

May 21, 2008

**H 2438. MODIFY APPROPRIATIONS ACT OF 2007 (=H 2436).** Filed 5/21/08. *TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2007.* Identical to H 2436, filed 5/21/08.

**Intro. by Michaux, Tolson, Yongue.**

APPROP

July 16, 2008

**H 2438. 2008 BUDGET TECHNICAL CORRECTIONS (NEW).** Filed 5/21/08. House committee substitute makes changes to 1st edition to be digested in tomorrow's *Daily Bulletin*.

July 17, 2008

**H 2438. 2008 BUDGET TECHNICAL CORRECTIONS (NEW).** Filed 5/21/08. House committee substitute deletes all provisions of the 1st edition and replaces it with *AN ACT TO MAKE TECHNICAL AND CLARIFYING MODIFICATIONS TO THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2008; TO MAKE CLARIFYING CHANGES TO THE NORTH CAROLINA HEALTH INSURANCE RISK POOL FUND; TO AUTHORIZE THE DEPARTMENT OF PUBLIC INSTRUCTION TO FUND ADDITIONAL PLANNING GRANTS FOR LEARN AND EARN AND EXPEND FUNDS TO INFORM EIGHTH AND NINTH GRADERS ABOUT OPPORTUNITIES FOR HIGHER EDUCATION PROGRAMS; TO MAINTAIN FIVE FLOODPLAIN MAPPING POSITIONS; TO ADJUST THE COMPENSATION OF THE CHIEF COURT OF APPEALS JUDGE TO CREATE AN EQUIVALENT PAY DIFFERENTIAL RELATIVE TO THE PAY OF THE CHIEF JUSTICE OF THE SUPREME COURT; TO AUTHORIZE WESTERN CAROLINA UNIVERSITY, UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE, AND MOUNTAIN AREA HEALTH EDUCATION CONSORTIUM TO EXPEND FUNDS FOR BUILDING THE NORTH CAROLINA CENTER FOR HEALTH AND AGING; AND TO PROVIDE THAT EAST CAROLINA UNIVERSITY, EDGEcombe COMMUNITY COLLEGE, AND NASH COMMUNITY COLLEGE ADMINISTER JOINTLY THE NURSING AND ALLIED HEALTH PROGRAM HOUSED AT THE UNC UPPER COASTAL PLAIN HIGHER EDUCATION AND HEALTH CENTER.*

Makes the following changes to H 2436 (Modify Appropriations Act of 2007).

Adds new section to amend Section 6.18(b) of SL 2007-323 (2007 Appropriations Act) by requiring the Office of State Budget and Management (OSBM) to report findings, *including an estimate of the total amount of lapsed salaries by each state agency*, to the Joint Legislative Commission on Governmental Operations by February 1, 2009 (was, April 30, 2008).

Amends Section 7.14(b) to remove the requirements that the Department of Public Instruction (DPI) (1) contract with an independent consultant to serve as staff on the Committee on Dropout Prevention, and (2) assist the Committee in evaluating the impact of the grants awarded.

Amends SL 2007-323, Section 9.7(c), to set the appropriation from the Escheat Fund to the State Education Assistance Authority at \$50 million for 2008-09 (was, set at \$60 million in H 2436).

Amends Section 10.15(x) to allow a local management entity (LME) to demonstrate submission of an accepted application for national accreditation under behavioral health care standards by a national accrediting entity approved by the Secretary to qualify for the return of the utilization review, utilization management, and service authorization for publicly funded mental health, developmental disabilities, and substance abuse services. Requires the Department of Health and Human Services (DHHS) to provide information and recommendations to the 2009 General Assembly to consider whether to authorize DHHS to contract with an outside vendor for these functions beyond September 30, 2009.

Amends Section 10.17(cc) by adding the Association of Local Health Doctors to the membership organizations for the Task Force on Preventing Childhood Obesity.

Amends Section 10.10(e) by clarifying that the specialty drugs to be added to the State Maximum Allowable Cost (SMAC) List during the period of July 1 to December 31, 2008, applies to specialty drugs costing in excess of \$1,500 *per month*.

