a portion of all the Medicaid fee-for-service payments made to acute care hospitals during the previous data collection period for claims with a date of service on or after July 1, 2021. The fee-for-service component consists of a subcomponent pertaining to claims for which there is no third-party coverage and a subcomponent pertaining to claims for which there is third-party coverage.

(b) The subcomponent pertaining to claims for which there is no third-party coverage is the sum of the inpatient amount and the outpatient amount described in this subsection:

(1) The inpatient amount is the product of the total fee-for-service payments for claims for which there is no third-party coverage made to all acute care hospitals for inpatient hospital services multiplied by the inpatient hospital financing percentage and multiplied by the difference of one minus the FMAP.

(2) The outpatient amount is the product of the total fee-for-service payments for claims for which there is no third-party coverage made to all acute care hospitals for outpatient hospital services multiplied by the outpatient hospital financing percentage and multiplied by the difference of one minus the FMAP.

(c) The subcomponent pertaining to claims for which there is third-party coverage is the product of the total fee-for-service payments for claims for which there is third-party coverage made for inpatient hospital services and outpatient hospital services to (i) public acute care hospitals, (ii) private acute care hospitals, and (iii) critical access hospitals multiplied by the difference of one minus the FMAP.

(d) The fee-for-service component is calculated by adding together the subcomponent pertaining to claims for which there is no third-party coverage and the subcomponent pertaining to claims for which there is third-party coverage. (2021-61, s. 2.)

§ 108A-146.11. Graduate medical education component.

The graduate medical education component is an amount of money that is one-fourth (1/4) of the total amount of payments that will be made by the Department during the current State fiscal year to all public acute care hospitals and private acute care hospitals in accordance with the Medicaid graduate medical education methodology in the Medicaid State Plan multiplied by the difference of one minus the FMAP. (2021-61, s. 2.)

§ 108A-146.12. Postpartum coverage component.

The postpartum coverage component is twelve million five hundred thousand dollars (\$12,500,000) for each quarter of the 2021-2022 State fiscal year. For each subsequent State fiscal year, the postpartum coverage component shall be increased over the prior year's quarterly amount by the Medicare Economic Index. (2021-180, s. 9D.13A(c).)

§ 108A-146.12A. Home and community-based services component.

The home and community-based services component is thirty-five million five hundred thousand dollars (\$35,500,000) for each quarter of the 2023-2024 State fiscal year. For each subsequent State fiscal year, the postpartum coverage component shall be increased over the prior year's quarterly amount by the Medicare Economic Index. (2021-180, s. 9D.13A(c).)

§ 108A-146.13. Intergovernmental transfer adjustment component.

(a) The intergovernmental transfer adjustment component is the sum of all of the following subcomponents:

- (1) The historical subcomponent is forty-one million two hundred twenty-seven thousand three hundred twenty-one dollars (\$41,227,321) for each quarter of the 2021-2022 State fiscal year. For each subsequent State fiscal year, the historical subcomponent shall be increased over the prior year's quarterly amount by the market basket percentage.
- (2) The postpartum subcomponent applies to the assessments under this Part only during the period of April 1, 2022, through March 31, 2027, and is two million nine hundred sixty-two thousand five hundred dollars (\$2,962,500) for each quarter of the 2021-2022 State fiscal year. For each subsequent State fiscal year, the postpartum subcomponent shall be increased over the prior year's quarterly amount by the Medicare Economic Index.
- (3) The home and community-based services subcomponent applies to the assessments under this Part beginning April 1, 2024, and is eight million four hundred thirteen thousand five hundred dollars (\$8,413,500) for each quarter of the 2023-2024 State fiscal year. For each subsequent State fiscal year, the home and community-based services subcomponent shall be increased over the prior year's quarterly amount by the Medicare Economic Index.

(b) If a public acute care hospital closes or becomes a private acute care hospital, then, beginning in the first assessment quarter following the closure or change to a private acute care hospital and for each quarter thereafter, the intergovernmental transfer adjustment component described in subsection (a) of this section, as inflated in accordance with that section, shall be reduced by the amount of the public acute care hospital's intergovernmental transfer to the Department made during its last quarter of operation as a public acute care hospital. (2021-61, s. 2; 2021-180, s. 9D.13A(d).)

§ 108A-146.15. Use of funds.

The proceeds of the assessments imposed under this Part, and all corresponding matching federal funds, must be used to make the State's annual Medicaid payment to the State, to fund payments to hospitals made directly by the Department, to fund a portion of capitation payments to prepaid health plans attributable to hospital care, and to fund graduate medical education payments. (2021-61, s. 2.)

§ 108A-146.17. Changes of hospital status.

- (a) For purposes of this section, hospital status includes all of the following:
 - (1) A hospital's status as a public acute care hospital, a private acute care hospital, or a hospital owned or controlled by the UNC Health Care system.
 - (2) The operating status of an acute care hospital as open or closed, including new hospitals and hospital closures.