Amends Section 10.14(c)(1) to require that DHHS report to the 2009 General Assembly on the number of children enrolled in NC Health Choice *for the month of January 2009, as determined by using Pull-Night Data* (was, the first week of January 2009, based on January Pull Night Data).

Amends Section 10.15(n) to clarify that the \$6,113,947 allocated for walk-in crisis and immediate psychiatric aftercare will be distributed by DHHS *according to need as determined by DHHS*.

Provides that the elimination of the budget for the closed dispute resolution center in the 1st District is a reduction of \$51,977.

Makes technical corrections to H 2436 in Section 2.1, Section 7.14(g), Section 8.8, Section 8.9(b), Section 9.4, Section 10.13(k), Section 10.13(n), and Section 10.15(b).

Amends Section 5.2(a1) to clarify that if (1) the actual net lottery revenues for 2007-08 exceed the amounts appropriated in 2007-08, (2) *the actual net lottery revenues for 2008-09 exceed the amounts appropriated in 2008-09*, or (3) *both*, then excess net revenue will also be transferred from the State Lottery Fund to support appropriations made in 2008-09. Makes a conforming change to Section 5.2(d).

Amends Section 7.11 by specifying that, *if the funds appropriated to the Public School Building Capital Fund pursuant to Section 5.2 total \$154.2 million or more*, then the money will be allocated as described. Provides that, if the amount is less than \$154.2 million, then the funds will be allocated as follows: (1) \$2.5 million each quarter for the first and second quarters on the basis of average daily membership to local school administrative units that did not qualify for funding for 2008-09 pursuant to GS 115C-546.2(d)(2), with the remainder allocated according to that section, and (2) \$4.6 million each quarter for the third and fourth quarters on the basis of average daily membership to local school administrative units that did not qualify for funding for 2008-09 pursuant to GS 115C-546.2(d)(2), with the remainder allocated according to that section.

Amends Section 6.12(a) to require that the funds appropriated to the Office of Information Technology Services be used *in consultation with the Department of Cultural Resources (DCR) and the Secretary of State* for piloting a statewide electronic document management system that will include a digital signature capability.

Amends Section 6.16(b) to add the Secretary of Administration as a member of the BEACON Project Steering Committee.

Requires that funds appropriated for the Medicaid appeals process be used to implement a new appeals process when Medicaid-funded services are terminated, reduced, or denied.

Amends revised GS 143B-480.2 by clarifying that the Assistance Program for Victims of Rape and Sex Offenses will pay for the *full out-of-pocket* cost of the victim's forensic medical examination up to \$800. Defines *SANE nurse* to mean a licensed registered nurse trained under GS 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses. Makes technical and conforming change.

Amends Section 19A.3(b) to extend the date for DCR to report to the Joint Legislative Commission on Governmental Operations regarding the cARTwheels Program to December 1, 2008 (was, September 1, 2008).

Provides that the constitutional authority to issue general obligation bonds to complete construction of the Green Square Project is Article V, Section 3(1) of the State Constitution.

Amends Section 27.3(e) to remove the specific allocation of \$2.3 million to the Energy Efficiency Reserve and instead allocates those funds for energy efficiency projects consistent with subsection (c) of this section.

Amends Section 27.9(d) to specify that the authorization to the State Treasurer to sell or issue general bond obligations is for *the fiscal year ending June 30, 2009*.

Amends Section 27.9(f) to clarify that OSBM must provide semiannual reports to the Joint Legislative Oversight Committee on Capital Improvements, the Chairs of the Senate and House of Representatives Appropriation Committees, and the Fiscal Research Division as to the status of the project (was, any changes in projects).

Requires that funds appropriated to the Department of Commerce for the North Carolina Minority Support Center, Inc., for 2008-09 be used by the Center to expand economic development lending and financial literacy.

Amends Section 29.8(g) to clarify that the July 20, 2008, effective date for the revision of GS 7A-304, which adds a \$1 charge in certain criminal actions for the maintenance of court telephone systems, applies to all costs assessed and collected on or after that date, *except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to GS 7A-180(4) or GS 7A-273(2), in which the citation or criminal process was issued before that date, the cost will be the lesser of those specified in GS 7A-304(a) or in the notice portion of the defendant's or respondent's copy of the citation or criminal process, if any costs are specified in that notice.*

Repeals GS 7A-305(a3) (fees assessed for an application or a petition for a limited driving privilege under GS Chapter 20) and (a4) (court costs for assessed for a petition for a limited driving privilege under GS 20-20.1). Amends GS 20-20.1(d) by making a conforming change and referencing the costs required in GS 20-20.2 for processing an application or petition for a limited driving privilege.

Provides that the nursing and allied health program that will be housed at the UNC Upper Coastal Plain Higher Education and Health Center will be run by East Carolina University, Edgecombe Community College, and Nash Community College.

Amends GS 58-50-175(19) to change the term *Special Fund* to *Fund* and makes a conforming change to the meaning. Makes conforming changes to (1) GS 58-50-235, (2) GS 105-228.5B, effective until June 30, 2010, and (3) SL 2007-532, Section 2.1 and Section 6. Amends GS 58-50-225 by making conforming changes and to delete that the Fund is established as *an interest bearing, non-reverting account in the General Fund*. Adds that the Fund revenue also consists of any interest earned by the Fund. Deletes that a disbursement may be made from the Fund by warrant drawn on the State Treasurer by the Executive Director, or that the Executive Director and the Board of Directors of the Pool may by contract authorize the Pool Administrator to draw the warrant.

Effective June 30, 2010, which applies to the transfer at the end of 2009-10, amends GS 105-228.5B to require that, within 75 days after the end of the fiscal year, the State Treasurer must transfer from the General Fund to the North Carolina Health Insurance Risk Pool Fund an amount equal to 30% of the growth in revenue from the tax applied to gross premiums under GS 105-228.5(d)(2). Makes a conforming change to the caption.

Authorizes DPI to use up to \$430,000 appropriated for Learn and Earn Online for 14 planning grants for Learn and Earn sites in 2008-09.

Allows OSBM, after a request from the State Board of Education, to provide, from funds available to any agency in the budget, up to \$1 million for 2008-09 to DPI for efforts to inform eighth and ninth grade students about opportunities to gain access to college and to college coursework. Specifies programs to be emphasized in that effort. Requires DPI to report by January 1, 2009, and June 30, 2009, to the Joint Legislative Education Oversight Committee on the use of these funds.

Requires the Department of Crime Control and Public Safety to use funds appropriated to the Department to keep and maintain the five NC floodplain mapping positions that were not funded in 2008-09. Expires when the receipts of the Department received pursuant to GS 161-11.3 (Automation Enhancement and Preservation Fund) are sufficient to support these positions.

Amends SL 2007-323, Section 28.4(a), to increase the annual salary of the Chief Judge, Court of Appeals, from \$133,817 to \$135,061. Directs the Administrative Office of the Courts to use \$1,244, plus the cost of benefits, in available salary reserve funds to increase the salary.

Authorizes Western Carolina University, UNC Asheville, and the Mountain Area Health Education Consortium to expend available funds, including appropriations, for the operation and maintenance of the North Carolina Center for Health and Aging.

Effective July 1, 2008.

July 18, 2008

**H 2438. 2008 BUDGET TECHNICAL CORRECTIONS.** Filed 5/21/08. Senate committee substitute makes the following changes to 2nd edition. Makes technical corrections by replacing references to H 2436 with SL 2008-107 throughout.

Specifies that *nonrecurring* funds appropriated to the Department of Commerce for the North Carolina Minority Support Center, Inc., for 2008-09 must be used by the Center to expand economic development lending and financial literacy.

Effective July 1, 2008, and applies to purchases made on or after that date, amends GS 105-164.14(j) to allow a facility primarily engaged in solar electricity generating materials manufacture to be eligible for an annual refund of sales and use taxes if the business satisfies a wage standard at the facility. Provides that the wage standard is equal to 105% of the lesser of the average weekly wage for all insured private employers in the state and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. Requires the wage calculation to include any jobs filled for at least 1,600 hours during the calendar year. Defines *solar electricity generating materials manufacturing* to mean the development and production of one or more of the following: (1) photovoltaic materials or modules used in producing electricity and (2) polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity.

Amends Section 10.15A(i) by providing that 60 days after the tiered rates required under subsection (b) of this section have been implemented by the Department of Health and Human Services (DHHS), 35% (was, 50%) of community support services must be delivered by qualified professionals and, six months thereafter, 50% of community support services must be delivered by qualified professionals.

Repeals Part 7 of GS 143B, Article 12 (State Advisory Council on Juvenile Justice and Delinquency Prevention). Makes conforming changes by repealing GS 143B-515(20) and amending GS 143B-516(f).

Amends subsection 10.15A.(h1) to establish an appeals process for an adverse determination by DHHS by requiring the applicant or recipient to request a hearing within 30 days of the mailing of a notice sent by DHHS regarding the adverse determination. Defines *adverse determination* to mean a determination by DHHS to deny, terminate, suspend or reduce Medicaid covered services. Provides for the content of the notice, which must be sent by DHHS at least 30 days before the effective date of the adverse determination to the applicant or recipient, and the provider, if applicable, and includes an appeal request form created by DHHS. Provides for the contents of the appeal request form. Requires the appeal request form be sent to the Office of Administrative Hearings (OAH) and DHHS to initiate a hearing before an administrative law judge. Provides that the administrative law judge's decision and the individual's record be returned to DHHS, in accordance with subsection 10.15A(h2). Requires DHHS to make a final decision within 20 days of the receipt of that decision, with a prompt notification to the applicant or recipient and notification of the right to judicial review under Article 4 of GS Chapter 150B.

Creates a new subsection 10.15A(h2), which applies only to contested Medicaid cases commenced by Medicaid applicants or recipients under subsection 10.15A(h1). Authorizes the chief administrative law judge to limit and simplify procedures that apply to Medicaid cases in order to expedite their completion. Requires, to the extent possible, that the Hearings Division schedule and hear contested Medicaid cases within 45 days of a submission of a request for appeal. Provides procedural guidelines for hearings. Requires the chief administrative law judge, upon receipt of an appeal request, to immediately notify the Mediation Network of North Carolina, who must contact the petitioner within five days to offer mediation services. Requires mediation be completed within 25 days of the request for appeal and if the dispute is not resolved then the case proceeds to a hearing. Provides that the petitioner has the burden of proof to show entitlement to a requested benefit or the propriety of requested agency action when the agency has denied the benefit or refused to take the particular action and that the agency has the burden of proof when the appeal is from an agency determination to impose a penalty or reduce, terminate, or suspend a benefit previously granted. Requires notification of the administrative law judge's decision in writing and return of the record within 20 days of the conclusion of the hearing.

Transfers \$2 million from funds available to DHHS for 2008-09 to OAH to be used for mediation services provided for Medicaid applicant and recipient appeals and to contract for other services to conduct the appeals process.

Effective October 1, 2008, requires DHHS to discontinue its current informal appeals process for Medicaid applicants and recipients appealing a determination made by DHHS to

deny, terminate, suspend, to reduce Medicaid covered services. Informal appeals pending on that date for which a hearing has not been held will be discontinued, with an opportunity to appeal to OAH.

Provides that DHHS is not prevented from engaging in an informal review of the case with an applicant or recipient prior to issuing a notice of adverse determination.

Sets a July 1, 2010, expiration date for the appeals process established by this act. Requires DHHS and OAH to report to the Senate and House of Representatives Appropriations Subcommittees on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on March 1, 2009, October 1, 2009, and March 1, 2010, on the costs, effectiveness, and efficiency of the appeals process for Medicaid applicants and recipients.

Changes the title to *AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE STATE BUDGET*.

July 29, 2008

**SL 2008-118 (H 2438). 2008 BUDGET TECHNICAL CORRECTIONS. AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE STATE BUDGET.**

Summarized in *Daily Bulletin* 7/17/08 and 7/18/08. Enacted July 28, 2008. Effective July 1, 2008.