(b) The Department of Health and Human Services 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 whenever the Department is notified of a possible change of hospital status. The report shall be due 60 days after the Department is notified of the possible change. The report shall include all of the following:

- (1) The anticipated change of hospital status and the anticipated time frame during which the change of hospital status may occur.
- (2) Any proposed revisions to Article 7B of Chapter 108A of the General Statutes that would be needed if the change in hospital status occurs, including proposed changes to the public and private hospital historical assessment shares in G.S. 108A-145.3 and the intergovernmental transfer adjustment component in G.S. 108A-146.13, as well as the mathematical calculations supporting the proposed changes.

(c) The Department of Health and Human Services 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 whenever the Department is notified that a change in hospital status has occurred. The report shall be due 60 days after the Department is notified of the change. The report shall include all of the following:

- (1) The change of hospital status and the date of the change.
- (2) Any proposed revisions to Article 7B of Chapter 108A of the General Statutes that are needed as a result of the change in hospital status, including proposed changes to the public and private hospital historical assessment shares in G.S. 108A-145.3 and the intergovernmental transfer adjustment component in G.S. 108A-146.13, as well as the mathematical calculations supporting the proposed changes.
- (3) If the change of hospital status occurred because a public acute care hospital closed or became a private acute care hospital, then the amount of the public acute care hospital's intergovernmental transfer to the Department made during its last quarter of operation. (2021-61, s. 2.)

§ 108A-147: Reserved for future codification purposes.

§ 108A-148: Reserved for future codification purposes.

§ 108A-149: Reserved for future codification purposes.

Article 8.

Miscellaneous.

§ 108A-150. Criminal history record checks required for child care institutions.

(a) Application. - This section applies to a child care institution as defined by Title IV-E of the Social Security Act. The requirement for a criminal history record check applies to all current employees and volunteers, applicants for employment, and all individuals wishing to volunteer in a child care institution.

(b) Requirement. - An offer of employment by a child care institution, or by a contract agency of a child care institution, is conditioned on consent to a State and national criminal history record check of the applicant. Acceptance of an individual who wishes to volunteer in a child care institution is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. A child care institution shall not employ an applicant, or allow an individual to volunteer, who refuses to consent to a criminal history record check required by this section.

(c) Process. - Within five business days of making the conditional offer of employment, or formally discussing a volunteer opportunity, a child care institution, or a contract agency of a child care institution, shall submit a request to the Department of Public Safety under G.S. 143B-972 to conduct a State and national criminal history record check as required by this section. The Department of Public Safety shall return the results of the national criminal history record check to the Department of Health and Human Services, Criminal Records Check Unit.

(d) Factors. - If an applicant's or individual's criminal history record check reveals one or more convictions of a relevant offense listed under subsection (e) of this section, the conviction shall not automatically bar employment. The Department of Health and Human Services, Criminal Records Check Unit, shall consider all of the following factors in determining whether to recommend the applicant be hired or the individual be allowed to volunteer:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
- (7) The subsequent commission by the person of a relevant offense.

Once the Department of Health and Human Services, Criminal Records Check Unit, considers the relevant offense listed in subsection (e) of this section, and the factors listed in this subsection, the Department of Health and Human Services, Criminal Records Check Unit, shall inform the child care institution, or a contract agency of a child care institution, whether an applicant should be hired, or an individual should be allowed to volunteer. The Department shall not provide the results of the criminal history record check to the child care institution or a contract agency of a child care institution.

(e) Relevant Offense. - As used in this section, "relevant offense" means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the

safety and well-being of children. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(f) **Penalty for Furnishing False Information.** - Any applicant for employment, or individual who wishes to volunteer, who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(g) **Conditional Employment.** - A child care institution may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The child care institution shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in G.S. 143B-972.
- (2) The child care institution shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(h) **Notification of Results.** - Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the child care institution as to whether the information received may affect the employability of the applicant or ability of the individual to volunteer. In no case shall the results of the national criminal history record check be shared with the child care institution or the contract agency of a child care institution. Child care institutions shall make available upon request verification that a criminal history record check has been completed on all staff and volunteers. All criminal history information is confidential and may not be disclosed.

(i) **Immunity.** - The Department of Health and Human Services, Criminal Records Check Unit; a child care institution; a contract agency of a child care institution; and an officer or employee of any of these entities acting in good faith and in compliance with this section shall be immune from civil liability for denying employment to an applicant, or the opportunity for an individual to volunteer, based on information provided in the criminal

history record check. A child care institution, or contract agency for a child care institution, and officers and employees shall be immune from civil liability for failure to check an applicant's, employee's, or volunteer's history of criminal offenses if the applicant's, employee's, or volunteer's criminal history record check is requested and received in compliance with this section. (2019-240, s. 25(a).)



Granville County Parks and Grounds

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Korena Weichel
Department: Parks and Grounds
Date: January 11, 2023
Title: **Proposed Adjustments to Granville Athletic Park Fees**

PURPOSE:

To consider fee adjustments to the Granville Athletic Park (GAP) baseball fields and spray park.

BACKGROUND:

Two Granville County charter schools currently utilize the GAP baseball fields for team games and are requesting use of these same fields for practices. Due to the nature of baseball practice, allowing for this extended use will necessitate increased field maintenance as well as purchase of additional materials to cover mound and plate area upkeep, sod, and drying agents. Therefore, staff propose an increase to the rental fees to accommodate this request.

After an internal review of anticipated additional costs as well as comparison of like facilities within the County's geographic region where GAP fees are notably lower, staff recommend this proposed increase be applied uniformly to both practice and game rentals. If approved, the new rates for two-hour rentals would increase from \$35 to \$55 for residents / in-county entities and from \$60 to \$80 for non-residents / out-of-county entities. The park maintenance manager reached out to the school coaches and confirmed their willingness to pay this increase for the opportunity to use the fields for practices.

In addition, staff conducted a review of spray park facilities in closest proximity to Granville County to evaluate the GAP's current operating practices and one-dollar admission fee. This review revealed that the GAP spray park is the only like-facility that permits group rentals and the only like-facility that charges an admission fee which requires a part-time attendant to monitor the site and collect the fees. Staff's recommendation is to retain the current schedule to allow for group rentals along with an on-site attendant but eliminate the admission fee and on-site attendant during general operating hours. (Group rentals are permitted Monday – Saturday, 10 am – 12 noon only.) If the on-site attendant is eliminated for general operating hours, additional signage including rules and cautions will be erected at the park.

The attached Granville County Fee Manual excerpt shows the proposed fee increase for the baseball fields to accommodate team practices and elimination of the spray park general admission fee.

FUNDING:

Additional park funding to purchase materials and provide part-time labor for the remainder of fiscal year 2023 will be included in a future budget amendment; however, the increased funding is projected to be offset by increased revenue from field rental fees. Cost savings from elimination of the paid

spray park attendant during general operating hours will more than offset any lost revenue from the current one-dollar admission fee.

RECOMMENDATION:

The assistant county manager recommends approving the fee manual revisions for the GAP Phase I baseball fields and spray park.

ATTACHMENTS:

Granville County Fee Manual Excerpt (Revised GAP Fees)

ACTION TAKEN:

GRANVILLE ATHLETIC PARK FEES

Baseball/Softball/Soccer Fields		
	Resident Rate	Non-Resident Rate
Field #5 (Little League, Youth Ages 7-12)	\$25 per 2 hours	\$35 per 2 hours
Half Soccer Field	\$35 per 2 hours	\$60 per 2 hours
Baseball Fields	~~\$35~~ \$55 per 2 hours	~~\$60~~ \$80 per 2 hours
Baseball/Soccer/Softball Fields or Basketball Goals	\$35 per 2 hours	\$60 per 2 hours
Tournament Play* Friday, 5 – 10 pm; Saturday, 8 am – 10 pm; Sunday, 1 – 10 pm		\$150 per field
* Tournament rentals only available at the days/times specified above. Rate includes field lights (if applicable), conference room, and dragging of baseball/softball fields.		
Sand Volleyball Pits		\$6 per hour
Two pits are available to be reserved; Open pits are available on a first-come/first-served basis. Rate is per pit. Half- and full-day rental rates are shown below.		
Tennis Courts		\$6 per hour
Six courts are available to be reserved; Open courts are available on a first-come/first-served basis. Rate is per court. Half- and full-day rental rates are shown below.		
	Half-Day (5 hours or less)^	Full Day (5+ hours during day)^
Amphitheater	\$25	\$50
Picnic Shelter	\$50	\$100
Sports Pavilion	\$150	\$250
Use of tables and chairs w/Sports Pavilion rental	\$25	\$25
Sand Volleyball Pits	\$18 per pit	\$36 per pit
Tennis Courts	\$18 per court	\$36 per court
Rates for organized groups requesting long-term reservations for multiple courts (i.e., tennis associations, etc.) may be negotiated through County Administration on a case by case basis.		
^ Veterans participating in the Thank-A-Vet program offered through the Granville County Register of Deeds office are eligible to receive a 10% discount on half- or full-day facility rates.		
Spray Park		
Open Memorial Day through Labor Day at days/times specified below.		
Group Rentals	Monday – Saturday, 10 am – 12 noon	\$50 per hour
Open to Public	Monday – Sunday, 12 noon – 5 pm	~~\$1 per person~~ Free



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: **County Manager's Report**

PURPOSE:

Any matters as needed by the County Manager.

ACTION TAKEN:



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: **County Attorney's Report**

PURPOSE:

Any matters as needed from the County Attorney.

ACTION TAKEN:



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: **Presentations by County Board Members**

PURPOSE:

Board members will make comments, give reports, and make announcements.

- Commissioner Rob Williford
- Commissioner Sue Hinman
- Commissioner Tony W. Cozart
- Commissioner Timothy Karan
- Commissioner Jimmy Gooch
- Commissioner Zelodis Jay
- Chair Russ May

ACTION TAKEN:



Granville County Administration

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: **Any Other Matters**

PURPOSE:

To consider any other matters as needed.

ACTION TAKEN:



Granville County

104 Belle Street
Oxford, NC 27565
(919) 693-5240

To: Board of Commissioners
From: Debra Weary
Department: Administration
Date: January 11, 2023
Title: Closed Session as allowed by G. S. 143-318.11(a)(6) - Personnel

BACKGROUND:

To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

ACTION TAKEN: