

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 202  
Appropriations/Base Budget Committee Substitute Adopted 4/7/09  
PROPOSED COMMITTEE SUBSTITUTE S202-PCS35287-LExf-16

Short Title: Appropriations Act of 2009.

(Public)

Sponsors:

Referred to:

February 18, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS  
3 OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER  
4 PURPOSES.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. INTRODUCTION AND TITLE OF ACT**

8  
9 **INTRODUCTION**

10 **SECTION 1.1.** The appropriations made in this act are for maximum amounts  
11 necessary to provide the services and accomplish the purposes described in the budget.  
12 Savings shall be effected where the total amounts appropriated are not required to perform  
13 these services and accomplish these purposes and, except as allowed by the State Budget Act,  
14 or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

15  
16 **TITLE OF ACT**

17 **SECTION 1.2.** This act shall be known as the "Current Operations and Capital  
18 Improvements Appropriations Act of 2009."

19  
20 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

21  
22 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

23 **SECTION 2.1.** Appropriations from the General Fund of the State for the  
24 maintenance of the State departments, institutions, and agencies, and for other purposes as  
25 enumerated, are made for the biennium ending June 30, 2011, according to the following  
26 schedule:

27  
28 **Current Operations – General Fund** **2009-2010** **2010-2011**

29  
30 **EDUCATION**

31  
32 Community Colleges System Office \$ 1,059,888,269 \$ 1,104,442,194  
33



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1	Department of Public Instruction	7,629,717,045	7,784,909,413
2			
3	University of North Carolina – Board of Governors		
4	Appalachian State University	149,364,470	150,008,736
5	East Carolina University		
6	Academic Affairs	241,853,905	244,133,225
7	Health Affairs	55,190,729	55,027,390
8	Elizabeth City State University	37,906,689	38,291,383
9	Fayetteville State University	60,424,635	60,745,385
10	North Carolina Agricultural and Technical University	103,280,528	103,283,850
11	North Carolina Central University	94,300,645	94,193,246
12	North Carolina School of the Arts	28,632,307	28,786,620
13	North Carolina State University		
14	Academic Affairs	421,258,378	428,566,200
15	Agricultural Extension	61,941,281	60,787,417
16	Agricultural Research	46,237,503	45,963,661
17	University of North Carolina at Asheville	40,024,437	40,158,837
18	University of North Carolina at Chapel Hill		
19	Academic Affairs	315,711,172	318,502,587
20	Health Affairs	224,910,569	228,028,319
21	Area Health Education Centers	52,346,018	52,363,857
22	University of North Carolina at Charlotte	200,230,007	200,765,231
23	University of North Carolina at Greensboro	172,612,251	173,265,711
24	University of North Carolina at Pembroke	61,015,439	61,316,418
25	University of North Carolina at Wilmington	104,921,437	106,343,768
26	Western Carolina University	96,273,475	96,370,613
27	Winston-Salem State University	73,730,343	73,401,502
28	General Administration	43,643,644	43,627,674
29	University Institutional Programs	14,772,089	72,744,268
30	Related Educational Programs	120,250,131	119,595,220
31	UNC Financial Aid Private Colleges	104,888,915	104,922,915
32	North Carolina School of Science and Mathematics	19,304,837	19,362,188
33	UNC Hospitals at Chapel Hill	46,011,882	46,011,882
34	Total University of North Carolina –		
35	Board of Governors	\$ 2,991,037,716	\$ 3,066,568,103
36			

**HEALTH AND HUMAN SERVICES**

39	Department of Health and Human Services		
40	Division of Central Management and Support	\$ 57,334,182	\$ 59,306,912
41	Division of Aging	35,927,363	38,697,945
42	Division of Blind Services/Deaf/HH	11,354,295	11,279,296
43	Division of Child Development	282,156,867	346,847,558
44	Division of Education Services	38,827,103	33,879,011
45	Division of Health Service Regulation	18,196,075	18,201,413
46	Division of Medical Assistance	2,528,381,854	3,171,953,118
47	Division of Mental Health	784,669,194	787,653,305
48	NC Health Choice	82,928,252	82,828,189
49	Division of Public Health	182,067,661	183,194,026
50	Division of Social Services	212,492,287	223,486,076
51	Division of Vocation Rehabilitation	41,765,979	41,779,037

1	Total Health and Human Services	\$ 4,276,101,112	\$ 4,999,105,886
2			
3	<b>NATURAL AND ECONOMIC RESOURCES</b>		
4			
5	Department of Agriculture and Consumer Services	\$ 61,599,458	\$ 61,185,805
6			
7	Department of Commerce		
8	Commerce	44,395,214	37,178,108
9	Commerce State-Aid	18,804,673	20,304,673
10	NC Biotechnology Center	15,119,010	15,119,010
11	Rural Economic Development Center	24,019,453	24,019,453
12			
13	Department of Environment and Natural Resources	207,284,998	200,464,914
14			
15	Clean Water Management Trust Fund	95,000,000	95,000,000
16			
17	Department of Labor	17,700,104	17,728,165
18			
19	<b>JUSTICE AND PUBLIC SAFETY</b>		
20			
21	Department of Correction	\$ 1,292,633,348	\$ 1,334,385,357
22			
23	Department of Crime Control and Public Safety	31,338,905	30,900,591
24			
25	Judicial Department	470,467,471	471,839,612
26	Judicial Department – Indigent Defense	134,934,064	121,403,270
27			
28	Department of Justice	92,102,712	91,344,576
29			
30	Department of Juvenile Justice and		
31	Delinquency Prevention	147,114,599	143,487,981
32			
33	<b>GENERAL GOVERNMENT</b>		
34			
35	Department of Administration	\$ 69,163,419	\$ 69,106,137
36			
37	Office of Administrative Hearings	3,967,455	3,980,290
38			
39	Department of State Auditor	13,224,512	13,240,784
40			
41	Office of State Controller	23,361,150	23,993,456
42			
43	Department of Cultural Resources		
44	Cultural Resources	70,522,789	71,919,361
45	Roanoke Island Commission	1,961,296	1,961,296
46			
47	State Board of Elections	4,683,822	6,187,615
48			
49	General Assembly	57,661,786	59,371,264
50			
51	Office of the Governor		

1	Office of the Governor	6,113,531	6,119,712
2	Office of State Budget and Management	6,561,015	6,564,463
3	OSBM – Reserve for Special Appropriations	5,023,000	4,273,000
4	Housing Finance Agency	14,608,417	14,608,417
5			
6	Department of Insurance		
7	Insurance	31,644,853	31,707,037
8	Insurance – Volunteer Safety Workers' Compensation	2,000,000	2,000,000
9			
10	Office of Lieutenant Governor	932,179	932,179
11			
12	Department of Revenue	84,920,596	85,013,566
13			
14	Department of Secretary of State	11,364,455	11,438,329
15			
16	Department of State Treasurer		
17	State Treasurer	17,272,124	17,285,912
18	State Treasurer –		
19	Retirement for Fire and Rescue Squad Workers	10,804,671	10,804,671
20			
21	<b>TRANSPORTATION</b>		
22			
23	Department of Transportation	\$ 0	\$ 0
24			
25	<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
26			
27	Reserve for Compensation Increases	\$ 65,440,496	\$ 56,765,776
28			
29	Salary Adjustment Fund: 2009-2011 Biennium	0	0
30			
31	Contingency and Emergency Fund	5,000,000	5,000,000
32			
33	Reserve for Teachers' and		
34	State Employees' Retirement Contribution	21,000,000	21,000,000
35			
36	Judicial Retirement System Contributions	1,300,000	1,300,000
37			
38	Reserve for State Health Plan	128,410,208	267,904,114
39			
40	Information Technology Fund	9,361,985	9,361,985
41			
42	Reserve for Job Development Investment Grants (JDIG)	19,000,000	27,400,000
43			
44	Adjust Debt Service	(7,500,000)	7,307,323
45			
46	Statewide Administrative Support	(3,000,000)	(4,000,000)
47			
48	Federal Economic Recovery Management	1,000,000	1,000,000
49			
50	E-Procurement Receipts		(10,000,000)
51			

1	Biomedical Research Imaging Center (BRIC)	0	0
2	Biomedical Research Imaging Center (BRIC)	74,000,000	100,000,000
3	Contingency Reserve		
4			
5	Debt Service		
6	General Debt Service	670,494,697	739,878,445
7	Federal Reimbursement	1,616,380	1,616,380
8			
9	<b>TOTAL CURRENT OPERATIONS –</b>		
10	<b>GENERAL FUND</b>	<b>\$ 20,031,173,017</b>	<b>\$ 21,284,428,623</b>
11			
12	<b>Capital Improvements -General Fund</b>	<b>2009-2010</b>	<b>2010-2011</b>
13			
14	Water Resources Development Projects	\$ 17,600,000	\$ 0
15			
16	<b>TOTAL CAPITAL IMPROVEMENTS –</b>		
17	<b>GENERAL FUND</b>	<b>\$ 17,600,000</b>	<b>\$ 0</b>
18			
19	<b>GENERAL FUND AVAILABILITY STATEMENT</b>		
20	<b>SECTION 2.2.(a)</b> The General Fund availability used in developing the 2009-2011		
21	biennial budget is shown below:		
22		<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
23			
24	Unappropriated Balance Remaining from Previous Year	0	104,982,016
25	Projected Reversions FY 2006-2007	0	0
26	Projected Overcollections FY 2006-2007	0	0
27	Less Earmarkings of Year End Fund Balance		
28	Savings Reserve Account	0	0
29	Repairs and Renovations Reserve Account	0	0
30	<b>Beginning Unreserved Fund Balance</b>	<b>0</b>	<b>104,982,016</b>
31			
32	<b>Revenues Based on Existing Tax Structure</b>	<b>18,030,500,000</b>	<b>19,072,800,000</b>
33			
34	<b>Nontax Revenues</b>		
35	Investment Income	136,400,000	153,800,000
36	Judicial Fees	200,300,000	208,400,000
37	Disproportionate Share	100,000,000	100,000,000
38	Insurance	72,500,000	76,500,000
39	Other Nontax Revenues	195,700,000	201,500,000
40	Tobacco Trust Fund Transfer	0	0
41	Highway Trust Fund/Use Tax Reimbursement Transfer	108,500,000	72,800,000
42	Highway Fund Transfer	17,600,000	17,600,000
43	<b>Subtotal Nontax Revenues</b>	<b>831,000,000</b>	<b>830,600,000</b>
44			
45	<b>Total General Fund Availability</b>	<b>18,861,500,000</b>	<b>20,008,382,016</b>
46			
47	<b>Adjustments to Availability: 2009 Session</b>		
48	Reserve for Tax Adjustments	500,400,000	667,100,000
49	Federal Fiscal Stabilization Funds – Education	580,966,000	580,966,000
50	Federal Fiscal Stabilization Funds – General Purpose	129,261,500	129,261,500
51	IRA Distribution Suspended	(44,000,000)	0

1	Department of Revenue Improved Enforcement	50,000,000	75,000,000
2	Transfer from Disproportionate Share Reserve	24,994,954	0
3	Adjust Transfer from Insurance Regulatory Fund	(2,179,969)	(2,179,969)
4	Adjust Transfer from Treasurer's Office	(885,321)	(885,321)
5	Scrap Tire Disposal Account Funds	3,000,000	0
6	Increase DHHS/HSR Fees	1,122,990	1,122,990
7	Increase SOS Fees	3,632,700	3,632,700
8	Administrative Office of the Courts	32,942,179	38,899,425
9	Reduce Fund Balance – Nurse Educators for Tomorrow	1,000,000	0
10	Inmate Work Release Fund Increase	500,000	500,000
11	Reduce Fund Balance – Telecommunications Relay Trust Fund	5,000,000	0
12	Reduce Fund Balance – Teaching Fellows Trust Fund	4,500,000	0
13	Reduce Fund Balance – DPI Legacy Funds	2,000,000	0
14	<b>Subtotal Adjustments to</b>		
15	<b>Availability: 2009 Session</b>	<b>1,292,255,033</b>	<b>1,493,417,325</b>
16			
17	<b>Revised General Fund Availability</b>	<b>20,153,755,033</b>	<b>21,501,799,341</b>
18			
19	<b>Less: General Fund Appropriations</b>	<b>(20,048,773,017)</b>	<b>(21,284,428,623)</b>
20			
21	<b>Unappropriated Balance Remaining</b>	<b>\$104,982,016</b>	<b>\$217,370,718</b>
22			

23 **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State  
 24 Controller shall not transfer funds to the Repairs and Renovations Reserve Account on June 30,  
 25 2009. This subsection becomes effective June 30, 2009.

26 **SECTION 2.2.(c)** Notwithstanding 143C-4-2, the State Controller shall not  
 27 transfer funds to the Savings Reserve Account on June 30, 2009. This subsection becomes  
 28 effective June 30, 2009.

29 **SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the  
 30 sum to be transferred under that subdivision for the 2009-2010 fiscal year is one hundred six  
 31 million (\$106,000,000) and for the 2010-2011 fiscal year is seventy-one million (\$71,000,000).

32 **SECTION 2.2.(e)** Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred  
 33 under that subdivision for the 2009-2010 fiscal year is two million five hundred thousand  
 34 dollars (\$2,500,000) and for the 2010-2011 fiscal year is one million eight hundred thousand  
 35 dollars (\$1,800,000).

36 **SECTION 2.2.(f)** The appropriation made in this act to the Clean Water  
 37 Management Trust Fund for the 2009-2010 fiscal year is ninety-five million dollars  
 38 (\$95,000,000). The provisions of G.S. 113A-253.1 do not apply for the 2009-2010 fiscal year.

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

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

43 **SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance  
 44 and operation of the Department of Transportation and for other purposes as enumerated are  
 45 made for the fiscal biennium ending June 30, 2011, according to the following schedule:

47	<b>Current Operations – Highway Fund</b>	<b>2009-2010</b>	<b>2010-2011</b>
48	Department of Transportation		
49	Administration	\$ 80,810,522	\$ 81,897,273
50			
51	Division of Highways		

1	Administration	32,938,983	32,993,177
2	Construction	38,910,000	125,110,551
3	Maintenance	909,957,588	791,660,215
4	Planning and Research	4,055,402	4,055,402
5	OSHA Program	355,389	355,389
6			
7	Ferry Operations	30,126,209	29,726,209
8			
9	State Aid		
10	Municipalities	87,071,264	86,200,551
11	Public Transportation	71,595,962	71,631,962
12	Airports	17,349,592	17,291,543
13	Railroads	17,101,153	17,101,153
14			
15	Governor's Highway Safety	351,779	352,325
16	Division of Motor Vehicles	101,732,813	101,747,629
17	Other State Agencies, Reserves,		
18	and Transfers	291,143,334	298,336,621
19			
20	<b>TOTAL</b>	<b>\$ 1,683,500,000</b>	<b>\$1,658,460,000</b>

**HIGHWAY FUND AVAILABILITY STATEMENT**

SECTION 3.2. The Highway Fund availability used in developing the 2009-2011 biennial budget is shown below:

26	Highway Fund Availability Statement	2009-2010	2010-2011
28	Unappropriated Balance From Previous Year	\$ 0	\$ 0
29	Beginning Credit Balance	0	0
30	Estimated Revenue	1,683,500,000	1,658,460,000
31			
32	<b>Total Highway Fund Availability</b>	<b>\$ 1,683,500,000</b>	<b>\$ 1,658,460,000</b>
33			
34	Unappropriated Balance	\$ 0	\$ 0

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

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the biennium ending June 30, 2011, according to the following schedule:

44	Current Operations – Highway Trust Fund	2009-2010	2010-2011
45	Intrastate System	\$ 352,674,316	\$ 369,455,555
46	Urban Loops	110,759,502	118,440,179
47	Aid to Municipalities	39,893,942	41,549,515
48	Secondary Roads	57,777,091	60,531,355
49	Program Administration	41,092,320	42,373,920
50	Turnpike Authority	64,000,000	99,000,000
51	Transfer to General Fund	108,561,829	72,846,726

1  
2 **GRAND TOTAL CURRENT OPERATIONS**  
3 **AND EXPANSION**

\$ 857,490,000      \$ 884,190,000

4  
5 **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

6 **SECTION 4.2.** The Highway Trust Fund availability used in developing the  
7 2009-2011 biennial budget is shown below:

8  
9 **Total Highway Trust Fund Availability**      **\$ 857,490,000**      **\$ 884,190,000**

10  
11 **PART V. OTHER APPROPRIATIONS**

12  
13 **CIVIL FORFEITURE FUNDS**

14 **SECTION 5.1.(a)** Appropriations. – Appropriations are made from the Civil  
15 Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2011, as follows:

16  
17 **FY 2009-2010**      **FY 2010-2011**  
18 School Technology Fund      \$ 18,000,000      \$ 18,000,000  
19 State Public School Fund      138,546,041      120,362,790  
20 Total Appropriation      \$156,546,041      \$138,362,790

21  
22 **SECTION 5.1.(b)** All University of North Carolina campuses shall remit all  
23 parking fines held in escrow in the amount of eighteen million one hundred eighty-three  
24 thousand two hundred fifty-one dollars (\$18,183,251) to the Civil Penalties and Forfeitures  
25 Fund for appropriation.

26  
27 **EDUCATION LOTTERY**

28 **SECTION 5.2.(a)** Notwithstanding G.S. 18C-164, the revenue used to support  
29 appropriations made in this act is transferred from the State Lottery Fund in the amount of three  
30 hundred sixty-eight million seventy thousand two hundred eight dollars (\$368,070,208) for the  
31 2009-2010 fiscal year.

32 **SECTION 5.2.(b)** Notwithstanding G.S. 18C-164, the appropriations made from  
33 the Education Lottery Fund for the 2009-2010 fiscal year are as follows:

34  
35 Teachers in Early Grades      99,399,395  
36 Prekindergarten Program      84,635,709  
37 Public School Building Capital Fund      147,228,083  
38 Scholarships for Needy Students      36,807,021  
39 Total Appropriation      \$368,070,208

40 **SECTION 5.2.(c)** Notwithstanding G.S. 18C-164, the North Carolina State Lottery  
41 Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2009-2010  
42 fiscal year or the 2010-2011 fiscal year.

43  
44 **INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATION**

45 **SECTION 5.3.(a)** The availability used to support appropriations made in this act  
46 from the Information Technology Fund established in G.S. 147-33.72H is as follows:

47  
48 **FY 2009-2010**      **FY 2010-2011**  
49  
50 Interest Income      \$100,000      \$100,000  
51



1	IT Fund Balance June 30	\$3,359,419	\$100,000
2			
3	Appropriation from General Fund	\$9,361,985	\$9,361,985
4			
5	<b>Total Funds Available</b>	<b>\$12,821,404</b>	<b>\$9,561,985</b>

6  
7 **SECTION 5.3.(b)** Appropriations are made from the Information Technology  
8 Fund for the 2009-2011 fiscal biennium as follows:

10	<b>Office of Information Technology Services</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
11			
12	Information Technology Operations	\$7,891,607	\$7,891,607
13			
14	Information Technology Projects	\$4,829,797	\$4,829,797
15			
16	Total	\$12,721,404	\$12,721,404

#### 18 **APPROPRIATION OF CASH BALANCES**

19 **SECTION 5.4.(a)** State funds, as defined in G.S. 143C-1-1(d)(25), are  
20 appropriated and authorized as provided in G.S. 143C-1-2 for the 2009-2011 fiscal biennium as  
21 follows:

- 22 (1) For all budget codes listed in the Base Budget and Performance  
23 Management Information sections of "North Carolina State Budget,  
24 Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash  
25 balances and receipts are appropriated up to the amounts specified in  
26 Volumes 1 through 6, as adjusted by the General Assembly, for the  
27 2009-2010 fiscal year and the 2010-2011 fiscal year. Funds may be  
28 expended only for the programs, purposes, objects, and line items specified  
29 in Volumes 1 through 6, or otherwise authorized by the General Assembly.  
30 Expansion budget funds listed in those documents are appropriated only as  
31 otherwise provided in this act.
- 32 (2) For all budget codes that are not listed in "North Carolina State Budget,  
33 Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash  
34 balances and receipts are appropriated for each year of the 2009-2011 fiscal  
35 biennium up to the level of actual expenditures for the 2008-2009 fiscal  
36 year, unless otherwise provided by law. Funds may be expended only for the  
37 programs, purposes, objects, and line items authorized for the 2008-2009  
38 fiscal year.
- 39 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that  
40 are required to be used to pay debt service requirements for various  
41 outstanding bond issues and certificates of participation are appropriated up  
42 to the actual amounts received for the 2009-2010 fiscal year and the  
43 2010-2011 fiscal year and shall be used only to pay debt service  
44 requirements.
- 45 (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances  
46 and receipts of funds that meet the definition issued by the Governmental  
47 Accounting Standards Board of a trust or agency fund are appropriated for  
48 and in the amounts required to meet the legal requirements of the trust  
49 agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

50 **SECTION 5.4.(b)** Receipts collected in a fiscal year in excess of the amounts  
51 authorized by this section shall remain unexpended and unencumbered until appropriated by

1 the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized  
2 receipts in the fiscal year in which the receipts were collected is authorized by the State Budget  
3 Act.

4 Overrealized receipts are appropriated up to the amounts necessary to implement  
5 this subsection.

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

13 **SECTION 5.4.(c)** Notwithstanding subsections (a) and (b) of this section, there is  
14 appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax  
15 Revenues for each fiscal year an amount equal to the amount of the distributions required by  
16 law to be made from that reserve for that fiscal year.

#### 18 **AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

19 **SECTION 5.5.(a)** Appropriations of funds received under the American Recovery  
20 and Reinvestment Act of 2009 are made for the 2009-2011 fiscal biennium, according to the  
21 following schedule:

	<b>2009-2010</b>	<b>2010-2011</b>
25 Fiscal Stabilization: Education	\$ 580,965,782	\$ 580,965,782
26 Fiscal Stabilization: General	129,261,335	129,261,335
27 Medicaid Disproportionate Share	7,314,833	7,314,833
29 Title I Grants	128,728,180	128,728,180
30 Title I School Improvement	38,336,500	38,336,500
31 IDEA: Part B	157,205,000	157,205,000
32 IDEA: Part B (Preschool)	6,035,500	6,035,500
33 Homeless Assistance	645,000	645,000
34 Education Technology	8,179,529	8,179,529
35 School Lunch Equipment	3,313,727	-
37 State Energy Programs	37,994,500	37,994,500
38 HOME Investment Partnership Program	26,076,344	26,076,344
39 Homelessness Prevention Fund	14,539,194	14,539,194
41 IDEA: Part C	6,365,500	6,365,500
42 TANF Supplemental Grants	27,075,000	9,025,000
43 Community Services Block Grant	8,748,333	11,664,444
44 Child Care and Development Block Grants	67,543,000	-
45 Vocational Rehabilitation Agency Funding	9,014,504	9,014,504
46 Older Blind Individuals/VR	521,182	521,182
47 Child Support Enforcement (Incentive Payments)	2,214,542	330,000
48 Weatherization Assistance Grants	131,954,536	-
49 Medicaid FMAP Increase	920,377,105	514,514,239
50 Medicaid FMAP Increase-local administration	-	-
51 Foster Care and Adoption FMAP Increase	2,840,410	726,309

1	Prevention and Wellness Fund Grants (Immunization)	5,689,500	5,689,500
2	Senior Meals Programs	1,384,392	1,384,392
3			
4	Byrne/Justice Assistance Grants	17,245,779	17,245,779
5	Violence Against Women: Services-Training-		
6	Officers-Prosecutors (STOP) Grants	3,784,000	-
7	Victims of Crime Act (VOCA) Grants: Victim		
8	Compensation	647,906	-
9	Victims of Crime Act (VOCA) Grants: Victim		
10	Assistance	1,110,000	-
11	Internet Crimes Against Children Task Force Program	879,040	-
12	Unemployment Insurance: Administration	7,323,699	7,323,699
13	Employment Services Grants (Wagner-Peyser)	11,091,396	-
14	Community Service Employment for Older Americans	1,583,153	1,583,153
15	Energy Efficiency and Conservation Block Grants	29,025,150	29,025,150
16	Clean Water State Revolving Funds	71,443,500	-
17	Drinking Water Revolving Funds	65,625,000	-
18	State Clean Diesel Program	1,730,000	-
19	Community Development Block Grant: Non-Entitlement		
20	Funds	6,040,307	6,040,307
21	Workforce Investment Act: Youth Activities	12,535,349	12,535,349
22	Workforce Investment Act: Adult Activities	5,168,583	5,168,583
23	Workforce Investment Act: Dislocated Worker		
24	Activities	22,209,637	22,209,637
25			
26	Transit Capital Assistance	103,304,242	-
27	Highway Infrastructure Investment	\$ 735,527,000	\$ -
28			
29	<b>TOTAL</b>	<b>\$ 3,418,597,166</b>	<b>\$1,795,648,421</b>

30 **SECTION 5.5.(b)** If funds received from the American Recovery and  
31 Reinvestment Act of 2009 exceed the amount set out in subsection (a) of this section, such  
32 additional funds are hereby appropriated for the appropriate fiscal year.

#### 34 **OTHER RECEIPTS FROM PENDING GRANT AWARDS**

35 **SECTION 5.6.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval  
36 of the Director of the Budget and after consultation with the Joint Legislative Committee on  
37 Governmental Operations, spend funds received from grants awarded subsequent to the  
38 enactment of this act. The Office of State Budget and Management shall work with the  
39 recipient State agencies to budget grant awards according to the annual program needs and  
40 within the parameters of the respective granting entities. Depending on the nature of the award,  
41 additional State personnel may be employed on a permanent or time-limited basis. The Office  
42 of State Budget and Management shall consult with the Joint Legislative Commission on  
43 Governmental Operations prior to expending any funds received from grant awards. Funds  
44 received from such grants are hereby appropriated and shall be incorporated into the certified  
45 budget of the recipient State agency.

#### 47 **PART VI. GENERAL PROVISIONS**

##### 49 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

50 **SECTION 6.1.** All funds appropriated by this act into reserves may be expended  
51 only for the purposes for which the reserves were established.

**BUDGET CODE CONSOLIDATIONS**

**SECTION 6.2.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

**BUDGET REALIGNMENT**

**SECTION 6.3.** Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the certified budget to reflect these adjustments only after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

**ESTABLISHING OR INCREASING FEES PURSUANT TO THIS ACT**

**SECTION 6.4.(a)** Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

**SECTION 6.4.(b)** In establishing or increasing a fee as authorized or anticipated in this act, if adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes, an agency may adopt a temporary rule as this constitutes a "recent act of the General Assembly" under G.S. 150B-21.1(a)(2).

**AUTHORIZATION TO ESTABLISH RECEIPT SUPPORTED POSITIONS**

**SECTION 6.5.** Notwithstanding any other provision of law, a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of receipt-supported positions specified in this act without prior consultation with the Joint Legislative Commission on Governmental Operations.

**FISCAL CRISIS/FURLOUGH FLEXIBILITY**

**SECTION 6.6.(a)** Findings. – The General Assembly finds that:

- (1) The extreme fiscal crisis affecting North Carolina's economy, the national economy, and global economic markets has substantially reduced the State's revenue projections for the 2009-2011 biennium.
- (2) Economies in State expenditures and maximized efficiencies in State operations must be effected immediately and systematically in order to meet the compelling State interest of enacting a balanced budget in accordance with the State Constitution and to protect the interests of the people of North Carolina.

- 1 (3) Given the broad scope and depth of other budget reduction and efficiency  
2 measures required by this act, allowing voluntary furloughs and requiring  
3 mandatory furloughs of public employees, when necessary, is a reasonable  
4 measure to avoid disruptive mass layoffs and the elimination of positions in  
5 public employment, to preserve the public health, safety, and welfare and to  
6 continue the effective administration of important governmental functions in  
7 the interest of the people of North Carolina.

8 **SECTION 6.6.(b)** To achieve savings identified in the management flexibility  
9 reserves established in this act, State agencies may:

- 10 (1) Reduce salary-related expenditures by (i) reductions in purchased services  
11 and contractual services, (ii) reductions in force, and (iii) with the approval  
12 of the Director of the Budget, implementation of furloughs in accordance  
13 with subsections (c) through (g) of this section; and  
14 (2) Reduce non-salary expenditures such as purchases of supplies and  
15 equipment, maintenance expenses, rental and lease expenses, and any other  
16 allowable reductions in non-salary expenditures.

17 **SECTION 6.6.(c)** Definitions. – The following definitions apply in this section:

- 18 (1) Compensation. – Base rate of compensation, not including pay for shift  
19 premiums, overtime, or other types of extraordinary pay.  
20 (2) Essential positions. – Any position deemed by the head of an agency to be  
21 necessary to perform the critical functions of that agency to protect the  
22 health or safety of the agency's employees, students, clients, or patients of  
23 the public agency or to protect the general public.  
24 (3) Furlough. – A temporary period of leave from employment without pay.  
25 (4) Nonessential positions. – Any position in a public agency that is not  
26 designated as essential positions by the head of that agency.  
27 (5) Public employee. – Any person employed (i) in the executive, legislative, or  
28 judicial branch of State government, (ii) by The University of North  
29 Carolina, (iii) by the North Carolina Community College System, or (iv) by  
30 a local school administrative unit. The term includes public officers.  
31 (6) Public agency. – Any State agency, department, or institution; and the  
32 executive, legislative, and judicial branches of State government; The  
33 University of North Carolina; the North Carolina Community College  
34 System; and local school administrative units.

35 **SECTION 6.6.(d)** Furlough Flexibility. – For the 2009-2010 and 2010-2011 fiscal  
36 years, public agencies have management flexibility to allow voluntary furloughs and to require  
37 mandatory furloughs of public employees to generate necessary economies and efficiencies in  
38 budgeting.

39 **SECTION 6.6.(e)** Compensation and Benefits. – A period of furlough shall only  
40 affect or reduce a public employee's base salary or compensation. A period of furlough shall  
41 not affect or diminish a public employee's continuous service, length of aggregate service,  
42 retirement service credits, anniversary date, eligibility for authorized holiday leave, longevity  
43 pay, or the accrual of vacation and sick leave. Periods of furlough shall be applied equitably to  
44 all essential and nonessential positions regardless of the funding source of the position. A  
45 furloughed public employee who is a member of:

- 46 (1) Any of the State-supported retirement plans administered by the Retirement  
47 Systems Division of the Department of the State Treasurer shall be  
48 considered in active service during any period of furlough and shall be  
49 entitled to all of the same benefits to which the employee was entitled on the  
50 workday immediately preceding the furlough. During a furlough period, the  
51 public agency shall pay both the employee and employer contributions to the

1 Retirement Systems Division on behalf of the furloughed public employee as  
2 though that employee were in active service.

- 3 (2) The State Health Plan for Teachers and State Employees shall be considered  
4 eligible for coverage under the Plan on the same basis as on the workday  
5 immediately preceding the furlough. The employing public agency shall pay  
6 contributions on behalf of the furloughed employee as though the employee  
7 were in active service.

8 **SECTION 6.6.(f)** Policies. – The Office of State Budget and Management  
9 (OSBM) and the State Board of Education (SBE) shall each adopt policies necessary for the  
10 implementation of this section. The policies shall govern (i) the scheduling of furloughs, (ii) the  
11 amount of notice that must be given to a public employee prior to the effective date of a period  
12 of furlough, (iii) whether furloughs may be taken in increments of full days, (iv) the continued  
13 accrual of annual and sick leave, (v) treatment of part-time employees, and (vi) any other  
14 matter related to the implementation of this section. The OSBM and SBE shall provide  
15 maximum flexibility to public agencies and public employees in the scheduling of furlough  
16 days to provide public agencies the ability to effectively manage furloughs of employees  
17 employed in essential positions so as not to affect critical functions. The policies shall provide  
18 that a public employee whose normal workday exceeds eight hours per day will sustain the  
19 same proportionate reduction as a public employee who works eight hours per day. The Office  
20 of State Personnel shall provide technical assistance to OSBM, as requested, in developing a  
21 plan for the implementation of furloughs.

22 **SECTION 6.6.(g)** The OSBM and SBE shall adopt emergency rules for the  
23 implementation of this section in accordance with G.S. 150B-21.1A, except that  
24 notwithstanding G.S. 150B-21.1A(d) those emergency rules may remain in effect until the  
25 expiration of this subsection. This subsection expires June 30, 2011.

26 **SECTION 6.6.(h)** Subsection (b) of this section is effective July 1, 2009. The  
27 remainder of this section is effective when it becomes law.

## 28 **INFORMATION TECHNOLOGY OPERATIONS**

29 **SECTION 6.7.(a)** Office of Information Technology Services Budget. –  
30 Notwithstanding G.S. 147-33.88, the Office of Information Technology Services shall develop  
31 an annual budget for review and approval by the Office of State Budget and Management in  
32 accordance with a schedule prescribed by the Director of the Office of State Budget and  
33 Management. The approved Office of Information Technology Services budget shall be  
34 included in the Governor's budget recommendations to the General Assembly.

35 The Office of State Budget and Management shall ensure that State agencies have  
36 an opportunity to adjust their budgets based on any rate changes proposed by the Office of  
37 Information Technology Services.

38 **SECTION 6.7.(b)** Enterprise Projects. – The State Chief Information Officer shall  
39 consult the respective State agency chief information officers to identify specific State agency  
40 requirements prior to the initiation of any enterprise project. State agency requirements shall  
41 be incorporated into any enterprise agreement signed by the State Chief Information Officer.  
42 Enterprise projects shall not exceed the participating State agencies' ability to financially  
43 support the contracts.

44 The State Chief Information Officer shall not enter into any information technology  
45 contracts without obtaining written agreements from participating State agencies regarding  
46 apportionment of funding. State agencies agreeing to participate in a contract shall:

- 47 (1) Ensure that sufficient funds are budgeted to support their agreed shares of  
48 enterprise agreements throughout the life of the contract.  
49

- 1 (2) Transfer the agreed-upon funds to the Office of Information Technology  
2 Services in sufficient time for the Office of Information Technology  
3 Services to meet contract requirements.

4 **SECTION 6.7.(c)** Notwithstanding the cash management provisions of  
5 G.S. 147-86.11, the Office of Information Technology Services may procure information  
6 technology goods and services for periods of up to a total of three years where the terms of the  
7 procurement contract require payment of all, or a portion, of the contract purchase price at the  
8 beginning of the agreement. All of the following conditions shall be met before payment for  
9 these agreements may be disbursed:

- 10 (1) Any advance payment complies with the Office of Information Technology  
11 Services budget.  
12 (2) The State Controller receives conclusive evidence that the proposed  
13 agreement would be more cost-effective than a multiyear agreement that  
14 complies with G.S. 147-86.11.  
15 (3) The procurement complies in all other aspects with applicable statutes and  
16 rules.  
17 (4) The proposed agreement contains contract terms that protect the financial  
18 interests of the State against contractor nonperformance or insolvency  
19 through the creation of escrow accounts for funds, source codes, or both, or  
20 by any other reasonable means that have legally binding effect.

21 The Office of State Budget and Management shall ensure the savings from any authorized  
22 agreement shall be included in the Office of Information Technology Services calculation of  
23 rates before the Office of State Budget and Management annually approves the proposed rates.  
24 The Office of Information Technology Services shall report to the Office of State Budget and  
25 Management on any State agency budget impacts resulting from multiyear contracts.

26 The Office of Information Technology Services shall submit a quarterly written  
27 report of any authorizations granted under this subsection to the Joint Legislative Oversight  
28 Committee on Information Technology and to the Fiscal Research Division.

29 **SECTION 6.7.(d)** State agencies developing and implementing information  
30 technology projects shall use the State infrastructure to host their projects. The State Chief  
31 Information Officer may grant an exception if the State agency can demonstrate any of the  
32 following:

- 33 (1) Using an outside contractor would be more cost-effective for the State.  
34 (2) The Office of Information Technology Services does not have the technical  
35 capabilities required to host the application.  
36 (3) Valid security requirements preclude the use of State infrastructure, and a  
37 contractor can provide a more secure environment.

## 38 **GEOGRAPHIC INFORMATION CONSOLIDATION**

39 **SECTION 6.8.(a)** Findings. – The General Assembly finds that there is a critical  
40 need for consolidating the investments made in geographic information systems and developing  
41 common infrastructures in order for the State to reap all the potential benefits of geographic  
42 information systems at the lowest cost.

43 **SECTION 6.8.(b)** Implementation Plan. – The recommendations outlined in the  
44 2008 legislative report prepared by the State Chief Information Officer, the Geographic  
45 Information Coordinating Council, and the Office of State Budget and Management, made  
46 pursuant to Section 6.13 of S.L. 2008-107, entitled "State Geographic Information  
47 Consolidation Implementation Plan," shall be implemented in four distinct work streams, as  
48 follows:  
49

- 50 (1) Transferring the Center for Geographic Information and Analysis to the  
51 Office of the State Chief Information Officer and establishing appropriated

1 funding for staff activities supporting the Geographic Information  
2 Coordinating Council, statewide standards, and the coordination of data  
3 acquisition.

4 (2) Reestablishing the professional services component and refocusing that  
5 effort toward current needs of the community while reducing those overhead  
6 costs.

7 (3) Revitalizing the NC OneMap project by leveraging new technology in the  
8 market to reduce costs while increasing utility of the service.

9 (4) Establishing a geographic information systems Reserve Fund for the  
10 acquisition of data layers which may be useful to multiple organizations and  
11 through which data acquisition may be procured to reduce cost.

12 **SECTION 6.8.(c)** Transfers of Agencies, Powers, Duties. – The statutory  
13 authority, powers, duties, functions, records, personnel, property, and unexpended balances of  
14 appropriations, allocations, or other funds of the State agencies and subunits listed in this  
15 subsection are transferred from those entities to the State Chief Information Officer, Office of  
16 Information Technology Services, with all of the elements of a Type II transfer as defined by  
17 G.S. 143A-6:

18 (1) The North Carolina Geographic Information Coordinating Council.

19 (2) The Center for Geographic Information and Analysis.

20 The Center for Geographic Information and Analysis shall remain in its current  
21 office space unless the State Chief Information Officer determines otherwise.

22 **SECTION 6.8.(d)** Center for Geographic Information and Analysis Coordination.  
23 – The State Chief Information Officer shall coordinate a professional services component for  
24 geographic information systems coordination with the Center for Geographic Information and  
25 Analysis that is refocused toward current community needs.

26 **SECTION 6.8.(e)** North Carolina Geographic Information Coordinating Council  
27 Coordination. – The State Chief Information Officer, in cooperation with the North Carolina  
28 Geographic Information Coordinating Council shall coordinate the refocusing of the NC  
29 OneMap geographic information systems infrastructure project to leverage new technology, to  
30 increase the utility of geographic information systems services, and to reduce geographic  
31 information systems data layer costs through singly managed contracts.

32 **SECTION 6.8.(f)** Geographic Information Systems Reserve Fund. – There is  
33 established in the Office of State Budget and Management the Geographic Information Systems  
34 Reserve Fund, which shall be nonreverting, for the purpose of acquiring and managing, at the  
35 lowest cost, data layers useful to multiple State and local organizations, according to the  
36 priorities set by the North Carolina Geographic Information Coordinating Council. The  
37 Geographic Information Systems Reserve Fund may receive private grants and may include  
38 State, federal, local, and matching funds.

39 **SECTION 6.8.(g)** Information Technology Fund. – Of the funds appropriated in  
40 this act to the Information Technology Fund, the sum of six hundred fifty thousand dollars  
41 (\$650,000) for the 2009-2010 fiscal year and the sum of six hundred fifty thousand dollars  
42 (\$650,000) for the 2010-2011 fiscal year shall be used to effectuate the transfer of the Center  
43 for Geographic Information and Analysis, including the cost of moving personnel positions, as  
44 provided by this act.

#### 45 **BEACON DATA INTEGRATION**

46 **SECTION 6.9.(a)** The Office of the State Controller, in cooperation with the State  
47 Chief Information Officer, shall continue the implementation of the BEACON Strategic Plan  
48 for Data Integration, issued in April 2008. The plan shall be implemented under the governance  
49 of the BEACON Project Steering Committee and in conjunction with leadership in appropriate  
50



1 State agencies and with the support and cooperation of the Office of State Budget and  
2 Management.

3 While it is the intent that this initiative provide broad access to information across  
4 State government, the plan shall comply with all necessary security measures and restrictions to  
5 ensure that access to any specific information held confidential under federal or State law shall  
6 be limited to appropriate and authorized persons.

7 **SECTION 6.9.(b)** The Office of State Controller shall give the Criminal Justice  
8 Data Integration Pilot Program first priority for funding and for system development and  
9 implementation.

10 The Office of State Controller shall determine the amount of funding required to (i)  
11 fully support the Criminal Justice Data Integration Pilot Program effort and (ii) develop full  
12 operational capability in Wake County during the 2009-2010 fiscal year. The Office of State  
13 Controller shall not otherwise obligate these funds.

14 **SECTION 6.9.(c)** By September 1, 2009, the Office of State Controller shall report  
15 to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal  
16 Research Division on (i) funding requirements and sources of funds for the Criminal Justice  
17 Data Integration Pilot Program for the 2009-2010 fiscal year and (ii) the anticipated uses of any  
18 remaining funds for the BEACON Data Integration Program. The Office of State Controller  
19 shall spend funds to support the BEACON Data Integration Program only as is specifically  
20 authorized in Section 6.16(d) of S.L. 2008-107.

21 By October 1, 2009, the Office of State Controller, in coordination with the State  
22 Chief Information Officer, shall also report on future costs for implementing the BEACON  
23 Data Integration Program, including outside vendor costs. This report shall include a detailed  
24 explanation of potential costs and the efforts participating agencies are making to reduce these  
25 costs. This report shall be presented to the Joint Legislative Oversight Committee on  
26 Information Technology and written reports shall be provided to the House of Representatives  
27 and Senate Appropriations Committees and to the Fiscal Research Division.

## 28 **CRIMINAL JUSTICE DATA INTEGRATION PILOT PROGRAM**

29 **SECTION 6.10.(a)** The Office of the State Controller, in cooperation with the  
30 State Chief Information Officer and under the governance of the BEACON Project Steering  
31 Committee, shall continue the development of the Criminal Justice Data Integration Pilot  
32 Program in Wake County as specified in Section 6.15 of S.L. 2008-107. The Office of State  
33 Controller shall achieve and demonstrate full operational capability of the pilot program in  
34 Wake County before the system is expanded to other areas of the State.

35 **SECTION 6.10.(b)** The Criminal Justice Data Integration Pilot Program shall  
36 continue to comply with all necessary security measures and restrictions to ensure that access to  
37 any specific information held confidential under federal and State law shall be limited to  
38 authorized persons.

39 **SECTION 6.10.(c)** The Office of State Controller shall develop a detailed plan for  
40 the statewide expansion of the Criminal Justice Data Integration Pilot Program. This plan shall  
41 include the following:

- 42 (1) An implementation schedule;
- 43 (2) The requirements individual users must meet to participate in the program;
- 44 (3) Detailed cost information for the development and implementation of a  
45 statewide system, including any user costs;
- 46 (4) A governance structure for management and oversight of the system; and
- 47 (5) Any other issues associated with the implementation of the system.

48 The Office of State Controller shall submit this plan to the House of Representatives and  
49 Senate Appropriations Committees, the Joint Legislative Oversight Committee on Information  
50 Technology, and the Fiscal Research Division by January 31, 2010.

1           **SECTION 6.10.(d)** The Office of State Controller shall work with the data  
2 integration software vendor to ensure that licenses are obtained at the least possible cost.

3           **SECTION 6.10.(e)** A State agency data center shall host the Criminal Justice Data  
4 Integration Pilot Program. The Office of State Controller shall identify a State data center to  
5 host the program and shall report its recommendation to the Joint Legislative Oversight  
6 Committee on Information Technology by August 31, 2009.

7           **SECTION 6.10.(f)** Funds appropriated for the Criminal Justice Data Integration  
8 Pilot Program shall only be used for that program. The Criminal Justice Data Integration Pilot  
9 Program shall have first priority for funds available to the BEACON Data Integration Program.

10          **SECTION 6.10.(g)** The Office of State Controller shall continue to provide  
11 quarterly written reports on the program's progress to the House of Representatives and Senate  
12 Appropriations Committees, to the Joint Legislative Oversight Committee on Information  
13 Technology, and to the Fiscal Research Division beginning October 1, 2009.

14  
15 **OFFICE OF INFORMATION TECHNOLOGY SERVICES/UNC BULK PURCHASING**  
16 **OF INFORMATION TECHNOLOGY**

17          **SECTION 6.11.** The General Administration of The University of North Carolina,  
18 with assistance from the Office of Information Technology Services and the Office of State  
19 Budget and Management, shall consolidate information technology infrastructure purchasing  
20 which includes, but is not limited to, personal computer and printer purchases for all 16 State  
21 universities, the North Carolina School of Science and Mathematics, and General  
22 Administration, by creating a bulk purchasing process that will realize savings through  
23 efficiencies. General Administration may choose to utilize the Office of Information  
24 Technology Services' existing bulk contracts. Information technology infrastructure  
25 expenditure shall not be authorized without complying with this section.

26  
27 **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON INFORMATION**  
28 **TECHNOLOGY/ REVIEW AND REPORT ON CURRENT LAW**

29          **SECTION 6.12.** By April 1, 2010, the Joint Legislative Oversight Committee on  
30 Information Technology shall review State information technology-related legislation and  
31 develop recommendations for amendment of current laws and shall submit its written report of  
32 recommendations for legislative action to the Appropriations Committees of the Senate and the  
33 House of Representatives. The Joint Legislative Oversight Committee on Information  
34 Technology shall provide interested parties with the opportunity to identify and define pertinent  
35 information technology issues by offering testimony on (i) issues associated with current  
36 legislation, (ii) the impact of information technology laws on specific entities; and, (iii)  
37 recommendations for improving information technology organization and operations within the  
38 State.

39  
40 **OFFICE OF INFORMATION TECHNOLOGY SERVICES/NETWORK**  
41 **INTEGRATION/FEASIBILITY STUDY AND COORDINATION PLAN**

42          **SECTION 6.13.(a)** The State Chief Information Officer shall negotiate and  
43 coordinate with MCNC to identify efficiencies that might be achieved through increased  
44 cooperation and elimination of duplicative efforts in management of the State's network  
45 infrastructure operated by the Office of Information Technology Services and by the North  
46 Carolina Research and Education Network operated by MCNC. Potential efficiencies include,  
47 but are not limited to, shared infrastructure, personnel, contracted services, and support.

48          **SECTION 6.13.(b)** Office of Information Technology Services and the Office of  
49 State Budget and Management, in conjunction with MCNC, shall conduct a study to determine  
50 the feasibility of coordinating the operation of the North Carolina Research and Education  
51 Network and the State network infrastructure. The feasibility study shall define the capabilities

1 and limitations of the Office of Information Technology Services and MCNC and document  
2 services currently provided by Office of Information Technology Services and MCNC. Further,  
3 the feasibility study shall identify:

- 4 (1) Current and potential State agency network requirements.
- 5 (2) The organization currently supporting each network requirement.
- 6 (3) Requirements that are currently unsupported by either organization.
- 7 (4) Costs associated with each requirement.
- 8 (5) Potential cost savings resulting from network integration.
- 9 (6) Policy and operational issues associated with the coordination.

10 The study shall be reviewed by the Office of State Budget and Management, which  
11 shall validate and certify the identified efficiencies and cost savings. Office of Information  
12 Technology Services and MCNC shall complete the feasibility study and present it to the Joint  
13 Legislative Oversight Committee on Information Technology by October 31, 2009.

14 **SECTION 6.13.(c)** Following review of the feasibility study by Office of State  
15 Budget and Management, and if Office of State Budget and Management certifies that the  
16 efficiencies and savings identified in the study are valid, accurate, and substantial enough to  
17 justify increased coordination, then Office of Information Technology Services and MCNC  
18 shall develop a plan to coordinate their operations. The coordination plan shall include at least  
19 the following:

- 20 (1) Definition of requirements to achieve Statewide integration.
- 21 (2) Detailed information on the allocation of responsibility for each requirement  
22 and component.
- 23 (3) An estimate of the associated costs with each requirement or component,  
24 including what the costs to each agency would be without coordination.
- 25 (4) Priorities for integration.
- 26 (5) A schedule for implementation.
- 27 (6) Detailed cost information for the development and integration of a single  
28 network.
- 29 (7) A governance structure for management and oversight of the network.
- 30 (8) A means for resolution of any issues identified during the feasibility study.

31 The coordination plan shall be completed by February 28, 2010, and shall be  
32 presented to the Joint Legislative Commission on Governmental Operations and the Joint  
33 Legislative Oversight Committee on Information Technology.

34 **SECTION 6.13.(d)** Prior to implementation of the plan, Office of Information  
35 Technology Services and MCNC shall complete a memorandum of agreement that specifies  
36 their respective roles and responsibilities and defines payment schedules. By January 1 each  
37 year, Office of State Budget and Management shall report to the Joint Legislative Oversight  
38 Committee on Information Technology regarding the status of the coordination plan and the  
39 cost savings realized during the previous fiscal year.

#### 40 **UPGRADE STATE PORTAL**

41 **SECTION 6.14.(a)** The Office of State Budget and Management, in coordination  
42 with the Office of the State Chief Information Officer, shall develop a detailed plan to upgrade  
43 the State portal. The upgrade plan shall include consideration of the need to (i) improve State  
44 services for citizens and businesses; (ii) offer online services; (iii) provide crucial,  
45 up-to-the-minute emergency information; and (iv) provide a multipurpose, interactive Web  
46 portal.

47 **SECTION 6.14.(b)** Prior to developing the plan, the Office of State Budget and  
48 Management shall obtain the advice and assistance of State and local government agencies,  
49 businesses operating within the State, and private citizens to ensure that all potential users have  
50 the opportunity to submit recommendations for inclusion in the final plan.  
51

1 The Office of State Budget and Management shall also conduct an inventory of  
2 capabilities that are available on other states' portals. With the assistance of State agencies, the  
3 Office of State Budget and Management shall prioritize potential capabilities. Based on these  
4 priorities, the Office of State Budget and Management shall develop a phased plan to allow  
5 incremental implementation that includes a detailed time line for each phase and shall include  
6 the cost associated with each phase.

7 **SECTION 6.14.(c)** The interactive Web portal shall include the capability for  
8 citizens, businesses, and State and local government agencies to complete online transactions,  
9 obtain live help from State agencies, and access emergency information in real time. The portal  
10 shall include appropriate security measures and devices to include encryption, enterprise-class  
11 firewalls/gateway security, real-time intrusion prevention and detection, virtual private  
12 networks, vulnerability management, and virus protection.

13 **SECTION 6.14.(d)** By December 1, 2009, the Office of State Budget and  
14 Management shall submit the upgrade plan to the Joint Legislative Oversight Committee on  
15 Information Technology and to the Fiscal Research Division. The report shall include an  
16 explanation of any recommendations that were not included in the final plan with an  
17 explanation as to why each was not included and the cost associated with implementation of  
18 those items.

#### 19 20 **IT GSA SCHEDULES/STUDY**

21 **SECTION 6.15.** The Office of State Budget and Management shall conduct a  
22 study to determine the feasibility of using General Services Administration schedules for the  
23 acquisition of information technology products and services. The study shall include review of  
24 the following:

- 25 (1) Any cost savings resulting from the use of General Services Administration  
26 schedules for the acquisition of information technology goods and services.  
27 This shall include any reductions in overhead that could be realized from the  
28 use of General Services Administration schedules.
- 29 (2) Any benefits resulting from implementation.
- 30 (3) Any negative impacts resulting from implementation.
- 31 (4) Any legislative changes required to implement General Services  
32 Administration schedules.

33 By February 1, 2010, the Office of State Budget and Management shall submit the results of  
34 the study to the Joint Legislative Oversight Committee on Information Technology and to the  
35 Fiscal Research Division.

#### 36 37 **USE OF ELECTRONIC FORMS AND DIGITAL SIGNATURES**

38 **SECTION 6.16.(a)** The Office of State Budget and Management shall develop a  
39 plan to increase the use of electronic forms and digital signatures throughout State government.  
40 In developing the plan, first the Office of State Budget and Management shall conduct an  
41 inventory of all paper or electronic forms currently in use by executive branch agencies. The  
42 Office of State Budget and Management may hire temporary help for the collection and  
43 compiling of the data for the inventory.

44 **SECTION 6.16.(b)** After completing the inventory, the Office of State Budget and  
45 Management shall develop a plan for converting one or more paper forms to an electronic  
46 format. The plan shall include a detailed business case for the conversion, including cost, cost  
47 savings, cost avoidance, and any impact on productivity.

48 **SECTION 6.16.(c)** The Office of State Budget and Management shall assess the  
49 potential cost of converting all identified forms in the inventory to an electronic format and  
50 establish a timetable for achieving conversion as soon as practicable.

1           **SECTION 6.16.(d)** The Office of Information Technology Services shall provide  
2 technical assistance to the Office of State Budget and Management in the development of the  
3 plan to increase the use of electronic forms and digital signatures.

4           **SECTION 6.16.(e)** Executive branch State agencies shall provide all information  
5 requested by Office of State Budget and Management in conducting the inventory and in all  
6 other issues related to the development of this plan.

7           **SECTION 6.16.(f)** The Office of State Budget and Management shall submit the  
8 plan to the Joint Legislative Oversight Committee on Information Technology on or before  
9 March 1, 2010.

## 10 11 **POSITION TRANSFER REPORTS/OFFICE OF INFORMATION TECHNOLOGY** 12 **SERVICES/OSC**

13           **SECTION 6.17.(a)** By November 1, 2009, the Office of Information Technology  
14 Services shall submit a written report to the Appropriation Committees of the Senate and the  
15 House of Representatives, to the Joint Legislative Oversight Committee on Information  
16 Technology, and to the Fiscal Research Division regarding the transfer of information  
17 technology (IT) positions associated with IT consolidation. The report shall include the  
18 following:

- 19           (1) The numbers and types of positions transferred to the Office of Information  
20 Technology Services from other State agencies, an explanation as to why  
21 each position was moved to Office of Information Technology Services, the  
22 cost associated with each position, and how that cost is allocated.
- 23           (2) The number and types of information technology positions remaining with  
24 each State agency, an explanation as to why the positions were retained by  
25 the agency, and the total cost for each position.
- 26           (3) The number and location of positions eliminated as a result of IT  
27 consolidation and the associated cost savings.
- 28           (4) Any new positions created within Office of Information Technology  
29 Services to support IT consolidation, the reason each position was created,  
30 and the associated cost.

31           **SECTION 6.17.(b)** By November 1, 2009, the Office of the State Controller shall  
32 submit a written report to the Appropriations Committees of the Senate and House of  
33 Representatives, to the Joint Legislative Oversight Committee on Information Technology, and  
34 to the Fiscal Research Division on the transfer of positions associated with the implementation  
35 of the BEACON (HR)/Payroll project. The report shall include the following:

- 36           (1) The numbers and types of positions transferred to the Office of the State  
37 Controller from other State agencies, an explanation as to why each position  
38 was moved to the Office of the State Controller, the cost associated with  
39 each position, and how that cost is allocated.
- 40           (2) The number and types of positions remaining with each State agency, an  
41 explanation as to why the positions were retained by the agency, and the  
42 total cost for each position.
- 43           (3) The number and location of positions eliminated as a result of the  
44 implementation of the BEACON HR/Payroll system and the associated cost  
45 savings.
- 46           (4) Any new positions created within the Office of the State Controller to  
47 support BEACON HR/Payroll, the reason each position was created, and the  
48 associated cost.

## 49 50 **PART VII. PUBLIC SCHOOLS** 51

**CHILDREN WITH DISABILITIES**

**SECTION 7.1.** The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand five hundred dollars and seventy-seven cents (\$3,500.77) per child for a maximum of 173,249 children for the 2009-2010 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities, or (ii) twelve and five-tenths percent (12.5%) of the 2009-2010 allocated average daily membership in the local school administrative unit.

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

**FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

**SECTION 7.2.** The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand one hundred sixty-three dollars and seven cents (\$1,163.07) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2009-2010 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 58,597 children for the 2009-2010 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

**USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

**SECTION 7.3.(a)** Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only: (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks; (ii) for salary supplements for instructional personnel and instructional support personnel; and (iii) to pay an amount not to exceed ten thousand dollars (\$10,000) of the plant operation contract cost charged by the Department of Public Instruction for services. Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II in grades 4 and 7.

**SECTION 7.3.(b)** Definitions. – As used in this section:

- (1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.
- (2) "Anticipated total county revenue availability" means the sum of the:
  - a. Anticipated county property tax revenue availability,
  - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
  - c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521, and
  - d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

- 1 (3) "Anticipated total county revenue availability per student" means the  
2 anticipated total county revenue availability for the county divided by the  
3 average daily membership of the county.
- 4 (4) "Anticipated State average revenue availability per student" means the sum  
5 of all anticipated total county revenue availability divided by the average  
6 daily membership for the State.
- 7 (5) "Average daily membership" means average daily membership as defined in  
8 the North Carolina Public Schools Allotment Policy Manual, adopted by the  
9 State Board of Education. If a county contains only part of a local school  
10 administrative unit, the average daily membership of that county includes all  
11 students who reside within the county and attend that local school  
12 administrative unit.
- 13 (6) "County-adjusted property tax base" shall be computed as follows:  
14 a. Subtract the present-use value of agricultural land, horticultural land,  
15 and forestland in the county, as defined in G.S. 105-277.2, from the  
16 total assessed real property valuation of the county,  
17 b. Adjust the resulting amount by multiplying by a weighted average of  
18 the three most recent annual sales assessment ratio studies,  
19 c. Add to the resulting amount the:  
20 1. Present-use value of agricultural land, horticultural land, and  
21 forestland, as defined in G.S. 105-277.2,  
22 2. Value of property of public service companies, determined in  
23 accordance with Article 23 of Chapter 105 of the General  
24 Statutes, and  
25 3. Personal property value for the county.
- 26 (7) "County-adjusted property tax base per square mile" means the  
27 county-adjusted property tax base divided by the number of square miles of  
28 land area in the county.
- 29 (8) "County wealth as a percentage of State average wealth" shall be computed  
30 as follows:  
31 a. Compute the percentage that the county per capita income is of the  
32 State per capita income and weight the resulting percentage by a  
33 factor of five-tenths,  
34 b. Compute the percentage that the anticipated total county revenue  
35 availability per student is of the anticipated State average revenue  
36 availability per student and weight the resulting percentage by a  
37 factor of four-tenths,  
38 c. Compute the percentage that the county-adjusted property tax base  
39 per square mile is of the State-adjusted property tax base per square  
40 mile and weight the resulting percentage by a factor of one-tenth,  
41 d. Add the three weighted percentages to derive the county wealth as a  
42 percentage of the State average wealth.
- 43 (9) "Effective county tax rate" means the actual county tax rate multiplied by a  
44 weighted average of the three most recent annual sales assessment ratio  
45 studies.
- 46 (10) "Effective State average tax rate" means the average of effective county tax  
47 rates for all counties.
- 48 (11) "Local current expense funds" means the most recent county current expense  
49 appropriations to public schools, as reported by local boards of education in  
50 the audit report filed with the Secretary of the Local Government  
51 Commission pursuant to G.S. 115C-447.

- 1 (12) "Per capita income" means the average for the most recent three years for  
2 which data are available of the per capita income according to the most  
3 recent report of the United States Department of Commerce, Bureau of  
4 Economic Analysis, including any reported modifications for prior years as  
5 outlined in the most recent report.
- 6 (13) "Sales assessment ratio studies" means sales assessment ratio studies  
7 performed by the Department of Revenue under G.S. 105-289(h).
- 8 (14) "State average current expense appropriations per student" means the most  
9 recent State total of county current expense appropriations to public schools,  
10 as reported by local boards of education in the audit report filed with the  
11 Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 12 (15) "State average adjusted property tax base per square mile" means the sum of  
13 the county-adjusted property tax bases for all counties divided by the  
14 number of square miles of land area in the State.
- 15 (16) "Supplant" means to decrease local per student current expense  
16 appropriations from one fiscal year to the next fiscal year.
- 17 (17) "Weighted average of the three most recent annual sales assessment ratio  
18 studies" means the weighted average of the three most recent annual sales  
19 assessment ratio studies in the most recent years for which county current  
20 expense appropriations and adjusted property tax valuations are available. If  
21 real property in a county has been revalued one year prior to the most recent  
22 sales assessment ratio study, a weighted average of the two most recent sales  
23 assessment ratios shall be used. If property has been revalued the year of the  
24 most recent sales assessment ratio study, the sales assessment ratio for the  
25 year of revaluation shall be used.

26 **SECTION 7.3.(c)** Eligibility for Funds. – Except as provided in subsection (g) of  
27 this section, the State Board of Education shall allocate these funds to local school  
28 administrative units located in whole or in part in counties in which the county wealth as a  
29 percentage of the State average wealth is less than one hundred percent (100%).

30 **SECTION 7.3.(d)** Allocation of Funds. – Except as provided in subsection (f) of  
31 this section, the amount received per average daily membership for a county shall be the  
32 difference between the State average current expense appropriations per student and the current  
33 expense appropriations per student that the county could provide given the county's wealth and  
34 an average effort to fund public schools. (To derive the current expense appropriations per  
35 student that the county could be able to provide given the county's wealth and an average effort  
36 to fund public schools, multiply the county's wealth as a percentage of State average wealth by  
37 the State average current expense appropriations per student.) The funds for the local school  
38 administrative units located in whole or in part in the county shall be allocated to each local  
39 school administrative unit located in whole or in part in the county based on the average daily  
40 membership of the county's students in the school units. If the funds appropriated for  
41 supplemental funding are not adequate to fund the formula fully, each local school  
42 administrative unit shall receive a pro rata share of the funds appropriated for supplemental  
43 funding.

44 **SECTION 7.3.(e)** Formula for Distribution of Supplemental Funding Pursuant to  
45 This Section Only. – The formula in this section is solely a basis for distribution of  
46 supplemental funding for low-wealth counties and is not intended to reflect any measure of the  
47 adequacy of the educational program or funding for public schools. The formula is also not  
48 intended to reflect any commitment by the General Assembly to appropriate any additional  
49 supplemental funds for low-wealth counties.

50 **SECTION 7.3.(f)** Minimum Effort Required. – Counties that had effective tax  
51 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that



1 had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall  
2 receive reduced funding under this section. This reduction in funding shall be determined by  
3 subtracting the amount that the county would have received pursuant to Section 17.1(g) of  
4 Chapter 507 of the 1995 Session Laws from the amount that the county would have received if  
5 qualified for full funding and multiplying the difference by ten percent (10%). This method of  
6 calculating reduced funding shall apply one time only. This method of calculating reduced  
7 funding shall not apply in cases in which the effective tax rate fell below the statewide average  
8 effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the  
9 minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507  
10 of the 1995 Session Laws. If the county documents that it has increased the per student  
11 appropriation to the school current expense fund in the current fiscal year, the State Board of  
12 Education shall include this additional per pupil appropriation when calculating minimum  
13 effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

14 **SECTION 7.3.(g) Nonsupplant Requirement.** – A county in which a local school  
15 administrative unit receives funds under this section shall use the funds to supplement local  
16 current expense funds and shall not supplant local current expense funds. For the 2009-2011  
17 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
18 county found to have used these funds to supplant local per student current expense funds. The  
19 State Board of Education shall make a finding that a county has used these funds to supplant  
20 local current expense funds in the prior year, or the year for which the most recent data are  
21 available, if:

- 22 (1) The current expense appropriation per student of the county for the current  
23 year is less than ninety-five percent (95%) of the average of the local current  
24 expense appropriations per student for the three prior fiscal years; and
- 25 (2) The county cannot show: (i) that it has remedied the deficiency in funding or  
26 (ii) that extraordinary circumstances caused the county to supplant local  
27 current expense funds with funds allocated under this section. The State  
28 Board of Education shall adopt rules to implement this section.

29 **SECTION 7.3.(h) Reports.** – The State Board of Education shall report to the Joint  
30 Legislative Education Oversight Committee prior to May 1, 2010, if it determines that counties  
31 have supplanted funds.

32 **SECTION 7.3.(i) Department of Revenue Reports.** – The Department of Revenue  
33 shall provide to the Department of Public Instruction a preliminary report for the current fiscal  
34 year of the assessed value of the property tax base for each county prior to March 1 of each  
35 year and a final report prior to May 1 of each year. The reports shall include for each county the  
36 annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of  
37 total real property represented by the present-use value of agricultural land, horticultural land,  
38 and forestland as defined in G.S. 105-277.2, (iii) property of public service companies  
39 determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv)  
40 personal property.

## 41 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

42 **SECTION 7.4.(a) Funds for Small School Systems.** – Except as provided in  
43 subsection (b) of this section, the State Board of Education shall allocate funds appropriated for  
44 small school system supplemental funding (i) to each county school administrative unit with an  
45 average daily membership of fewer than 3,175 students and (ii) to each county school  
46 administrative unit with an average daily membership from 3,175 to 4,000 students if the  
47 county in which the local school administrative unit is located has a county-adjusted property  
48 tax base per student that is below the State-adjusted property tax base per student and if the  
49 total average daily membership of all local school administrative units located within the  
50 county is from 3,175 to 4,000 students. The allocation formula shall:  
51

- 1 (1) Round all fractions of positions to the next whole position.
- 2 (2) Provide five and one-half additional regular classroom teachers in counties
- 3 in which the average daily membership per square mile is greater than four,
- 4 and seven additional regular classroom teachers in counties in which the
- 5 average daily membership per square mile is four or fewer.
- 6 (3) Provide additional program enhancement teachers adequate to offer the
- 7 standard course of study.
- 8 (4) Change the duty-free period allocation to one teacher assistant per 400
- 9 average daily membership.
- 10 (5) Provide a base for the consolidated funds allotment of at least seven hundred
- 11 eighty-eight thousand seven hundred eighty-nine dollars (\$788,789),
- 12 excluding textbooks, for the 2009-2010 fiscal year and a base of seven
- 13 hundred eighty-eight thousand seven hundred eighty-nine dollars (\$788,789)
- 14 for the 2010-2011 fiscal year.
- 15 (6) Allot vocational education funds for grade 6 as well as for grades 7-12. If
- 16 funds appropriated for each fiscal year for small school system supplemental
- 17 funding are not adequate to fully fund the program, the State Board of
- 18 Education shall reduce the amount allocated to each county school
- 19 administrative unit on a pro rata basis. This formula is solely a basis for
- 20 distribution of supplemental funding for certain county school administrative
- 21 units and is not intended to reflect any measure of the adequacy of the
- 22 educational program or funding for public schools. The formula is also not
- 23 intended to reflect any commitment by the General Assembly to appropriate
- 24 any additional supplemental funds for such county administrative units.

25 **SECTION 7.4.(b) Nonsupplant Requirement.** – A county in which a local school  
26 administrative unit receives funds under this section shall use the funds to supplement local  
27 current expense funds and shall not supplant local current expense funds. For the 2009-2011  
28 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
29 county found to have used these funds to supplant local per student current expense funds. The  
30 State Board of Education shall make a finding that a county has used these funds to supplant  
31 local current expense funds in the prior year, or the year for which the most recent data are  
32 available, if:

- 33 (1) The current expense appropriation per student of the county for the current
- 34 year is less than ninety-five percent (95%) of the average of the local current
- 35 expense appropriations per student for the three prior fiscal years; and
- 36 (2) The county cannot show: (i) that it has remedied the deficiency in funding or
- 37 (ii) that extraordinary circumstances caused the county to supplant local
- 38 current expense funds with funds allocated under this section. The State
- 39 Board of Education shall adopt rules to implement this section.

40 **SECTION 7.4.(c) Phase-Out Provisions.** – If a local school administrative unit  
41 becomes ineligible for funding under this formula because of (i) an increase in the population  
42 of the county in which the local school administrative unit is located or (ii) an increase in the  
43 county-adjusted property tax base per student of the county in which the local school  
44 administrative unit is located, funding for that unit shall be continued for nine years after the  
45 unit becomes ineligible.

46 **SECTION 7.4.(d) Definitions.** – As used in this section:

- 47 (1) "Average daily membership" means within two percent (2%) of the average
- 48 daily membership as defined in the North Carolina Public Schools Allotment
- 49 Policy Manual adopted by the State Board of Education.
- 50 (2) "County-adjusted property tax base per student" means the total assessed
- 51 property valuation for each county, adjusted using a weighted average of the

1 three most recent annual sales assessment ratio studies, divided by the total  
2 number of students in average daily membership who reside within the  
3 county.

4 (3) "Local current expense funds" means the most recent county current expense  
5 appropriations to public schools, as reported by local boards of education in  
6 the audit report filed with the Secretary of the Local Government  
7 Commission pursuant to G.S. 115C-447.

8 (4) "Sales assessment ratio studies" means sales assessment ratio studies  
9 performed by the Department of Revenue under G.S. 105-289(h).

10 (5) "State-adjusted property tax base per student" means the sum of all  
11 county-adjusted property tax bases divided by the total number of students in  
12 average daily membership who reside within the State.

13 (6) "Supplant" means to decrease local per student current expense  
14 appropriations from one fiscal year to the next fiscal year.

15 (7) "Weighted average of the three most recent annual sales assessment ratio  
16 studies" means the weighted average of the three most recent annual sales  
17 assessment ratio studies in the most recent years for which county current  
18 expense appropriations and adjusted property tax valuations are available. If  
19 real property in a county has been revalued one year prior to the most recent  
20 sales assessment ratio study, a weighted average of the two most recent sales  
21 assessment ratios shall be used. If property has been revalued during the year  
22 of the most recent sales assessment ratio study, the sales assessment ratio for  
23 the year of revaluation shall be used.

24 **SECTION 7.4.(e) Reports.** – The State Board of Education shall report to the Joint  
25 Legislative Education Oversight Committee prior to May 1, 2010, if it determines that counties  
26 have supplanted funds.

27 **SECTION 7.4.(f) Use of Funds.** – Local boards of education are encouraged to use  
28 at least twenty percent (20%) of the funds they receive pursuant to this section to improve the  
29 academic performance of children who are performing at Level I or II on either reading or  
30 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II  
31 on the writing tests in grades 4 and 7.

### 32 **REPLACEMENT SCHOOL BUSES/FUNDS**

33 **SECTION 7.5.(a)** The State Board of Education may impose any of the following  
34 conditions on allotments to local boards of education for replacement school buses:

35 (1) The local board of education shall use the funds only to make the first,  
36 second, third, or fourth year's payment on a financing contract entered into  
37 pursuant to G.S. 115C-528.

38 (2) The term of a financing contract entered into under this section shall not  
39 exceed four years.

40 (3) The local board of education shall purchase the buses only from vendors  
41 selected by the State Board of Education and on terms approved by the State  
42 Board of Education.

43 (4) The Department of Administration, Division of Purchase and Contract, in  
44 cooperation with the State Board of Education, shall solicit bids for the  
45 direct purchase of school buses and activity buses and shall establish a  
46 statewide term contract for use by the State Board of Education. Local  
47 boards of education and other agencies shall be eligible to purchase from the  
48 statewide term contract. The State Board of Education shall also solicit bids  
49 for the financing of school buses.  
50

1 (5) A bus financed pursuant to this section shall meet all federal motor vehicle  
2 safety regulations for school buses.

3 (6) Any other condition the State Board of Education considers appropriate.

4 **SECTION 7.5.(b)** Any term contract for the purchase or lease-purchase of school  
5 buses or school activity buses shall not require vendor payment of the electronic procurement  
6 transaction fee of the North Carolina E-Procurement Service.

#### 7 8 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

9 **SECTION 7.6.(a)** If the State Board of Education does not have sufficient  
10 resources in the ADM Contingency Reserve line item to make allotment adjustments in  
11 accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina  
12 Public Schools Allotment Policy Manual, the State Board of Education may use funds  
13 appropriated to State Aid for Public Schools for this purpose.

14 **SECTION 7.6.(b)** If the higher of the first or second month average daily  
15 membership in a local school administrative unit is at least two percent (2%) or 100 students  
16 lower than the anticipated average daily membership used for allotments for the unit, the State  
17 Board of Education shall reduce allotments for the unit. The reduced allotments shall be based  
18 on the higher of the first or second month average daily membership plus one-half of the  
19 number of students overestimated in the anticipated average daily membership.

20 The allotments reduced pursuant to this subsection shall include only those  
21 allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth  
22 provisions of the North Carolina Public Schools Allotment Policy Manual.

#### 23 24 **LITIGATION RESERVE FUNDS**

25 **SECTION 7.7.** The State Board of Education may expend up to five hundred  
26 thousand dollars (\$500,000) each year for the 2009-2010 and 2010-2011 fiscal years from  
27 unexpended funds for certified employees' salaries to pay expenses related to litigation.

#### 28 29 **LEA FLEXIBILITY**

30 **SECTION 7.8.(a)** The State Board of Education shall implement temporary  
31 modifications to the limitations on budget flexibility set out in G.S. 115C-105.25. For the  
32 2009-2010 and 2010-2011 fiscal years, local school administrators shall make every effort to  
33 reduce spending whenever and wherever such budget reductions are appropriate as long as the  
34 targeted reductions do not directly impact classroom services or any services for students at risk  
35 or children with special needs.

36 **SECTION 7.8.(b)** Within 14 days of the date this act becomes law, the State Board  
37 of Education shall notify each local school administrative unit and charter school of the amount  
38 the unit shall reduce from the State General Fund appropriations. The State Board shall  
39 determine the amount of the reduction for each unit on the basis of average daily membership.

40 **SECTION 7.8.(c)** Each unit shall report to the Department of Public Instruction on  
41 the flexibility budget reductions it has identified for the unit within 30 days of the date this act  
42 becomes law.

#### 43 44 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

45 **SECTION 7.9.(a)** Beginning with the 2010-2011 fiscal year, the State Board of  
46 Education shall implement an allotment formula for e-learning developed pursuant to Section  
47 7.16(d) of S.L. 2006-66.

48 The North Carolina Virtual Public School (NCVPS) shall be available at no cost to  
49 all high school students in North Carolina who are enrolled in North Carolina's public schools,  
50 Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

1 The Department of Public Instruction shall communicate to local school  
2 administrative units all applicable guidelines regarding the enrollment of nonpublic school  
3 students in these courses.

4 **SECTION 7.9.(b)** In order to ensure funds are available to operate NCVPS for the  
5 2009-2010 fiscal year, the State Board of Education shall use funding sources in the following  
6 order:

- 7 (1) The General Fund appropriation for NCVPS;
- 8 (2) Available funds received under the American Recovery and Reinvestment  
9 Act;
- 10 (3) Up to six million dollars (\$6,000,000) of funds appropriated for school  
11 technology;
- 12 (4) Funds from the State Public School Fund.

13 **SECTION 7.9.(c)** NCVPS courses shall be available only to high school students.

14 **SECTION 7.9.(d)** The State Board of Education shall report to the Joint  
15 Legislative Education Oversight Committee and the Fiscal Research Division by December 15,  
16 2009, on its implementation of this section.

## 17 18 **LEARN AND EARN ONLINE**

19 **SECTION 7.10.(a)** Funds are appropriated in this act for the Learn and Earn  
20 Online program. This program will allow high school students to enroll in college courses to  
21 qualify for college credit. Online courses shall be made available to students through The  
22 University of North Carolina and the North Carolina Community College System.

23 **SECTION 7.10.(b)** Funds shall be used for:

- 24 (1) Course tuition and only those technology and course fees and textbooks  
25 required for course participation; and
- 26 (2) A liaison position in the Department of Public Instruction to coordinate with  
27 The University of North Carolina and the North Carolina Community  
28 College System and to communicate course availability and related  
29 information to high school administrators, teachers, and counselors.

30 **SECTION 7.10.(c)** The State Board of Education shall determine the allocation of  
31 Learn and Earn Online course offerings across the State.

32 **SECTION 7.10.(d)** The State Board of Education shall allot funds for tuition, fees,  
33 and textbooks on the basis of and after verification of the credit hour enrollment of high school  
34 students in Learn and Earn Online courses. The Office of State Budget and Management shall  
35 transfer sufficient funds from the State Public School Fund to the Community Colleges System  
36 Office for courses offered by community colleges.

37 **SECTION 7.10.(e)** The University of North Carolina program shall report to The  
38 University of North Carolina Board of Governors, and the North Carolina Community College  
39 program shall report to the State Board of Community Colleges. The Department of Public  
40 Instruction shall report to the State Board of Education.

41 **SECTION 7.10.(f)** Both The University of North Carolina and the North Carolina  
42 Community College System shall provide oversight and coordination, including coordination  
43 with the Department of Public Instruction and with the North Carolina Virtual Public School  
44 (NCVPS), to avoid course duplication.

45 **SECTION 7.10.(g)** The programs shall establish course quality and rigor standards  
46 and shall conduct course evaluations to ensure that the online courses meet the established  
47 standards.

48 **SECTION 7.10.(h)** Local school administrative units may purchase textbooks for  
49 Learn and Earn Online courses through the Department of Public Instruction's textbook  
50 warehouse in the same manner as textbooks that have been adopted for public school students  
51 by the State Board of Education.

1           **SECTION 7.10.(i)** Funds appropriated for Learn and Earn Online that are  
2 unexpended or unencumbered at the end of each fiscal year shall not revert but shall remain  
3 available for expenditure.

4           **SECTION 7.10.(j)** Subsection (i) of this section becomes effective June 30, 2009.  
5

#### 6 **ABCS OF PUBLIC EDUCATION**

7           **SECTION 7.11.** Notwithstanding G.S. 115C-105.36, the State Board of Education  
8 shall place a one-year moratorium on financial awards paid to school personnel in the  
9 2009-2010 fiscal year based on 2008-2009 student academic performance.

10           The State Board of Education shall develop a plan to restructure the ABCs  
11 Accountability System and report the restructuring plan to the Governor and General Assembly  
12 by January 31, 2010.  
13

#### 14 **SCHOOL CONNECTIVITY INITIATIVE**

15           **SECTION 7.12.(a)** Up to three hundred thousand dollars (\$300,000) may be  
16 transferred annually to the Office of the Governor for NC Virtual (NCV) within the Education  
17 Cabinet. These funds may be used for services to coordinate e-learning activities across all  
18 State educational agencies.

19           **SECTION 7.12.(b)** Of the funds allocated for the School Connectivity Initiative,  
20 the sum of two hundred fifty thousand dollars (\$250,000) may be used annually to sustain the  
21 Education E-Learning Portal.

22           **SECTION 7.12.(c)** Section 7.6(a) of S.L. 2008-107 reads as rewritten:

23           "**SECTION 7.6.(a)** Up to ~~six~~ three hundred thousand dollars (~~\$600,000~~)(\$300,000) may be  
24 transferred annually through June 30, 2013, to the Friday Institute at North Carolina State  
25 University to evaluate the effectiveness of using technology and its impact on 21<sup>st</sup> Century  
26 Teaching and Learning outcomes approved by the State Board of Education. The Friday  
27 Institute shall report annually to the State Board of Education on the evaluation ~~results,~~  
28 ~~including recommendations for continued implementation of the school connectivity initiative~~  
29 ~~that improves teaching and learning results.~~"

30           **SECTION 7.12.(d)** Funds allocated to the School Connectivity Initiative shall  
31 carry forward to the next fiscal year until the project is fully implemented by June 30, 2010.

32           **SECTION 7.12.(e)** Subsection (d) of this section becomes effective on June 30,  
33 2009.  
34

#### 35 **DROPOUT PREVENTION GRANTS**

36           **SECTION 7.13.(a)** Dropout Prevention Grants. – The Committee on Dropout  
37 Prevention, as reestablished in Section 7.14 of S.L. 2008-107, may use funds appropriated in  
38 this act to provide grants to new recipients or to extend additional funding to organizations that  
39 received funding previously.

40           **SECTION 7.13.(b)** Criteria for Dropout Prevention Grants. – The following  
41 criteria apply to all types of dropout prevention grants approved by the Committee:

- 42           (1) Grants shall be issued in varying amounts up to a maximum of one hundred  
43 fifty thousand dollars (\$150,000).
- 44           (2) These grants shall be provided to innovative programs and initiatives that  
45 target students at risk of dropping out of school and that demonstrate the  
46 potential to (i) be developed into effective, sustainable, and coordinated  
47 dropout prevention and reentry programs in middle schools and high schools  
48 and (ii) serve as effective models for other programs.
- 49           (3) Grants shall be distributed geographically throughout the State and  
50 throughout the eight educational districts as defined in G.S. 115C-65. No

- 1 more than three grants shall be awarded in any one county under this section  
2 in a single fiscal year.
- 3 (4) Grants may be made to local school administrative units, schools, local  
4 agencies, or nonprofit organizations.
- 5 (5) Grants shall be to programs and initiatives that hold all students to high  
6 academic and personal standards.
- 7 (6) Grant applications shall state (i) how grant funds will be used, (ii) what, if  
8 any, other resources will be used in conjunction with the grant funds, (iii)  
9 how the program or initiative will be coordinated to enhance the  
10 effectiveness of existing programs, initiatives, or services in the community,  
11 and (iv) a process for evaluating the success of the program or initiative.
- 12 (7) Programs and initiatives that receive grants under this section shall be based  
13 on best practices for helping at-risk students achieve successful academic  
14 progress, preventing students from dropping out of school, or for increasing  
15 the high school completion rate for those students who already have dropped  
16 out of school.
- 17 (8) Priority for grants shall be given to proposals that demonstrate input from  
18 the local community and coordination with other available programs or  
19 resources.
- 20 (9) Grantees shall assure their compliance with applicable laws and rules  
21 regulating conflicts of interest.
- 22 (10) Priority for grants shall be given to programs that would serve students in  
23 local schools that have a four-year cohort graduation rate of less than  
24 sixty-five percent (65%). The Committee shall establish a grant rating cutoff  
25 score at such a level as to allow for consideration of all viable grants in this  
26 priority category. The Committee may require grantees to provide  
27 supplemental information in response to any prior reviewer comments.
- 28 (11) The demonstrated need for a grant, level of collaboration, ability to increase  
29 attendance, persistence, academic success, ability to increase parental  
30 involvement, and graduation shall be given more weight than the quality of  
31 the written grant.
- 32 (12) Grants shall be made no later than November 1, 2009.

33 The Committee shall report to the Joint Legislative Commission on Dropout  
34 Prevention and High School Graduation and the Joint Legislative Education Oversight  
35 Committee on the grants awarded under this section by March 1, 2010.

36 **SECTION 7.13.(c)** Evaluation. – The Committee shall evaluate the impact of the  
37 dropout prevention grants awarded under this section. In evaluating the impact of the grants,  
38 the Committee shall consider:

- 39 (1) How grant funds were used, including the services provided for teen  
40 pregnancy prevention and for pregnant and parenting teens;
- 41 (2) The success of the program or initiative, as indicated by the evaluation  
42 process stated in its grant application;
- 43 (3) The extent to which the program or initiative has improved students'  
44 attendance, test scores, persistence, and graduation rates;
- 45 (4) How the program or initiative was coordinated to enhance the effectiveness  
46 of existing programs, initiatives, or services in the community;
- 47 (5) What, if any, other resources were used in conjunction with the grant funds;
- 48 (6) The sustainability of the program;
- 49 (7) The number, gender, ethnicity, and grade level of students being served as  
50 well as whether the students left school due to pregnancy or parenting  
51 responsibilities;

- 1 (8) The potential for the program to serve as a model for achieving successful  
2 academic progress for at-risk students; and  
3 (9) Other indicators of the impact of the grant on dropout prevention.

4 The recipients of the dropout prevention grants awarded under this section shall  
5 report to the Committee on Dropout Prevention by January 31, 2011, and by September 30,  
6 2011. The reports shall provide information to assist the Committee in conducting its  
7 evaluation. The reports shall include a statement that the recipients used grant funds for the  
8 purposes appropriated by the General Assembly and complied with applicable laws,  
9 regulations, and terms and conditions of the grant documents. The Committee shall make an  
10 interim report of the results of its evaluation of the grants awarded under this section by March  
11 31, 2011, to the Joint Legislative Commission on Dropout Prevention and High School  
12 Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall  
13 make a final report of the results of its evaluation of the grants awarded under subsection (c) of  
14 this section by November 15, 2011, to the Joint Legislative Commission on Dropout Prevention  
15 and High School Graduation and to the Joint Legislative Education Oversight Committee.

16 **SECTION 7.13.(d)** Of the funds appropriated in this act for the Committee on  
17 Dropout Prevention, the sum of one million dollars (\$1,000,000) for the 2009-2010 and  
18 2010-2011 fiscal years shall be used to award new grants, as well as additional grants to  
19 previous grant recipients, in accordance with subsection (b) of this section.

20 **SECTION 7.13.(e)** Funds appropriated for the dropout prevention grants for the  
21 2009-2010 fiscal year and the 2010-2011 fiscal year shall not revert but shall remain available  
22 for expenditure until August 31, 2011.

23 **SECTION 7.13.(f)** Of the funds appropriated for the dropout prevention grants, the  
24 sum of one hundred thousand dollars (\$100,000) for the 2009-2010 and 2010-2011 fiscal years  
25 may be used to issue a request for proposals from qualified vendors on a competitive basis to  
26 contract as a consultant to assist with the evaluation. The factors to be considered in awarding  
27 the contract shall be identified in the request for proposals.

28 **SECTION 7.13.(g)** Of the funds appropriated for the dropout prevention grants,  
29 the Department of Public Instruction may use up to fifty thousand dollars (\$50,000) in fiscal  
30 years 2009-2010 and 2010-2011 for its administrative assistance to the Committee and provide  
31 technical assistance under this section.

## 32 **DEPARTMENT OF PUBLIC INSTRUCTION/BUDGET FLEXIBILITY**

33 **SECTION 7.14.** Notwithstanding G.S. 143C-6-4, the Department of Public  
34 Instruction may reorganize, if necessary, to implement the budget reductions set out in this act.  
35 The Department shall report to the Joint Legislative Commission on Governmental Operations  
36 on any reorganization.  
37

## 38 **BUSINESS EDUCATION TECHNOLOGY ALLIANCE**

39 **SECTION 7.15.** G.S. 115C-102.15 is repealed.  
40

## 41 **CRITICAL FOREIGN LANGUAGE PILOT FUNDS DO NOT REVERT**

42 **SECTION 7.16.(a)** Funds appropriated for the Critical Foreign Language Pilot that  
43 are unexpended or unencumbered shall not revert but shall remain available for expenditure  
44 through June 30, 2010.  
45

46 **SECTION 7.16.(b)** This section becomes effective June 30, 2009.  
47

## 48 **NORTH CAROLINA 1:1 LEARNING PROJECT**

49 **SECTION 7.17.(a)** Funds appropriated for the North Carolina 1:1 Learning Project  
50 that are unexpended or unencumbered at the end of the 2008-2009 fiscal year shall not revert  
51 but shall remain available for expenditure through June 30, 2010.



1           **SECTION 7.17.(b)** This section becomes effective June 30, 2009.

2  
3           **ASSESSMENT AND ACCOUNTABILITY**

4           **SECTION 7.18.(a)** Funds appropriated in this act for assessment and  
5 accountability shall be used to develop new end-of-course and end-of-grade tests, identify  
6 national assessments, or both, as determined by the State Board of Education. The  
7 development of any new tests replacing end-of-course and end-of-grade tests shall be aligned  
8 with the new essential standards and included in the State Board of Education's new  
9 accountability restructuring plan.

10           **SECTION 7.18.(b)** Notwithstanding G.S. 115C-174.11, the State Board of  
11 Education shall investigate and pilot a developmentally appropriate diagnostic assessment for  
12 students in elementary grades during the 2009-2010 school year. This assessment will (i)  
13 enable teachers to determine student learning needs and individualize instruction and (ii) ensure  
14 that students are adequately prepared for the next level of coursework as set out by the standard  
15 course of study.

16           The State Board of Education shall report the results of the pilot to the Joint  
17 Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of  
18 State Budget and Management, by December 1, 2010.

19           **SECTION 7.18.(c)** Funds appropriated for assessment and accountability that  
20 remain unexpended and unencumbered at the end of the 2009-2010 fiscal year shall not revert  
21 but shall remain available for expenditure through June 30, 2011.

22  
23           **DEVELOPMENT OF A PREK-20 DATA SYSTEM**

24           **SECTION 7.19.(a)** The Department of Public Instruction, the North Carolina  
25 Community College System, and The University of North Carolina shall collaboratively  
26 develop and systematically determine the technical specifications and data standards for a  
27 PreK-20 data system to centralize student data collected about students enrolled in  
28 prekindergarten programs through doctoral programs. The PreK-20 data system shall build  
29 upon the current capacity, programs, and initiatives of the Department of Public Instruction, the  
30 North Carolina Community College System, and The University of North Carolina.

31           The Department of Public Instruction, the North Carolina Community College  
32 System, and The University of North Carolina shall also collaboratively develop a strategy for  
33 tracking students for five years after they complete their education at a North Carolina public  
34 educational institution.

35           **SECTION 7.19.(b)** The PreK-20 data standards and specifications shall include:

- 36           (1) The types and forms of data to be included in a PreK-20 data system,  
37 including longitudinal data and the use of a unique student identifier;  
38           (2) The capacity of a shared PreK-20 data system;  
39           (3) The degree and extent of cooperation between a shared PreK-20 data system  
40 and the current data collection systems of the Department of Public  
41 Instruction, the North Carolina Community College System, and The  
42 University of North Carolina;  
43           (4) The minimum capacity and technical specifications needed for each data  
44 system to feed into a shared PreK-20 data system; and  
45           (5) The ability for data in a shared PreK-20 data system to be understood and  
46 used by interested stakeholders, including federal and other State agencies.

47           **SECTION 7.19.(c)** Standards and specifications shall conform to the guidelines  
48 and instructions governing any funds received through the American Recovery and  
49 Reinvestment Act of 2009 for this purpose.

50           **SECTION 7.19.(d)** Standards and specifications shall be submitted to the  
51 Education Cabinet no later than January 1, 2010. The Education Cabinet shall review these

standards and submit its recommendations regarding them to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management by March 1, 2010.

#### ELIMINATE CERTAIN TESTS

**SECTION 7.20.(a)** The State Board of Education shall identify and eliminate certain unnecessary or duplicative tests not required by the federal government for No Child Left Behind (NCLB) to determine Adequate Yearly Progress (AYP).

**SECTION 7.20.(b)** G.S. 115C-174.10 reads as rewritten:

**"§ 115C-174.10. Purposes of the Statewide Testing Program.**

The ~~three~~ testing programs in this Article have three purposes: (i) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society; (ii) to provide a means of identifying strengths and weaknesses in the education process in order to improve instructional delivery; and (iii) to establish additional means for making the education system at the State, local, and school levels accountable to the public for results."

**SECTION 7.20.(c)** G.S. 115C-174.11 reads as rewritten:

**"§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving a federal grant under the Reading First Program.

~~(b) Competency Testing Program.~~

~~(1) The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess the skills and knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship.~~

~~(2) The tests shall be administered annually to all ninth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the ninth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the ninth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.~~

~~(3) The State Board of Education shall:~~

~~a. Adopt one or more nationally standardized tests or other nationally standardized equivalent measures that measure competencies in the verbal and quantitative areas; or~~

~~b. Develop and validate alternate means and standards for demonstrating minimum competence. These standards must be as difficult as the tests adopted pursuant to subdivision (1) of this subsection.~~

1           The State Board of Education shall adopt a policy to identify which students  
2           and under what circumstances students may pass one of these tests in lieu of  
3           the testing requirement of subdivision (2) of this subsection.

4           (3a) ~~Students with disabilities who fail to pass the competency test adopted~~  
5           ~~pursuant to subdivision (2) of this subsection after two attempts shall be~~  
6           ~~given the opportunity to take and pass one of the alternate tests adopted~~  
7           ~~pursuant to subdivision (3) of this subsection.~~

8           (4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.14.

9           (c) Annual Testing Program.

10           (1) ~~The State Board of Education shall adopt a system of annual testing the tests~~  
11           ~~for grades three through 12 that are required by federal law or as a~~  
12           ~~condition of a federal grant. These tests shall be designed to measure~~  
13           ~~progress toward reading, communication skills, and mathematics for grades~~  
14           ~~three through eight, and toward competencies designated by the State Board~~  
15           ~~for grades nine through 12. The State Board may develop and implement a~~  
16           ~~plan for high school end-of-course tests that must be aligned with the content~~  
17           ~~standards developed under G.S. 115C-12(9c). Students who do not pass the~~  
18           ~~tests adopted for eighth grade shall be provided remedial instruction in the~~  
19           ~~ninth grade. This assistance shall be calculated to prepare the students to~~  
20           ~~pass the competency test administered under subsection (b) of this section.~~

21           (2) If the State Board of Education finds that additional testing in grades three  
22           through 12 is desirable to allow comparisons with national indicators of  
23           student achievement, that testing shall be conducted with the smallest size  
24           sample of students necessary to assure valid comparisons with other states.

25           (d) The State Board of Education shall not require the public schools to administer any  
26           standardized tests except for those required by federal law or as a condition of a federal grant.

27           The State Board of Education shall adopt and provide to local school administrative units  
28           all tests required by federal law or as a condition of a federal grant."

29           SECTION 7.20.(d) G.S. 115C-174.12 reads as rewritten:

30           "§ 115C-174.12. Responsibilities of agencies.

31           (a) The State Board of Education shall establish policies and guidelines necessary for  
32           minimizing the time students spend taking tests administered through State and local testing  
33           programs, for minimizing the frequency of field testing at any one school, and for otherwise  
34           carrying out the provisions of this Article. These policies and guidelines shall include the  
35           following:

36           (1) Schools shall devote no more than two days of instructional time per year to  
37           the taking of practice tests that do not have the primary purpose of assessing  
38           current student learning;

39           (2) Students in a school shall not be subject to field tests or ~~national tests~~ other  
40           standardized tests during the two-week period preceding the administration  
41           of end-of-grade tests, end-of-course tests, or the school's regularly scheduled  
42           final exams; and

43           (3) No school shall participate in more than two field tests at any one grade level  
44           during a school year unless that school volunteers, through a vote of its  
45           school improvement team, to participate in an expanded number of field  
46           tests.

47           These policies shall reflect standard testing practices to insure reliability and validity of the  
48           sample testing. The results of the field tests shall be used in the final design of each test. The  
49           State Board of Education's policies regarding the testing of children with disabilities shall (i)  
50           provide broad accommodations and alternate methods of assessment that are consistent with a  
51           child's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit

1 the use of statewide tests as the sole determinant of decisions about a child's graduation or  
2 promotion, and (iii) provide parents with information about the Statewide Testing Program and  
3 options for students with disabilities. The State Board shall report its proposed policies and  
4 proposed changes in policies to the Joint Legislative Education Oversight Committee prior to  
5 adoption.

6 The State Board of Education may appoint an Advisory Council on Testing to assist in  
7 carrying out its responsibilities under this Article.

8 (b) The ~~Superintendent of Public Instruction~~ Chief Executive Officer shall be  
9 responsible, under policies adopted by the State Board of Education, for the statewide  
10 administration of the testing program provided by this Article.

11 (b1) The ~~Superintendent~~ Chief Executive Officer shall notify local boards of education  
12 by October 1 of each year of any field tests that will be administered in their schools during the  
13 school year, the schools at which the field tests will be administered, and the specific field tests  
14 that will be administered at each school.

15 (c) Local boards of education shall cooperate with the State Board of Education in  
16 implementing the provisions of this Article, including the regulations and policies established  
17 by the State Board of Education. Local school administrative units shall use the annual ~~and~~  
18 ~~competency testing programs tests~~ to fulfill the purposes set out in this Article. Local school  
19 administrative units are encouraged to continue to develop local testing programs designed to  
20 diagnose student ~~needs further needs.~~

## 21 REMOVE BARRIERS TO LATERAL ENTRY INTO TEACHING

22 **SECTION 7.21.(a)** The State Board of Education shall:

- 23 (1) Review the lateral entry program and identify and remove from it barriers to  
24 the lateral entry of skilled individuals from the private sector into the  
25 teaching profession;
- 26 (2) Reduce the coursework requirements for lateral entry by consolidating the  
27 required competencies into fewer courses and fewer semester hours of  
28 coursework; and
- 29 (3) Provide additional opportunities for individuals to complete coursework  
30 online and at community colleges.

31 **SECTION 7.21.(b)** The State Board of Education shall report to the Joint  
32 Legislative Education Oversight Committee by January 15, 2010, on its implementation of this  
33 section.  
34

## 35 NO PAY DECREASE FOR TEACHERS WHO BECOME ASSISTANT PRINCIPALS

36 **SECTION 7.22.(a)** G.S. 115C-285(a) is amended by adding a new subdivision to  
37 read:

38 "**§ 115C-285. Salary.**

39 (a) Principals and supervisors shall be paid promptly when their salaries are due  
40 provided the legal requirements for their employment and service have been met. All principals  
41 and supervisors employed by any local school administrative unit who are to be paid from local  
42 funds shall be paid promptly as provided by law and as State-allotted principals and supervisors  
43 are paid.

44 Principals and supervisors paid from State funds shall be paid as follows:

45 ...

- 46 (8) A teacher who becomes an assistant principal without a break in service  
47 shall be paid, on a monthly basis, at least as much as he or she would earn as  
48 a teacher employed by that local school administrative unit.

49 **SECTION 7.22.(b)** This section becomes effective July 1, 2009, and applies to all  
50 persons initially employed as assistant principals on or after that date.  
51

**INCREASE CLASS SIZE**

**SECTION 7.23.** Notwithstanding any other provision of law, the allotment ratios, the maximum class size, and the maximum average class size limits for each grade level in the public schools shall be two students higher beginning with the 2009-2010 school year than they were for the 2008-2009 school year.

It is the intent of the General Assembly that this increase remain in effect for a maximum of two years and that lower class sizes be restored as soon as State revenues make it fiscally responsible to do so.

**DEPOSIT PUBLIC SCHOOL BUILDING CAPITAL FUNDS INTO STATE PUBLIC SCHOOL FUND**

**SECTION 7.25.** Notwithstanding the provisions of G.S. 115C-546.1(b), the Secretary of Revenue shall not remit any funds for credit to the Public School Building Capital Fund during the 2009-2011 fiscal biennium but shall deposit in the State Public School Fund the funds that would have otherwise been deposited in the Public School Building Capital Fund pursuant to G.S. 115C-546.1(b). The Department of Public Instruction may continue to use these funds to support six positions in the School Planning Division.

**TEACHERS FOR GEOGRAPHICALLY ISOLATED K-12 SCHOOLS**

**SECTION 7.26.** The State Board of Education shall modify its policy on the allotment of additional classroom teachers to schools containing grades K-12 when consolidation is not feasible due to the geographic isolation of the school. In administering this policy with regard to a school located in a local school administrative unit in which the average daily membership is less than 1.5 per square mile, the State Board of Education shall, at a minimum:

- (1) Allot teachers to the geographically isolated school on the basis of one classroom teacher per grade level; and
- (2) Allot teachers to the remainder of the local school administrative unit under the regular teacher allotment formula.

The State Board of Education may allot additional teachers to the local school administrative unit if demographic conditions warrant.

**ENSURE ACCESS TO THE EVAAS SYSTEM**

**SECTION 7.27.** The State Board of Education shall use funds appropriated to the State Public School Fund for the 2009-2011 fiscal biennium to ensure that all local school administrative units and charter schools have access to SAS EVAAS (Education Value Added Assessment System).

**LOCAL BOARDS MUST INFORM PUBLIC ABOUT SCHOOL REPORT CARDS**

**SECTION 7.28.** G.S. 115C-47 is amended by adding a new subdivision to read:  
**"§ 115C-47. Powers and duties generally.**

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- ...
- (53) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or otherwise.

**PLAN FOR STATEWIDE MOTOR COACH PERMIT**

1           **SECTION 7.29.(a)** The State Board of Education, in conjunction with the Division  
2 of Motor Vehicles, shall develop a plan for a Statewide permit for commercial motor coach  
3 companies that seek to contract with local school systems to transport students, school  
4 personnel, and other persons authorized by the school system on school-sponsored trips. The  
5 purpose of the permit shall be (i) to ensure student safety, (ii) to ensure safe operations by  
6 motor coach companies, (iii) to minimize paperwork, (iv) to minimize visits to the motor coach  
7 companies by local school systems, and (v) to minimize the need for motor coach companies to  
8 respond to multiple requests for information from multiple local school systems.

9           **SECTION 7.29.(b)** In developing the plan for a permit, the State Board of  
10 Education and the Division of Motor Vehicles shall consult with the North Carolina School  
11 Boards Association, the State Highway Patrol, the North Carolina Pupil Transportation  
12 Association, the North Carolina Motor Coach Association, the Federal Motor Carrier Safety  
13 Administration, and other interested parties.

14           **SECTION 7.29.(c)** The components of the plan shall include, but not be limited to,  
15 all of the following:

- 16           (1) Scope of the permit.
- 17           (2) Standards for issuing the permit.
- 18           (3) Duration of the permit.
- 19           (4) Process for required inspections.
- 20           (5) Entity to conduct required inspections.
- 21           (6) Conditions for revoking the permit.
- 22           (7) Renewal process.
- 23           (8) Schedule of fees to cover the cost of implementation and administration.
- 24           (9) Application form and other required documentation.
- 25           (10) Dissemination of current permit holders to school systems.
- 26           (11) Estimate of costs to implement and number of new positions required.
- 27           (12) Impact on motor coach companies that have interstate operations.
- 28           (13) Other related issues.

29           **SECTION 7.29.(d)** The State Board of Education and the Division of Motor  
30 Vehicles shall consult on the proposed plan to the Joint Legislative Commission on  
31 Governmental Operations and to the Fiscal Research Division by January 1, 2010. Before the  
32 plan is implemented, the Commission shall make any recommendations, including proposed  
33 legislation, to the 2010 General Assembly.

## 34 **PART VIII. COMMUNITY COLLEGES**

### 35 **COMMUNITY COLLEGE FACULTY SALARY PLAN**

#### 36 **SECTION 8.1.(a)**

- 37           (1) It is the intent of the General Assembly to encourage community colleges to  
38           make faculty salaries a priority and to reward colleges that have taken steps  
39           to achieve the national average community collage faculty salary, therefore:
  - 40           a. If the average faculty salary at a community college is one hundred  
41           percent (100%) or more of the national average community college  
42           faculty salary, the college may transfer up to eight percent (8%) of  
43           the State funds allocated to it for faculty salaries.
  - 44           b. If the average faculty salary at a community college is at least  
45           ninety-five percent (95%) but less than one hundred percent (100%)  
46           of the national average community college faculty salary, the college  
47           may transfer up to six percent (6%) of the State funds allocated to it  
48           for faculty salaries.
- 49
- 50

- 1 c. If the average faculty salary at a community college is at least ninety  
2 percent (90%) but less than ninety-five percent (95%) of the national  
3 average community college faculty salary, the college may transfer  
4 up to five percent (5%) of the State funds allocated to it for faculty  
5 salaries.
- 6 d. If the average faculty salary at a community college is at least  
7 eighty-five percent (85%) but less than ninety percent (90%) of the  
8 national average community college faculty salary, the college may  
9 transfer up to three percent (3%) of the State funds allocated to it for  
10 faculty salaries.
- 11 e. If the average faculty salary at a community college is eighty-five  
12 percent (85%) or less of the national average community college  
13 faculty salary, the college may transfer up to two percent (2%) of the  
14 State funds allocated to it for faculty salaries.

15 Except as provided by subdivision (2) of this subsection, a community  
16 college shall not transfer a greater percentage of the State funds allocated to  
17 it for faculty salaries than is authorized by this subsection.

- 18 (2) With the approval of the State Board of Community Colleges, a community  
19 college at which the average faculty salary is eighty-five percent (85%) or  
20 less of the national average may transfer a greater percentage of the State  
21 funds allocated to it for faculty salaries than is authorized by sub-subdivision  
22 e. of subdivision (1) of this subsection. The State Board shall approve the  
23 transfer only for purposes that directly affect student services.

24 The State Board of Community Colleges shall adopt guidelines to  
25 implement the provisions of this subdivision.

- 26 (3) A local community college may use all State funds allocated to it except for  
27 Literacy Funds and Funds for Customized Training to increase faculty  
28 salaries.

29 **SECTION 8.1.(b)** As used in this section:

- 30 (1) "Average faculty salary at a community college" means the total nine-month  
31 salary from all sources of all nine-month, full-time, curriculum faculty at the  
32 college, as determined by the North Carolina Community College System on  
33 October 1 of each year.
- 34 (2) "National average community college faculty salary" means the nine-month,  
35 full-time, curriculum salary average, as published by the Integrated  
36 Postsecondary Education Data System (IPEDS), for the most recent year for  
37 which data are available.

38 **SECTION 8.1.(c)** The State Board of Community Colleges shall adopt guidelines  
39 to implement the provisions of this section.

40  
41 **USE OF BASIC SKILLS FUNDS**

42 **SECTION 8.2.** Notwithstanding any other provision of law, a local community  
43 college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board  
44 of Community Colleges to procure instructional technology for literacy labs. This technology  
45 may include computers, instructional software and software licenses, scanners for testing, and  
46 classroom projection equipment.

47  
48 **FUNDS FOR CAMPUS SECURITY**

49 **SECTION 8.3.** Notwithstanding G.S. 115D-32 or any other provision of law, a  
50 community college may use up to two percent (2%) of the noninstructional State funds  
51 allocated to it through the institutional support allotment for the 2009-2010 and 2010-2011

1 fiscal years for campus security. This may include the hiring of personnel, contracted  
2 professional services, surveillance cameras, call boxes, alert systems, and other  
3 equipment-related expenditures.

4 These funds shall be used to supplement and shall not be used to supplant existing  
5 local funding for campus security.

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

8 **SECTION 8.4.** G.S. 115D-40.1(c) reads as rewritten:

9 "(c) Administration of Program. – The State Board shall adopt rules and policies for the  
10 disbursement of the financial assistance provided in this section. Degree, diploma, and  
11 certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be  
12 eligible for financial assistance. The State Board may contract with the State Education  
13 Assistance Authority for administration of these financial assistance funds. These funds shall  
14 not revert at the end of each fiscal year but shall remain available until expended for  
15 need-based financial assistance.

16 The State Board shall ensure that at least one counselor is available at each college to  
17 inform students about federal programs and funds available to assist community college  
18 students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax  
19 Credits and to actively encourage students to utilize these federal programs and funds. The  
20 interest earned on the funds provided in this section may be used to support the costs of  
21 administering the Community College Grant Program."

#### 22 23 **CARRYFORWARD OF NORTH CAROLINA RESEARCH CAMPUS** 24 **BIOTECHNOLOGY TRAINING FUNDS**

25 **SECTION 8.5.(a)** Funds appropriated in S.L. 2006-66, S.L. 2007-323, and S.L.  
26 2008-103 for the Rowan-Cabarrus Community College Biotechnology Training Center and  
27 Greenhouse at the North Carolina Research Campus in Kannapolis shall not revert, but shall  
28 remain available until expended.

29 **SECTION 8.5.(b)** This section becomes effective June 30, 2009.

#### 30 31 **LEARN AND EARN ONLINE FUNDS**

32 **SECTION 8.6.(a)** Funds reimbursed to the Community College System for  
33 full-time equivalent students participating in Learn and Earn Online courses during the  
34 2008-2009 and 2009-2010 fiscal years shall not revert at the end of the fiscal year, but shall  
35 remain available for expenditure up to 12 months after the close of a fiscal year.

36 **SECTION 8.6.(b)** Community college student enrollments in Learn and Earn  
37 Online shall be considered regular budget full-time equivalent in the curriculum enrollment  
38 formula regardless of the term during which the instruction is provided. The North Carolina  
39 Community College System may only seek reimbursement from the Department of Public  
40 Instruction for technology, course fees, and textbooks required for course participation.

41 **SECTION 8.6.(c)** The Office of State Budget and Management shall transfer  
42 sufficient funds from the State Public School Fund to the Community Colleges System Office  
43 to implement subsection (b) of this section.

44 **SECTION 8.6.(d)** Subsection (a) of this section becomes effective June 30, 2009.

#### 45 46 **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

47 **SECTION 8.7.(a)** Funds appropriated in this act to the Community Colleges  
48 System Office for the College Information System shall not revert at the end of the 2008-2009  
49 fiscal year but shall remain available until expended. These funds may be used to purchase  
50 periodic system upgrades.



1           **SECTION 8.7.(b)** Notwithstanding G.S. 143C-6-4, the Community Colleges  
2 System Office may, subject to the approval of the Office of State Budget and Management and  
3 in consultation with the Office of Information Technology Services, use funds appropriated in  
4 this act for the College Information System to create a maximum of three positions if doing so  
5 is cost-effective. Personnel positions created pursuant to this subsection shall be dedicated to  
6 maintaining and administering information technology and software upgrades to the College  
7 Information System.

8           **SECTION 8.7.(c)** Subsection (a) of this section becomes effective July 1, 2009.  
9

#### 10 **MODIFY MULTICAMPUS AND OFF CAMPUS CENTER REPORT DATE**

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

12           "(o) The General Assembly finds that additional data are needed to determine the  
13 adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and  
14 colleges with off-campus centers shall report annually, beginning September 1, 2005, to the  
15 Community Colleges System Office on all expenditures by line item of funds used to support  
16 their multicampuses and off-campus centers. The Community Colleges System Office shall  
17 report on these expenditures to the Education Appropriation Subcommittees of the House of  
18 Representatives and the Senate, the Office of State Budget and Management, and the Fiscal  
19 Research Division by ~~October 1~~December 1 of each year."  
20

#### 21 **REPEAL REPORT ON THE USE OF COMM COLL FACILITIES BY PRIVATE** 22 **BUSINESSES**

23           **SECTION 8.9.** G.S. 115D-5(q) is repealed.  
24

#### 25 **MAINTENANCE OF PLANT FLEXIBILITY**

26           **SECTION 8.10.** Notwithstanding any other provision of law, a community college  
27 that received State funds for maintenance of plant pursuant to G.S. 115D-31.2 for the  
28 2008-2009 fiscal year may use noninstructional State funds allocated to it through the  
29 institutional support allotment for maintenance of plant for the 2009-2010 and 2010-2011 fiscal  
30 years.

31           The amount of these funds used for the 2009-2010 fiscal year for maintenance of  
32 plant shall not exceed the total amount of maintenance of plant funds received for the  
33 2008-2009 fiscal year. The amount of these funds used for the 2010-2011 fiscal year for  
34 maintenance of plant shall not exceed fifty percent (50%) of the amount of maintenance of  
35 plant funds received for the 2008-2009 fiscal year.  
36

#### 37 **ELIMINATE SOME TUITION WAIVERS**

38           **SECTION 8.11.(a)** G.S. 115D-5(b) reads as rewritten:

39           "(b) In order to make instruction as accessible as possible to all citizens, the teaching of  
40 curricular courses and of noncurricular extension courses at convenient locations away from  
41 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata  
42 portion of the established regular tuition rate charged a full-time student shall be charged a  
43 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of  
44 Community Colleges shall establish a uniform registration fee, or a schedule of uniform  
45 registration fees, to be charged students enrolling in extension courses for which instruction is  
46 financed primarily from State funds; provided, however, that the State Board of Community  
47 Colleges may provide by general and uniform regulations for waiver of tuition and registration  
48 fees for persons not enrolled in elementary or secondary schools taking courses leading to a  
49 high school diploma or equivalent certificate, for training courses for volunteer firemen, local  
50 fire department personnel, volunteer rescue and lifesaving department personnel, local rescue  
51 and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT)

1 members when the REACT team is under contract to a county as an emergency response  
2 agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all  
3 full-time custodial employees of the Department of Correction, employees of the Department's  
4 Division of Community Corrections and employees of the Department of Juvenile Justice and  
5 Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and  
6 the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in  
7 courses conducted under the ~~New and Expanding Industry Program, Customized Training~~  
8 ~~Program,~~ clients of sheltered workshops, clients of adult developmental activity programs,  
9 students in Health and Human Services Development Programs, juveniles of any age  
10 committed to the Department of Juvenile Justice and Delinquency Prevention by a court of  
11 competent jurisdiction, ~~prison inmates,~~ members of the North Carolina State Defense Militia as  
12 defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General  
13 Statutes, and elementary and secondary school employees enrolled in courses in first aid or  
14 cardiopulmonary resuscitation (CPR). ~~Provided further, tuition shall be waived for senior~~  
15 ~~citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the~~  
16 ~~General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be~~  
17 ~~waived for all~~

18 (b1) The State Board shall waive tuition and fees for courses taken by high school  
19 students at community colleges, including students in early college and middle college high  
20 school programs, in accordance with G.S. 115D-20(4) and this section.

21 The State Board also shall waive tuition and fees for persons not enrolled in elementary or  
22 secondary schools taking courses leading to a high school diploma or equivalent certificate.

23 **SECTION 8.11.(b)** G.S. 115B-2 reads as rewritten:

24 **"§ 115B-2. Tuition waiver authorized.**

25 (a) The constituent institutions of The University of North Carolina and ~~the community~~  
26 ~~colleges as defined in G.S. 115D-2(2)~~ shall permit the following persons to attend classes for  
27 credit or noncredit purposes without the required payment of tuition:

- 28 (1) Legal residents of North Carolina who have attained the age of 65.
- 29 (2) Any person who is the survivor of a law enforcement officer, firefighter,  
30 volunteer firefighter, or rescue squad worker killed as a direct result of a  
31 traumatic injury sustained in the line of duty.
- 32 (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or  
33 rescue squad worker who is permanently and totally disabled as a direct  
34 result of a traumatic injury sustained in the line of duty.
- 35 (4) Any child, if the child is at least 17 years old but not yet 23 years old, whose  
36 parent is a law enforcement officer, firefighter, volunteer firefighter, or  
37 rescue squad worker who is permanently and totally disabled as a direct  
38 result of a traumatic injury sustained in the line of duty. However, a child's  
39 eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 48  
40 months, if the child is seeking a baccalaureate degree, or (ii) if the child is  
41 not seeking a baccalaureate degree, the number of months required to  
42 complete the educational program to which the child is applying.
- 43 (5) Any child, if the child (i) is at least 17 years old but not yet 23 years old, (ii)  
44 is a ward of North Carolina or was a ward of the State at the time the child  
45 reached the age of 18, (iii) is a resident of the State; and (iv) is eligible for  
46 services under the Chaffee Education and Training Vouchers Program; but  
47 the waiver shall only be to the extent that there is any tuition still payable  
48 after receipt of other financial aid received by the student.

49 The community colleges as defined in G.S. 115D-2(2) shall permit the persons listed in  
50 subdivisions (2) through (5) of this subsection to attend classes for credit or noncredit purposes  
51 without the required payment of tuition.

1 (b) Persons eligible for the tuition waiver under subsection (a) of this section must meet  
2 admission and other standards considered appropriate by the educational institution. In  
3 addition, the constituent institutions of The University of North Carolina shall accept these  
4 persons only on a space available basis."

5 **SECTION 8.11.(c)** G.S. 115B-5(a) is repealed.

#### 6 7 **CONTINUING EDUCATION FEES**

8 **SECTION 8.12.** The fees charged for community college continuing education  
9 courses shall be based on the number of hours of class time. The fees shall be:

<u>Class Hours</u>	<u>Cost</u>
1-20	\$65.00;
21-50	\$120.00;
51-100+	\$175.00.

#### 14 15 **CONSOLIDATE NURSING AND ALLIED HEALTH ALLOTMENTS**

16 **SECTION 8.13.** The State Board of Community Colleges shall consolidate the  
17 Nursing categorical allotment into the Allied Health categorical allotment before distributing  
18 funds appropriated in this act. These funds shall be awarded to community colleges based on  
19 the full-time equivalent (FTE) enrollment in allied health programs.

#### 20 21 **CUSTOMIZED TRAINING PROGRAM**

22 **SECTION 8.14.(a)** Funds appropriated in this act for the Customized Training  
23 Program that unexpended and unencumbered on June 30, 2010, may, subject to cash  
24 availability and the approval of the Office of State Budget and Management, be carried forward  
25 into the 2010-2011 fiscal year for equipment purchases. These funds shall be distributed  
26 through the Educational Equipment Reserve.

27 **SECTION 8.14.(b)** Projects that create or retain jobs in North Carolina shall  
28 receive first priority for funds appropriated for the Customized Training Program.

29 **SECTION 8.14.(c)** G.S. 115D-5.1(f) is amended by adding a new subsection to  
30 read:

31 "(f) The State Board shall report on an annual basis to the Joint Legislative Education  
32 Oversight Committee on:

33 ...

34 (1a) The types of services sought by the company, whether for new, expanding,  
35 or existing industry."

#### 36 37 **COMMUNITY COLLEGE FINANCIAL ASSISTANCE FUND BALANCE SHALL BE** 38 **USED TO OFFER NEED-BASED AID**

39 **SECTION 8.15.** The balance remaining in Budget Code 66801, Fund 6102 (CCS  
40 Financial Assistance) shall be used in the 2009-2010 fiscal year to offer need-based assistance  
41 to displaced workers and qualified students. This balance has accumulated due to financial aid  
42 refunds received from students in fiscal year 2008-2009 and prior fiscal years.

#### 43 44 **NORTH CAROLINA MILITARY BUSINESS CENTER**

45 **SECTION 8.16.** The funds appropriated in this act to the Community Colleges  
46 System Office for the NC Military Business Center shall be used for the continued operations  
47 of the NC Military Business Center. The Military Business Center shall provide services to  
48 residents and businesses throughout the State. The purpose of the business center is to serve as  
49 a coordinator and facilitator for small- and medium-sized businesses throughout the State  
50 seeking to win and complete federal contracts, with a focus on military-related contracts.  
51 Activities of the business center shall include:

- 1 (1) Training and mentoring eligible businesses on effectively marketing their  
2 products and services to military and other federal clients and contracting  
3 offices.
- 4 (2) Assisting eligible businesses with any required accreditations and  
5 qualifications for government contracting.
- 6 (3) Teaching eligible businesses about federal set-aside programs and how to  
7 take advantage of these programs directly or through partnering with other  
8 eligible businesses.
- 9 (4) Training and assisting clients with the registration, proposal development,  
10 and bidding processes related to military and other federal contracts.
- 11 (5) Training eligible businesses on legal and regulatory compliance.
- 12 (6) Designing and implementing mentoring programs to facilitate the  
13 development of interrelationships between eligible businesses.
- 14 (7) Forecasting the need for and assisting eligible businesses in obtaining  
15 advanced certifications and accreditations and advanced manufacturing  
16 skills and technologies.
- 17 (8) Working with Small Business Centers throughout the State to carry out these  
18 activities on a statewide basis.
- 19 (9) The maintenance of an Internet-based system to match the knowledge, skills,  
20 and abilities of active-duty military personnel, veterans, and their families  
21 throughout the State with the needs of North Carolina businesses.
- 22 (10) The study of community resources and existing business capacity to meet  
23 the current and future needs of the military and the development of proposals  
24 for further developing community resources and developing or recruiting  
25 new businesses to meet those needs.
- 26 (11) The marketing of the services provided by the Military Business Center.  
27

## 28 **PART IX. UNIVERSITIES**

### 30 **USE OF ESCHEAT FUNDS FOR NEED-BASED FINANCIAL AID PROGRAMS**

31 **SECTION 9.1.(a)** There is appropriated from the Escheat Fund income to the  
32 Board of Governors of The University of North Carolina the sum of one hundred twenty-three  
33 million six hundred forty-one thousand forty dollars (\$123,641,040) for fiscal years 2009-2010  
34 and 2010-2011, to the State Board of Community Colleges the sum of thirteen million nine  
35 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for 2009-2010 and  
36 2010-2011, and to the Department of Administration, Division of Veterans Affairs, the sum of  
37 six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for years  
38 2009-2010 and 2010-2011. These funds shall be allocated by the State Educational Assistance  
39 Authority (SEAA) for need-based student financial aid in accordance with G.S. 116B-7. If the  
40 interest income generated from the Escheat Fund is less than the amounts referenced in this  
41 section, the difference may be taken from the Escheat Fund principal to reach the  
42 appropriations referenced in this section; however, under no circumstances shall the Escheat  
43 Fund principal be reduced below the sum required in G.S. 116B-6(f).

44 **SECTION 9.1.(b)** The State Education Assistance Authority shall perform all of  
45 the administrative functions necessary to implement this program of financial aid. The SEAA  
46 shall conduct periodic evaluations of expenditures of the Scholarship Programs to determine if  
47 allocations are utilized to ensure access to institutions of higher learning and to meet the goals  
48 of the respective programs. SEAA may make recommendations for redistribution of funds to  
49 The University of North Carolina, Department of Administration, and the President of the  
50 Community College System regarding their respective scholarship programs, who then may  
51 authorize redistribution of unutilized funds for a particular fiscal year.

1           **SECTION 9.1.(c)** There is appropriated from the Escheat Fund to the Board of  
2 Governors of The University of North Carolina the sum of one million one hundred fifty-seven  
3 thousand dollars (\$1,157,000) for the 2010-2011 fiscal year to be allocated to the SEAA for  
4 need-based student financial aid to be used in accordance with G.S. 116B-7 and this act. The  
5 SEAA shall use these funds only to provide scholarship loans (known as the Millennium  
6 Teaching Scholarship Loan Program) to North Carolina high school seniors interested in  
7 preparing to teach in the State's public schools who also enroll at any of the Historically Black  
8 Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six  
9 thousand five hundred dollars (\$6,500) each shall be given to the three universities without any  
10 Teaching Fellows for the purposes specified in this subsection. The SEAA shall administer  
11 these funds and shall establish any additional criteria needed to award these scholarship loans,  
12 the conditions for forgiving the loans, and the collection of the loan repayments when  
13 necessary.

14           **SECTION 9.1.(d)** The State Education Assistance Authority shall transfer to the  
15 Escheat Fund the balance of any monies appropriated by this section that are not disbursed for  
16 need-based student financial aid; however, the State Education Assistance Authority may retain  
17 the interest on those monies that is paid to the State Education Assistance Authority at the  
18 beginning of the 2009-2010 fiscal year and at the beginning of the 2010-2011 fiscal year.

#### 19 20 **THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND** 21 **(EARN)**

22           **SECTION 9.2.(a)** Of the funds appropriated by this act from the General Fund to  
23 the State Education Assistance Authority the sum of sixty million dollars (\$60,000,000) for the  
24 2009-2010 fiscal year and the sum of sixty million dollars (\$60,000,000) for the 2010-2011  
25 fiscal year shall be allocated to the Education Access Rewards North Carolina Scholars Fund  
26 (EARN).

27           **SECTION 9.2.(b)** There is appropriated from the Escheat Fund to the State  
28 Education Assistance Authority the sum of forty million dollars (\$40,000,000) for the  
29 2009-2010 fiscal year and the sum of forty million dollars (\$40,000,000) for the 2010-2011  
30 fiscal year to be allocated to the Education Access Rewards North Carolina Scholars Fund  
31 (EARN).

32           **SECTION 9.2.(c)** The funds appropriated in subsections (a) and (b) of this section  
33 shall be used only to fund Education Access Rewards North Carolina Scholars Fund (EARN)  
34 grants for academic years beginning on or after July 1, 2009.

#### 35 36 **TRANSFERS OF CASH BALANCES TO THE GENERAL FUND**

37           **SECTION 9.3.(a)** Notwithstanding any other provision of law, the unencumbered  
38 cash balance remaining in the Future Teachers Financial Aid fund on June 30, 2009, shall be  
39 transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State  
40 Transfers).

41           **SECTION 9.3.(b)** Notwithstanding any other provision of law, the unencumbered  
42 cash balance of the General Fund appropriation remaining in the Education Access Rewards  
43 North Carolina (EARN) Scholars fund on June 30, 2009, shall be transferred to the State  
44 Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers).

#### 45 46 **TRANSFER FUNDING TO ROANOKE ISLAND COMMISSION FOR PERFORMING** 47 **ARTS**

48           **SECTION 9.4.** The General Assembly finds that in order to expand opportunities  
49 for students involved in the performing arts, existing funding for the Summer Institute on  
50 Roanoke Island should not be allocated to one specific University of North Carolina institution,  
51 but instead be allocated directly to the Roanoke Island Commission, so that any interested

1 University of North Carolina institution may have the opportunity to participate in summer arts  
2 enrichment and education programs. Therefore, of the funds appropriated by this act to the  
3 Board of Governors of The University of North Carolina and allocated to the Summer Institute  
4 of the North Carolina School of the Arts on Roanoke Island program for the 2009-2011 fiscal  
5 biennium, the sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646)  
6 shall be transferred for the 2009-2010 fiscal year to the Roanoke Island Commission and the  
7 sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be  
8 transferred for the 2010-2011 fiscal year to the Roanoke Island Commission. The Roanoke  
9 Island Commission may use these funds to contract with any of the constituent institutions of  
10 The University of North Carolina System to provide music and drama students an education in  
11 a professional performing environment while providing a public service to the State.  
12

### 13 **UNC CENTER FOR ALCOHOL STUDIES**

14 **SECTION 9.5.(a)** G.S. 20-7(i1) reads as rewritten:

15 "(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to  
16 the provisions of this Chapter, other than ~~G.S. 20-17(2)~~, G.S. 20-17(a)(2) shall pay a restoration  
17 fee of fifty dollars (\$50.00). A person whose drivers license has been revoked under  
18 ~~G.S. 20-17(2)~~ G.S. 20-17(a)(2) shall pay a restoration fee of ~~seventy five dollars (\$75.00) until~~  
19 ~~the end of the fiscal year in which the cumulative total amount of fees deposited under this~~  
20 ~~subsection in the General Fund exceeds ten million dollars (\$10,000,000), and shall pay a~~  
21 ~~restoration fee of fifty dollars (\$50.00) thereafter, seventy-five dollars (\$75.00).~~ The fee shall  
22 be paid to the Division prior to the issuance to such person of a new drivers license or the  
23 restoration of the drivers license. The restoration fee shall be paid to the Division in addition to  
24 any and all fees which may be provided by law. This restoration fee shall not be required from  
25 any licensee whose license was revoked or voluntarily surrendered for medical or health  
26 reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The  
27 fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the seventy-five-dollar (\$75.00)  
28 fee, shall be deposited in the Highway Fund. The remaining twenty-five dollars (\$25.00) of the  
29 seventy-five-dollar (\$75.00) fee shall be deposited in the General Fund of the State. The Office  
30 of State Budget and Management ~~shall certify to the Department of Transportation and the~~  
31 ~~General Assembly when the cumulative total amount of fees deposited in the General Fund~~  
32 ~~under this subsection exceeds ten million dollars (\$10,000,000), and shall annually report to the~~  
33 ~~General Assembly the amount of fees deposited in the General Fund under this subsection.~~

34 It is the intent of the General Assembly to annually appropriate from the funds deposited in  
35 the General Fund under this subsection the sum of five hundred thousand dollars (\$500,000) to  
36 the Board of Governors of The University of North Carolina to be used for the operating  
37 expenses of the Bowles Center for Alcohol Studies Endowment at ~~The~~ the University of North  
38 Carolina at Chapel Hill, ~~but not to exceed this cumulative total of ten million dollars~~  
39 ~~(\$10,000,000).~~ Hill."

40 **SECTION 9.5.(b)** Of the funds appropriated by this act to the Board of Governors  
41 of The University of North Carolina the sum of five hundred thousand dollars (\$500,000) for  
42 the 2009-2010 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the  
43 2010-2011 fiscal year shall be used for the operating expenses of the Bowles Center for  
44 Alcohol Studies at the University of North Carolina at Chapel Hill.  
45

### 46 **REPEAL FULL TUITION GRANT FOR GRADUATES OF NORTH CAROLINA** 47 **SCHOOL OF SCIENCE AND MATHEMATICS WHO ATTEND A STATE** 48 **UNIVERSITY**

49 **SECTION 9.6.(a)** G.S. 116-238.1(a) reads as rewritten:

50 "(a) There is granted to each State resident who graduates from the North Carolina  
51 School of Science and Mathematics and who enrolls as a full-time student in a constituent

1 institution of The University of North Carolina a sum to be determined by the General  
2 Assembly as a tuition grant. The tuition grant shall be for four consecutive academic years and  
3 shall cover the tuition cost at the constituent institution in which the student is enrolled. The  
4 tuition grant shall be distributed to the student as provided by this section. The grant provided  
5 by this section is only available to a student enrolled at the North Carolina School of Science  
6 and Mathematics for the 2007-2008 academic year or earlier."

7 **SECTION 9.6.(b)** Effective July 1, 2013, G.S. 116-238.1, as amended by this  
8 section, is repealed.

## 10 **CLOSING THE ACHIEVEMENT GAP/GRANTS**

11 **SECTION 9.7.(a)** Funds appropriated by this act for the 2009-2010 fiscal year and  
12 for the 2010-2011 fiscal year to the Board of Governors of The University of North Carolina  
13 and allocated to the North Carolina Historically Minority Colleges and Universities Consortium  
14 (HMCUC) for "Closing the Achievement Gap," shall be used for the sole purpose of supporting  
15 the operations and program activities of the HMCUC. These funds shall be used by the  
16 HMCUC members for the public purposes of developing and implementing after-school  
17 programs designed to close the academic achievement gap and improving the academic  
18 performance of youth at risk of academic failure and school dropout. The HMCUC may also  
19 allocate funds to a community-based and faith-based organization that is located in close  
20 proximity to the HMCUC member institution for the public purposes stated in this section.

21 **SECTION 9.7.(b)** The North Carolina Historically Minority Colleges and  
22 Universities Consortium shall report to the Joint Legislative Education Oversight Committee  
23 and to the Fiscal Research Division by May 1 of each year, regarding the number of programs  
24 funded by the Consortium to Close the Achievement Gap, the location and program structure of  
25 the programs, the amount allocated to the program, and purposes for which the funds were  
26 awarded, the cost of administering and managing the funds, and any other information  
27 requested by the Committee or Fiscal Research Division. The grants awarded pursuant to this  
28 section shall also include as a term of the grant that the recipient of the grant report to the Joint  
29 Legislative Education Oversight Committee and to the Fiscal Research Division regarding the  
30 amount of the grant received, the program and purposes for which the grant was requested, the  
31 methodology used to implement the grant program and purposes, the results of the program  
32 funded by the grant, and any other information requested by the Joint Legislative Education  
33 Oversight Committee and the Fiscal Research Division.

## 35 **AMEND LEGISLATIVE TUITION GRANT FOR PART-TIME STUDENTS**

36 **SECTION 9.8.(a)** G.S. 116-21.2 reads as rewritten:

37 **"§ 116-21.2. Legislative tuition grants to aid students and licensure students attending**  
38 **private institutions of higher education.**

39 (a) Grants for Students. – In addition to any funds appropriated pursuant to G.S. 116-19  
40 and in addition to all other financial assistance made available to institutions, or to persons  
41 attending these institutions, there is granted to each North Carolina undergraduate student  
42 attending an approved institution as defined in G.S. 116-22, a sum, to be determined by the  
43 General Assembly for each academic year which shall be distributed to the undergraduate  
44 student as provided by this subsection. A full-time North Carolina undergraduate student shall  
45 be awarded the full amount of the tuition grant provided by this section. A part-time North  
46 Carolina undergraduate student who is enrolled to take at least ~~six~~nine hours of academic  
47 credit per semester shall be awarded a tuition grant in an amount that is calculated on a pro rata  
48 basis.

49 (a1) Grants for Licensure Students. – The legislative tuition grant provided by this  
50 section shall also be granted to each full-time licensure student who is enrolled in a program  
51 intended to result in a license in teaching or nursing at an approved institution. The legislative

1 tuition grant provided by this section shall be awarded on a pro rata basis to any part-time  
2 licensure student who is enrolled to take at least ~~six~~nine hours of undergraduate academic  
3 credit per semester in a program intended to result in a license in teaching or nursing at an  
4 approved institution. The legislative tuition grant and prorated legislative tuition grant  
5 authorized under this subsection shall be paid for undergraduate courses only. If a course is  
6 required for licensure, but is designated as both an undergraduate and graduate course, for  
7 purposes of this subsection, the course shall be considered an undergraduate course.

8 (b) Administration of Grants. – The tuition grants provided for in this section shall be  
9 administered by the State Education Assistance Authority pursuant to rules adopted by the  
10 State Education Assistance Authority not inconsistent with this section. The State Education  
11 Assistance Authority shall not approve any grant until it receives proper certification from an  
12 approved institution that the student or licensure student applying for the grant is eligible. Upon  
13 receipt of the certification, the State Education Assistance Authority shall remit at the times as  
14 it prescribes the grant to the approved institution on behalf, and to the credit, of the student or  
15 licensure student.

16 (c) Student or Licensure Student Change of Status; Audits. – In the event a full-time  
17 student on whose behalf a grant has been paid in accordance with subsection (a) of this section  
18 or a full-time licensure student on whose behalf a grant has been paid in accordance with  
19 subsection (a1) of this section is not enrolled and carrying a minimum academic load as of the  
20 tenth classroom day following the beginning of the school term for which the grant was paid,  
21 the institution shall refund the full amount of the grant to the State Education Assistance  
22 Authority. If a part-time student on whose behalf a prorated grant has been paid in accordance  
23 with subsection (a) of this section or a part-time licensure student on whose behalf a prorated  
24 grant has been paid in accordance with subsection (a1) of this section is not enrolled and  
25 carrying a minimum academic load of ~~six~~nine credit hours per semester in the undergraduate  
26 class as of the tenth classroom day following the beginning of the school term for which the  
27 grant was paid, the institution shall refund the full amount of the grant to the State Education  
28 Assistance Authority. If the matriculated status of a full-time student or a full-time licensure  
29 student changes to a matriculated status of part-time student or part-time licensure student by  
30 the tenth classroom day following the beginning of the school term for which the grant was  
31 paid, the institution shall refund only the difference between the amount of the full-time grant  
32 awarded and the amount of the part-time grant that is awarded pursuant to this section. Each  
33 approved institution shall be subject to examination by the State Auditor for the purpose of  
34 determining whether the institution has properly certified eligibility and enrollment of students  
35 and licensure students and credited grants paid on behalf of them.

36 (d) Shortfall. – In the event there are not sufficient funds to provide each eligible  
37 student or licensure student with a full or prorated grant as provided by subsection (a) of this  
38 section or a full or a prorated grant as provided by subsection (a1) of this section:

- 39 (1) The Board of Governors of The University of North Carolina, with the  
40 approval of the Office of State Budget and Management, may transfer  
41 available funds to meet the needs of the programs provided by subsections  
42 (a), (a1), and (b) of this section; and
- 43 (2) Each eligible student and licensure student shall receive a pro rata share of  
44 funds then available for the remainder of the academic year within the fiscal  
45 period covered by the current appropriation.

46 (e) Reversions. – Any remaining funds shall revert to the General Fund."

47 **SECTION 9.8.(b)** This section applies to academic semesters beginning on or after  
48 July 1, 2009.

49  
50 **GRADUATE NURSE SCHOLARSHIP PROGRAM FOR FACULTY**  
51 **PRODUCTION/REVERT PART OF FUND BALANCE**



1           **SECTION 9.9.** Effective July 1, 2009, the sum of one million dollars (\$1,000,000)  
2 shall transfer from the fund balance of the Graduate Nurse Scholarship Program for Faculty  
3 Production (also known as Nurse Educators of Tomorrow Scholarship Loan) to the General  
4 Fund.

5  
6           **INCREASE UNC UNDERGRADUATE TUITION SURCHARGE**

7           **SECTION 9.10.(a)** Subsection (b) of Section 89 of Chapter 321 of the 1993  
8 Session Laws as amended by Section 17.10 of Chapter 769 of the 1993 Session Laws reads as  
9 rewritten:

10           "(b) The Board of Governors of The University of North Carolina shall ensure that  
11 procedures are established that are necessary to impose a ~~twenty-five percent (25%)~~ fifty  
12 percent (50%) tuition surcharge on students who take more than 140 degree credit hours to  
13 complete a baccalaureate degree in a four-year program or more than one hundred ten percent  
14 (110%) of the credit hours necessary to complete a baccalaureate degree in any program  
15 officially designated by the Board of Governors as a five-year program. The calculation of  
16 these credit hours taken at a constituent institution or accepted for transfer shall exclude hours  
17 earned through the College Board's Advanced Placement or CLEP examinations, through  
18 institutional advanced placement or course validation, or through summer term or extension  
19 programs. No surcharge shall be imposed on any student who exceeds the degree credit hour  
20 limits within the equivalent of four academic years of regular term enrollment, or within five  
21 academic years of regular term enrollment in a degree program officially designated by the  
22 Board of Governors as a five-year program. ~~The Board shall report to the Joint Legislative~~  
23 ~~Education Oversight Committee by April 1, 1994, on its recommendations for implementing~~  
24 ~~this surcharge."~~

25           **SECTION 9.10.(b)** The Board of Governors shall report to the Joint Legislative  
26 Education Oversight Committee by September 1, 2009, regarding the implementation of the  
27 increased surcharge.

28           **SECTION 9.10.(c)** This section applies to all students who will be sophomores or  
29 freshman in the 2009-2010 fall academic semester and to all students who are new  
30 undergraduates on or after the effective date of this act.

31  
32           **ENROLLMENT GROWTH REPORTING**

33           **SECTION 9.11.** G.S. 116-30.7 reads as rewritten:

34           "**§ 116-30.7. Biennial projection of enrollment growth for The University of North**  
35 **Carolina.**

36           By ~~September 1~~ October 15 of each even-numbered year, the General Administration of The  
37 University of North Carolina shall provide to the Joint Education Legislative Oversight  
38 Committee and to the Office of State Budget and Management a projection of the total student  
39 enrollment in The University of North Carolina that is anticipated for the next biennium. The  
40 enrollment projection shall be divided into the following categories and shall include the  
41 projected growth for each year of the biennium in each category at each of the constituent  
42 institutions: undergraduate students, graduate students (students earning master's and doctoral  
43 degrees), ~~first year~~ first professional students, and any other categories deemed appropriate by  
44 General Administration. The projection shall also distinguish between on-campus and distance  
45 education students. The projections shall be considered by the Director of the Budget when  
46 determining the amount the Director proposes to fund as the continuation requirement for the  
47 enrollment increase in the university system pursuant to G.S. 143C-3-5(b)."

48  
49           **UNC BOARD OF GOVERNORS STUDY AND DEVELOP PLAN TO TRANSFER UNC**  
50 **CENTER FOR PUBLIC TELEVISION TO UNC SCHOOL OF THE ARTS**

1           **SECTION 9.12.** The Board of Governors of The University of North Carolina  
2 shall study the feasibility of transferring the University of North Carolina Center for Public  
3 Television to the University of North Carolina School of the Arts and shall develop a plan to  
4 implement such a transfer. The Board of Governors shall report its findings and  
5 recommendations along with the plan by March 1, 2010, to the Joint Education Legislative  
6 Oversight Committee and to the Chairs of the Senate and House of Representatives  
7 Appropriations Subcommittees on Education.

8  
9           **NORTH CAROLINA CENTER FOR ADVANCEMENT OF TEACHING**  
10           **(NCCAT)/PROPERTY SETTLEMENT IF NCCAT TRANSFERRED FROM UNC**  
11           **SYSTEM OR CEASES TO EXIST**

12           **SECTION 9.13.(a)** If the North Carolina Center for the Advancement of Teaching  
13 (NCCAT) is transferred from The University of North Carolina to another State government  
14 agency or department, then all of the following shall occur:

- 15           (1) The University of North Carolina and Western Carolina University shall  
16 both be released and relieved: (i) of any and all responsibilities, duties, and  
17 powers related to the administration or management functions of NCCAT,  
18 and (ii) of any and all responsibilities and duties arising from any fiduciary  
19 relationship existing between Western Carolina University and NCCAT.
- 20           (2) Neither The University of North Carolina nor Western Carolina University  
21 shall be the fiscal agent for NCCAT.
- 22           (3) Western Carolina University shall be granted a permanent easement 40 feet  
23 in width over and upon the NCCAT campus for the purpose of providing  
24 Western Carolina University and its assignees, agents, joint venturers,  
25 lessees, partners, and invitees access to that portion of Western Carolina  
26 University's campus currently undeveloped and adjacent to NCCAT.  
27 Western Carolina University shall use existing roads across the NCCAT  
28 campus, to the extent possible. If any road is required, it shall be built at  
29 Western Carolina University's expense.

30           **SECTION 9.13.(b)** If the North Carolina Center for Advancement of Teaching  
31 ceases to exist as a State agency or entity, or if NCCAT closes its offices and operation in  
32 Jackson County, North Carolina, then the following real property in Jackson County shall be  
33 transferred to Western Carolina University and become part of Western Carolina University's  
34 campus to be used for any purpose, at Western Carolina University's discretion, appropriate to  
35 its mission: all land in Jackson County that (i) was used or under the control of NCCAT at the  
36 time it ceased to exist or closed its operations and (ii) was transferred to NCCAT from The  
37 University of North Carolina, including all improvements located thereon.

38  
39           **COASTAL DEMONSTRATION WIND TURBINES**

40           **SECTION 9.14.(a)** The University of North Carolina shall continue the coastal  
41 sounds wind energy study set forth in Section 9.12 of S.L. 2008-107 and, pursuant to Section  
42 9.12, shall apply for federal grants to continue the study. Funds appropriated by United States  
43 Public Law 111-005, the American Recovery and Reinvestment Act of 2009 (the Federal Act),  
44 for renewable energy and allocated to the State of North Carolina shall be used for the  
45 development, design, and construction of at least three demonstration wind turbines and  
46 necessary support facilities in the sounds or off the coast of North Carolina, and the Director of  
47 the Budget shall ensure any available federal funds are secured. The actual placement of the  
48 wind turbines and necessary support facilities shall be determined by the coastal sounds wind  
49 energy study. The Director of the Budget shall ensure that any available federal funding is  
50 secured by the State to construct the wind turbines. The University, in collaboration with the  
51 Director of the Budget, shall enter into a contract with a third party by October 1, 2009, to

1 construct, establish, and operate the demonstration turbines and necessary support facilities on  
2 or before April 1, 2010.

3 **SECTION 9.14.(b)** With respect to the demonstration wind turbines and necessary  
4 support facilities authorized by subsection (a) of this section, the facilities authorized under this  
5 act shall be constructed in accordance with the provisions of general law applicable to the  
6 construction of State facilities. The Department of Environment and Natural Resources is  
7 directed to expedite permitting of the project to the extent allowed by law.

8  
9 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

10  
11 **CHILD CARE SUBSIDY RATES**

12 **SECTION 10.1.(a)** The maximum gross annual income for initial eligibility,  
13 adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the  
14 State median income, adjusted for family size.

15 **SECTION 10.1.(b)** Fees for families who are required to share in the cost of care  
16 shall be established based on a percent of gross family income and adjusted for family size.  
17 Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

18  
19  
20  
21  
22 **SECTION 10.1.(c)** Payments for the purchase of child care services for  
23 low-income children shall be in accordance with the following requirements:

- 24 (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106  
25 and licensed child care centers and homes that meet the minimum licensing  
26 standards that are participating in the subsidized child care program shall be  
27 paid the one-star county market rate or the rate they charge privately paying  
28 parents, whichever is lower.
- 29 (2) Licensed child care centers and homes with two or more stars shall receive  
30 the market rate for that rated license level for that age group or the rate they  
31 charge privately paying parents, whichever is lower.
- 32 (3) Nonlicensed homes shall receive fifty percent (50%) of the county market  
33 rate or the rate they charge privately paying parents, whichever is lower.
- 34 (4) Maximum payment rates shall also be calculated periodically by the  
35 Division of Child Development for transportation to and from child care  
36 provided by the child care provider, individual transporter, or transportation  
37 agency, and for fees charged by providers to parents. These payment rates  
38 shall be based upon information collected by market rate surveys.

39 **SECTION 10.1.(d)** Provisions of payment rates for child care providers in counties  
40 that do not have at least 50 children in each age group for center-based and home-based care  
41 are as follows:

- 42 (1) Except as applicable in subdivision (2) of this subsection, payment rates  
43 shall be set at the statewide or regional market rate for licensed child care  
44 centers and homes.
- 45 (2) If it can be demonstrated that the application of the statewide or regional  
46 market rate to a county with fewer than 50 children in each age group is  
47 lower than the county market rate and would inhibit the ability of the county  
48 to purchase child care for low-income children, then the county market rate  
49 may be applied.

50 **SECTION 10.1.(e)** A market rate shall be calculated for child care centers and  
51 homes at each rated license level for each county and for each age group or age category of

1 enrollees and shall be representative of fees charged to parents for each age group of enrollees  
2 within the county. The Division of Child Development shall also calculate a statewide rate and  
3 regional market rates for each rated license level for each age category.

4 **SECTION 10.1.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the  
5 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the  
6 program that provides for the purchase of care in child care facilities for minor children of  
7 needy families. No separate licensing requirements shall be used to select facilities to  
8 participate. In addition, child care facilities shall be required to meet any additional applicable  
9 requirements of federal law or regulations. Child care arrangements exempt from State  
10 regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the  
11 requirements established by other State law and by the Social Services Commission.

12 County departments of social services or other local contracting agencies shall not  
13 use a provider's failure to comply with requirements in addition to those specified in this  
14 subsection as a condition for reducing the provider's subsidized child care rate.

15 **SECTION 10.1.(g)** Payment for subsidized child care services provided with Work  
16 First Block Grant funds shall comply with all regulations and policies issued by the Division of  
17 Child Development for the subsidized child care program.

18 **SECTION 10.1.(h)** Noncitizen families who reside in this State legally shall be  
19 eligible for child care subsidies if all other conditions of eligibility are met. If all other  
20 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be  
21 eligible for child care subsidies only if at least one of the following conditions is met:

- 22 (1) The child for whom a child care subsidy is sought is receiving child  
23 protective services or foster care services.
- 24 (2) The child for whom a child care subsidy is sought is developmentally  
25 delayed or at risk of being developmentally delayed.
- 26 (3) The child for whom a child care subsidy is sought is a citizen of the United  
27 States.

## 28 **CHILD CARE ALLOCATION FORMULA**

29 **SECTION 10.2.(a)** The Department of Health and Human Services shall allocate  
30 child care subsidy voucher funds to pay the costs of necessary child care for minor children of  
31 needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under  
32 G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy  
33 allocation. The Department of Health and Human Services shall use the following method  
34 when allocating federal and State child care funds, not including the aggregate mandatory thirty  
35 percent (30%) Smart Start subsidy allocation:  
36

- 37 (1) Funds shall be allocated to a county based upon the projected cost of serving  
38 children under age 11 in families with all parents working who earn less than  
39 seventy-five percent (75%) of the State median income.
- 40 (2) No county's allocation shall be less than ninety percent (90%) of its State  
41 fiscal year 2001-2002 initial child care subsidy allocation.

42 **SECTION 10.2.(b)** The Department of Health and Human Services may reallocate  
43 unused child care subsidy voucher funds in order to meet the child care needs of low-income  
44 families. Any reallocation of funds shall be based upon the expenditures of all child care  
45 subsidy voucher funding, including Smart Start funds, within a county.

46 **SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department  
47 of Health and Human Services shall allocate up to twenty million dollars (\$20,000,000) in  
48 federal block grant funds and State funds appropriated for fiscal years 2009-2010 and  
49 2010-2011 for child care services. These funds shall be allocated to prevent termination of  
50 child care services. Funds appropriated for specific purposes, including market rate

1 adjustments, may also be allocated by the Department separately from the allocation formula  
2 described in subsection (a) of this section.

### 4 **CHILD CARE FUNDS MATCHING REQUIREMENT**

5 **SECTION 10.3.** No local matching funds may be required by the Department of  
6 Health and Human Services as a condition of any locality's receiving its initial allocation of  
7 child care funds appropriated by this act unless federal law requires a match. If the Department  
8 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing  
9 agencies beyond their initial allocation, local purchasing agencies must provide a twenty  
10 percent (20%) local match to receive the reallocated funds. Matching requirements shall not  
11 apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

### 13 **FACILITATE AND EXPEDITE USE OF CHILD CARE SUBSIDY FUNDS**

14 **SECTION 10.4.** The Division of Child Development of the Department of Health  
15 and Human Services shall adopt temporary policies that facilitate and expedite the prudent  
16 expenditure of child care subsidy funds. These policies will address the following:

- 17 (1) Permitting the local purchasing agencies to issue time-limited vouchers to  
18 assist counties in managing onetime, nonrecurring subsidy funding.
- 19 (2) Extending the current 30/60 day job search policy to six months when a  
20 recipient experiences a loss of employment.
- 21 (3) Providing an upfront job search period of six months for former recipients  
22 who have lost employment since October 1, 2008.
- 23 (4) Providing a job search period of six months for recipients that complete  
24 school and are entering the job market.
- 25 (5) Notwithstanding any other provision of law, extending the 24-month  
26 education time limit for an additional 12 months for a child care recipient  
27 who has lost a job since October 1, 2008, or otherwise needs additional  
28 training to enhance his or her marketable skills for job placement due to the  
29 economic downturn and who has depleted his or her 24-month allowable  
30 education time.
- 31 (6) Lowering the number of hours a parent must be working in order to be  
32 eligible for subsidy to assist parents who are continuing to work but at  
33 reduced hours.

### 35 **CHILD CARE REVOLVING LOAN**

36 **SECTION 10.5.** Notwithstanding any law to the contrary, funds budgeted for the  
37 Child Care Revolving Loan Fund may be transferred to and invested by the financial institution  
38 contracted to operate the Fund. The principal and any income to the Fund may be used to make  
39 loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's  
40 cost of operating the Fund, or pay the Department's cost of administering the program.

### 42 **CHILD CARE MARKET RATE ADJUSTMENTS**

43 **SECTION 10.6.** Not later than October 1, 2009, the Department shall implement  
44 an adjustment to child care market rates, by region, based upon the 2009 Child Care Market  
45 Rate Study.

### 47 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 48 **ENHANCEMENTS**

49 **SECTION 10.7.(a)** Administrative costs shall be equivalent to, on an average  
50 statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide  
51 allocation to all local partnerships. For purposes of this subsection, administrative costs shall

1 include costs associated with partnership oversight, business and financial management,  
2 general accounting, human resources, budgeting, purchasing, contracting, and information  
3 systems management.

4 **SECTION 10.7.(b)** The North Carolina Partnership for Children, Inc., and all local  
5 partnerships shall use competitive bidding practices in contracting for goods and services on  
6 contract amounts as follows:

- 7 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures  
8 specified by a written policy to be developed by the Board of Directors of  
9 the North Carolina Partnership for Children, Inc.
- 10 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen  
11 thousand dollars (\$15,000), three written quotes.
- 12 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than  
13 forty thousand dollars (\$40,000), a request for proposal process.
- 14 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for  
15 proposal process and advertising in a major newspaper.

16 **SECTION 10.7.(c)** The North Carolina Partnership for Children, Inc., and all local  
17 partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the  
18 total amount budgeted for the program in each fiscal year of the biennium as follows:  
19 contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal  
20 to no more than five percent (5%) for a total match requirement of twenty percent (20%) for  
21 each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any  
22 amount in excess of the required match for a fiscal year in order to meet the match requirement  
23 of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to  
24 the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for  
25 the purpose of the match requirement of this subsection. Volunteer services that qualify as  
26 professional services shall be valued at the fair market value of those services. All other  
27 volunteer service hours shall be valued at the statewide average wage rate as calculated from  
28 data compiled by the Employment Security Commission in the Employment and Wages in  
29 North Carolina Annual Report for the most recent period for which data are available.  
30 Expenses, including both those paid by cash and in-kind contributions, incurred by other  
31 participating non-State entities contracting with the North Carolina Partnership for Children,  
32 Inc., or the local partnerships, also may be considered resources available to meet the required  
33 private match. In order to qualify to meet the required private match, the expenses shall:

- 34 (1) Be verifiable from the contractor's records.
- 35 (2) If in-kind, other than volunteer services, be quantifiable in accordance with  
36 generally accepted accounting principles for nonprofit organizations.
- 37 (3) Not include expenses funded by State funds.
- 38 (4) Be supplemental to and not supplant preexisting resources for related  
39 program activities.
- 40 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and  
41 be necessary and reasonable for the proper and efficient accomplishment of  
42 the Program's objectives.
- 43 (6) Be otherwise allowable under federal or State law.
- 44 (7) Be required and described in the contractual agreements approved by the  
45 North Carolina Partnership for Children, Inc., or the local partnership.
- 46 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local  
47 partnership by the contractor in the same manner as reimbursable expenses.

48 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall  
49 result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent  
50 fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for  
51 compiling information on the private cash and in-kind contributions into a report that is

1 submitted to the Joint Legislative Commission on Governmental Operations in a format that  
2 allows verification by the Department of Revenue. The same match requirements shall apply to  
3 any expansion funds appropriated by the General Assembly.

4 **SECTION 10.7.(d)** The Department of Health and Human Services shall continue  
5 to implement the performance-based evaluation system.

6 **SECTION 10.7.(e)** The Department of Health and Human Services and the North  
7 Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early  
8 Childhood Education and Development Initiatives for State fiscal years 2009-2010 and  
9 2010-2011 shall be administered and distributed in the following manner:

10 (1) Capital expenditures are prohibited for fiscal years 2009-2010 and  
11 2010-2011. For the purposes of this section, "capital expenditures" means  
12 expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).

13 (2) Expenditures of State funds for advertising and promotional activities are  
14 prohibited for fiscal years 2009-2010 and 2010-2011.

15 **SECTION 10.7.(f)** A county may use the county's allocation of State and federal  
16 child care funds to subsidize child care according to the county's Early Childhood Education  
17 and Development Initiatives Plan as approved by the North Carolina Partnership for Children,  
18 Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child  
19 care providers shall, at a minimum, comply with the applicable requirements for State licensure  
20 pursuant to Article 7 of Chapter 110 of the General Statutes.

21 **SECTION 10.7.(g)** For fiscal years 2009-2010 and 2010-2011, the local  
22 partnerships shall spend an amount for child care subsidies that provides at least fifty-two  
23 million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child  
24 Care Development Fund and Block Grant match requirement. The North Carolina Partnership  
25 for Children, Inc., shall not spend less on child care subsidies than the spending level for fiscal  
26 year 2008-2009.

## 27 28 **CONTINUE MORE AT FOUR PROGRAM FOR 2009-2010 FISCAL YEAR**

29 **SECTION 10.8.(a)** The Department of Public Instruction and Division of Child  
30 Development of the Department of Health and Human Services shall continue the  
31 implementation of the More at Four prekindergarten program for at-risk four-year-olds who are  
32 at risk of failure in kindergarten through the 2009-2010 fiscal year. The program is available  
33 statewide to all counties that choose to participate, including underserved areas. The goal of the  
34 program is to provide quality prekindergarten services to a greater number of at-risk children in  
35 order to enhance kindergarten readiness for these children. The program shall be consistent  
36 with standards and assessments established jointly by the Department of Health and Human  
37 Services and the Department of Public Instruction.

38 **SECTION 10.8.(b)** The Office of School Readiness of the Department of  
39 Instruction shall reduce the reimbursement rates per slot statewide. The program funding is  
40 reduced by forty million dollars (\$40,000,000) recurring beginning for the 2009-2010 fiscal  
41 year. The Office of School Readiness, in conjunction with Division of Child Development,  
42 shall plan to minimize the number of slots eliminated by reducing the amount of funds paid per  
43 slot statewide.

44 **SECTION 10.8.(c)** A child whose parent is deployed in the military shall be  
45 eligible for participation in the More at Four program.

## 46 47 **MORE AT FOUR PROGRAM**

48 **SECTION 10.9.(a)** The More at Four program is transferred to the Department of  
49 Health and Human Services, effective July 1, 2009.

50 **SECTION 10.9.(b)** The star rating system currently in place for licensure shall  
51 have an additional Plus (+) designation identifying those programs offering a high quality

four-year-old classroom. The Plus program shall be administered within the Regulatory Services Section of the Division of Child Development as a high quality four-year-old classroom operated within private child care centers and public schools and will be designated as a Plus program.

**SECTION 10.9.(c)** The Plus program shall be no less stringent than current standards of the More at Four program in place for the 2008-2009 fiscal year and shall ensure lower ratios of teachers to students and require higher teacher qualifications. The Plus program shall offer a curriculum approved by the Division of Child Development.

**SECTION 10.9.(d)** Eligibility requirements for the Plus program shall be in accordance with current child care subsidy eligibility requirements as established by the General Assembly. The new reimbursement rate plan shall be in accordance with the child care subsidy program implemented for the 2010-2011 fiscal year.

**SECTION 10.9.(e)** Public school systems shall be allowed reimbursement through the Division of Child Development for students qualifying for subsidy for its Plus programs. Beginning in school year 2010-2011, the screening process for children applying for subsidy for a Plus program shall occur through the regular subsidy application process in collaboration with local partnerships of the North Carolina Partnership for Children, Inc., county departments of social services, and local school administrative units. Counties are encouraged to develop a single application process for child care subsidy accepted in many locations throughout the county.

**SECTION 10.9.(f)** Parent payments for the Plus program shall be in accordance with child care subsidy rules adopted by the Division of Child Development for the 2010-2011 fiscal year.

**SECTION 10.9.(g)** On or before December 1, 2009, the Division of Child Development shall report on the star-rated system and the incorporation of the Plus program. The report will include an analysis of the star-rated system and identify the standards for each and the differences between the various levels.

**ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES**

**SECTION 10.10.** The Division of Child Development of the Department of Health and Human Services shall increase the allowance that county departments of social services may use for administrative costs from four percent (4%) to five percent (5%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan. The increase shall be effective for the 2009-2010 fiscal year.

**INCREASE CHILD CARE LICENSING FEES FOR CHILD CARE FACILITIES**

**SECTION 10.11.** G.S. 110-90(1a) reads as rewritten:

**"§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

...

(1a) To establish a fee for the licensing of child care ~~centers-facilities~~. The fee does not apply to a religious-sponsored child care ~~center-facility~~ operated pursuant to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

<b>Capacity of <del>Center</del>Facility</b>	<b>Maximum Fee</b>
12 or fewer children	\$ <del>35.00</del> \$52.00
13-50 children	\$ <del>125.00</del> \$187.00
51-100 children	\$ <del>250.00</del> \$375.00
101 or more children	\$ <del>400.00</del> \$600.00



1           ...."

2  
3 **MENTAL HEALTH CHANGES**

4           **SECTION 10.12.(a)** For the purpose of mitigating cash flow problems that many  
5 non-single-stream local management entities (LMEs) experience at the beginning of each fiscal  
6 year, the Department of Health and Human Services, Division of Mental Health,  
7 Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method  
8 by which allocations of service dollars are distributed to each non-single-stream LME. To this  
9 end, the allocations shall be adjusted such that at the beginning of the fiscal year the  
10 Department shall distribute not less than one-twelfth of the LME's continuation allocation and  
11 subtract the amount of the adjusted distribution from the LME's total reimbursements for the  
12 fiscal year.

13           **SECTION 10.12.(b)** Onetime funds appropriated for the Dorothea Dix Hospital  
14 overflow unit shall be used to support the temporary operation of the hospital unit on the  
15 Dorothea Dix campus.

16           **SECTION 10.12.(c)** The Department shall evaluate the need to continue the  
17 temporary operation of the hospital unit for one additional year and provide a recommendation  
18 to the Governor no later than February 15, 2010. Notwithstanding any other provision of law  
19 to the contrary, the Office of State Budget and Management shall establish the positions for the  
20 hospital unit on the Dorothea Dix campus as time-limited positions.

21           **SECTION 10.12.(d)** Of the funds appropriated in this act to the Department of  
22 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
23 Substance Abuse Services, the sum of twenty million one hundred twenty-one thousand six  
24 hundred forty-four dollars (\$20,121,644) for the 2009-2010 fiscal year and the sum of twenty  
25 million one hundred twenty-one thousand six hundred forty-four dollars (\$20,121,644) for the  
26 2010-2011 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or  
27 bed days. These beds or bed days shall be distributed across the State according to need as  
28 determined by the Department. The Department shall enter into contracts with the LMEs and  
29 community hospitals for the management of these beds or bed days. Local inpatient psychiatric  
30 beds or bed days shall be managed and controlled by the LME, including the determination of  
31 which local or State hospital the individual should be admitted to pursuant to an involuntary  
32 commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide  
33 reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse  
34 Services to pay for services authorized by the LMEs and billed by the hospitals through the  
35 LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt  
36 of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt  
37 of payment from the Division. If the Department determines (i) that an LME is not effectively  
38 managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days  
39 in the local hospital not being utilized while demand for services at the State psychiatric  
40 hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment  
41 provisions of this subsection, the Department may contract with another LME to manage the  
42 beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the  
43 hospital directly. The Department shall develop reporting requirements for LMEs regarding  
44 the utilization of the beds or bed days. Funds appropriated in this section for the purchase of  
45 local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed  
46 days not currently funded by or through LMEs and shall not be used to supplant other funds  
47 available or otherwise appropriated for the purchase of psychiatric inpatient services under  
48 contract with community hospitals, including beds or bed days being purchased through  
49 Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2010,  
50 the Department shall report to the House of Representatives Appropriations Subcommittee on  
51 Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental

1 Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research  
2 Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from  
3 existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using  
4 funds appropriated under this subsection.

5 **SECTION 10.12.(e)** The Secretary of the Department of Health and Human  
6 Services shall not take any action prior to January 1, 2010, that would result in the merger or  
7 consolidation of LMEs operating on January 1, 2008, or that would establish consortia or  
8 regional arrangements for the same purpose, except that LMEs that do not meet the catchment  
9 area requirements of G.S. 122C-115 as of January 1, 2010, may initiate, continue, or implement  
10 the LMEs' merger or consolidation plans to overcome noncompliance with G.S. 122C-115.  
11 This subsection does not prohibit LME's from voluntarily merging if they are contiguous or  
12 consolidating administrative functions.

13 **SECTION 10.12.(f)** Of the funds appropriated in this act to the Department of  
14 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
15 Substance Abuse Services, for mobile crisis teams, the sum of five million seven hundred  
16 fifty-five thousand dollars (\$5,755,000) shall be distributed to LMEs to support 30 mobile  
17 crisis teams. The new mobile crisis units shall be distributed over the State according to need  
18 as determined by the Department.

19  
20 **REENACT 2007 SPECIAL PROVISION ON COLLABORATION ON**  
21 **SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

22 **SECTION 10.13.** Section 10.9 of S.L. 2007-323 is reenacted for the 2009-2011  
23 fiscal biennium.

24  
25 **CLOSURE OF WRIGHT AND WHITAKER SCHOOLS**

26 **SECTION 10.14.** The Department of Health and Human Services, Division of  
27 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall close the  
28 Wright School and the Whitaker School, effective December 31, 2009.

29 The Division shall prepare a transition plan for each student currently attending  
30 these schools, which shall include assisting in the location of community services for the  
31 student, working with the public school system in preparing or updating the student's  
32 individualized education plan, and working with the local management entity (LME) to ensure  
33 that the needs of the student are met. The LME shall conduct a six-month follow-up on each of  
34 these students.

35 The Division shall report on student transitions, student participation in any  
36 community or residential programs, and student progress six months after the school closures.  
37 The Division shall submit the report to the Senate Appropriations Committee on Health and  
38 Human Services, the House of Representatives Appropriations Subcommittee on Health and  
39 Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental  
40 Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than  
41 August 30, 2010.

42 The Department shall ensure that all possible measures are taken to provide a State  
43 job for employees of these schools.

44  
45 **SUBSTANCE ABUSE TASK FORCE RECOMMENDATIONS/AVAILABILITY OF**  
46 **SUBSTANCE ABUSE TREATMENT**

47 **SECTION 10.15.(a)** Of the funds appropriated in this act to the Department of  
48 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
49 Substance Abuse Services, the sum of one million dollars (\$1,000,000) shall be used to  
50 implement one or more priority recommendations of the North Carolina Institute of Medicine  
51 (NCIOM) Substance Abuse Task Force, which include:

- 1 (1) Development of a comprehensive substance abuse prevention plan for use at  
2 the State and local levels.
- 3 (2) Providing funding for the establishment of six pilot projects to implement  
4 county or multicounty comprehensive prevention plans.
- 5 (3) Supporting efforts to reduce high-risk drinking on college campuses.
- 6 (4) Development of a pilot program to provide chronic disease management  
7 services to substance abuse clients and former clients. The purpose of the  
8 pilot is to decrease the number of short-term hospital admissions and to  
9 provide discharge planning and follow-up to reduce substance abuse client  
10 recidivism.
- 11 (5) Educating and encouraging health care professionals to use the screening,  
12 brief intervention, and referral to treatment (SBIRT) model promoted by the  
13 federal government.

14 **SECTION 10.15.(b)** Consistent with G.S. 122C-2, the General Assembly strongly  
15 encourages Local Management Entities (LMEs) to use a portion of the funds appropriated for  
16 substance abuse treatment services to support prevention and education activities.

17 **SECTION 10.15.(c)** An LME may use up to one percent (1%) of funds allocated to  
18 it for substance abuse treatment services to provide nominal incentives for consumers who  
19 achieve specified treatment benchmarks, in accordance with the federal substance abuse and  
20 mental health services administration best practice model entitled Contingency Management.

21 **SECTION 10.15.(d)** In providing treatment and services for adult offenders and  
22 increasing the number of Treatment Accountability for Safer Communities (TASC) case  
23 managers, local management entities shall consult with TASC to improve offender access to  
24 substance abuse treatment and match evidence-based interventions to individual needs at each  
25 stage of substance abuse treatment. Special emphasis should be placed on intermediate  
26 punishment offenders, community punishment offenders at risk for revocation, and Department  
27 of Correction (DOC) releasees who have completed substance abuse treatment while in  
28 custody.

29 In addition to the funds appropriated in this act to the Department of Health and  
30 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
31 Services, to provide substance abuse services for adult offenders and to increase the number of  
32 TASC case managers, the Department shall allocate up to three hundred thousand dollars  
33 (\$300,000) to TASC. These funds shall be allocated to TASC before funds are allocated to  
34 LMEs for mental health services, substance abuse services, and crisis services.

35 **SECTION 10.15.(e)** In providing drug treatment court services, LMEs shall  
36 consult with the local drug treatment court team and shall select a treatment provider that meets  
37 all provider qualification requirements and the drug treatment court's needs. A single treatment  
38 provider may be chosen for non-Medicaid-eligible participants only. A single provider may be  
39 chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in  
40 a single group. During the 52-week drug treatment court program, participants shall receive an  
41 array of treatment and aftercare services that meets the participant's level of need, including  
42 step-down services that support continued recovery.

43 **SECTION 10.15.(f)** Not later than October 1, 2009, the Department of Health and  
44 Human Services shall complete the development of a Uniform Screening Tool (UST) to  
45 determine the mental health of any individual admitted to any long-term care facility. The  
46 Department shall report on the status of UST development on or before January 1, 2010, to the  
47 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and  
48 Substance Abuse Services.

49  
50 **TOTAL QUALITY MANAGEMENT**

1           **SECTION 10.16.** The Secretary of the Department of Health and Human Services  
 2 shall implement a Total Quality Management Program in hospitals and other State facilities for  
 3 the purpose of providing a high level of customer service by well-trained staff throughout the  
 4 organization. The focus of this management approach shall be on meeting customer needs by  
 5 providing high-quality services.

6           The Department shall involve staff at all levels of the organization by soliciting  
 7 suggestions and input into decision making by managers. The Department shall create staff  
 8 committees composed of a representative distribution of rank and file employees, to evaluate  
 9 policy changes and identify training opportunities and other necessary improvements.

10          The Department shall submit a report on the status of the Total Quality Management  
 11 Program, including any activities associated with its implementation within State facilities, to  
 12 the Senate Appropriations Committee on Health and Human Services, the House of  
 13 Representatives Appropriations Subcommittee on Health and Human Services, the Joint  
 14 Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance  
 15 Abuse Services, and the Fiscal Research Division not later than December 1, 2009.

16  
 17 **BUDGET REDUCTIONS FOR DIVISION OF MH/DD/SA**

18          **SECTION 10.17.** The Department of Health and Human Services, Division of  
 19 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall reduce its  
 20 budget in the following areas for the 2009-2010 and 2010-2011 fiscal years:

21 Facility	Fund Code	FY 2009-2010	FY 2010-2011
22 Broughton Hospital	4541	\$ (34,220)	
23 Broughton Hospital	4541		\$ (136,550)
24 Broughton Hospital	4549	\$ (7,000)	
25 Longleaf Neuro-Medical	4541	\$ (64,000)	
26 Longleaf Neuro-Medical	4541	\$ (24,000)	
27 Longleaf Neuro-Medical	4541		\$ (72,500)
28 Black Mountain Neuro-Medical	4541		\$ (25,796)
29 Caswell Developmental Center	4541	\$ (210,632)	
30 Caswell Developmental Center	4541		\$ (320,500)
31 Caswell Developmental Center	4549	\$ (16,500)	
32 Murdoch Center	3210	\$ (14,447)	\$ (14,447)
33 Murdoch Center	4541	\$ (200,750)	
34 Murdoch Center	4541		\$ (93,200)
35 O-Berry Neuro-Medical	4521	\$ (60,702)	\$ (21,102)
36 O-Berry Neuro-Medical	4541	\$ (22,103)	
37 Iverson Riddle Center	3110	\$ (12,153)	\$ (12,153)
38 Walter Jones ADATC	3110	\$ (5,852)	\$ (5,852)
39 Walter Jones ADATC	4541	\$ (24,500)	
40 Walter Jones ADATC	4549	\$ (8,800)	
41			
42 TOTAL REDUCTIONS		\$ (705,659)	\$ (709,100)

43  
 44 New purchases of vehicles for the regional maintenance facilities are subject to approval by the  
 45 Secretary.

46  
 47 **STUDY THE AVAILABILITY OF COMMUNITY MH/DD/SA SERVICES FOR**  
 48 **MILITARY FAMILIES**

49          **SECTION 10.18.** Funds appropriated in this act to the Department of Health and  
 50 Human Services for North Carolina Institute of Medicine (NCIOM) shall be used to study the  
 51 availability of Medicaid and State-funded mental health, developmental disability, and

1 substance abuse services to active duty, reserve, and veteran members of the military and  
2 National Guard. The study should discuss the current availability of services, the extent of use,  
3 and any gaps in services. The NCIOM shall submit a report of its findings and any  
4 recommended legislation to the Governor's Office, the Joint Legislative Commission on  
5 Governmental Operations, and the Joint Legislative Oversight Committee on Mental Health,  
6 Developmental Disabilities, and Substance Abuse Services by February 15, 2010.

## 7 8 **FUNDS FOR LOCAL MANAGEMENT ENTITY (LME) SERVICE GAPS**

9 **SECTION 10.19.** Funds appropriated in this act for mental health services and  
10 supported employment shall be allocated to local management entities such that each local  
11 management entity receives a percentage of the total allocation that is equal to that local  
12 management entity's percentage of the State's total population that is below the federal poverty  
13 level. Funds appropriated to the Department of Health and Human Services for the 2009-2010  
14 and 2010-2011 fiscal years for mental health services, substance abuse services, and crisis  
15 services and allocated based on the poverty level shall continue to be allocated by the  
16 Department to local management entities such that each local management entity receives a  
17 percentage of the total allocation that is equal to that local management entity's percentage of  
18 the State's total population that is below the federal poverty level.

## 19 20 **TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED 21 SERVICES TO LOCAL MANAGEMENT ENTITIES**

22 **SECTION 10.20.** Consistent with the findings of the Mercer evaluation of Local  
23 Management Entities (LMEs), the Department of Health and Human Services shall collaborate  
24 with LMEs to enhance their administrative capabilities to assume utilization management  
25 responsibilities for the provision of community-based mental health, developmental disabilities,  
26 and substance abuse services. The Department may, with approval of the Office of State  
27 Budget and Management, use funds available to implement this section.

## 28 29 **MENTAL HEALTH TRUST FUND ALLOCATIONS**

30 **SECTION 10.21.** Notwithstanding any other provision of law to the contrary,  
31 funds allocated from the Trust Fund for Mental Health, Developmental Disabilities, and  
32 Substance Abuse Services and Bridge Funding Needs (Fund) in the 2007 fiscal biennium shall  
33 not revert to the Fund nor otherwise be withheld but shall be allocated to those programs for  
34 which the funds were originally obligated.

## 35 36 **VITAL RECORDS FEES**

37 **SECTION 10.22.** G.S. 130A-93.1 reads as rewritten:

### 38 **"§ 130A-93.1. Fees for vital records copies or search; automation fund.**

39 (a) The State Registrar shall collect, process, and utilize fees for services as follows:

- 40 (1) A fee not to exceed ~~fifteen dollars (\$15.00)~~ twenty dollars (\$20.00) shall be  
41 charged for issuing ~~any a first~~ copy of a vital record or for conducting a  
42 routine search of the files for the record when no copy is made. A fee of  
43 fifteen dollars (\$15.00) shall be charged for each additional certificate copy  
44 requested from the same search. When certificates are issued or searches  
45 conducted for statewide issuance by local agencies using databases  
46 maintained by the State Registrar, the local agency shall charge ~~this fee these~~  
47 fees and shall ~~forward five dollars (\$5.00) of this fee~~ retain ten dollars  
48 (\$10.00) of these fees to cover local administrative costs and forward the  
49 remaining fees to the State Registrar for the purposes established in  
50 subsection (b) of this section.

1 (2) A fee not to exceed fifteen dollars (\$15.00) for in-State requests and not to  
2 exceed twenty dollars (\$20.00) for out-of-state requests shall be charged in  
3 addition to the fee charged under subdivision (1) of this subsection and to all  
4 shipping and commercial charges when expedited service is specifically  
5 requested.

6 (2a) The fee for a copy of a computer or microform database shall not exceed the  
7 cost to the agency of making and providing the copy.

8 (3) Except as provided in subsection (b) of this section, fees collected under this  
9 subsection shall be used by the Department for public health purposes.

10 (b) The Vital Records Automation Account is established as a nonreverting account  
11 within the Department. Five dollars (\$5.00) of each fee collected pursuant to subdivision (a)(1)  
12 shall be credited to this Account. The Department shall use the revenue in the Account to fully  
13 automate and maintain the vital records system. When funds sufficient to fully automate and  
14 maintain the system have accumulated in the Account, fees shall no longer be credited to the  
15 Account but shall be used as specified in subdivision (a)(3) of this section."  
16

## 17 **CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES** 18 **INITIATIVE**

19 **SECTION 10.23.(a)** Funds appropriated in this act from the General Fund to the  
20 Department of Health and Human Services for the Community-Focused Eliminating Health  
21 Disparities Initiative (CFEHDI) shall be used to provide grants-in-aid to local public health  
22 departments, American Indian tribes, and faith-based and community-based organizations to  
23 close the gap in the health status of African-Americans, Hispanics/Latinos, and American  
24 Indians as compared to the health status of white persons. These grants shall focus on the use of  
25 preventive measures to support healthy lifestyles. The areas of focus on health status shall be  
26 infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and  
27 homicides and motor vehicle deaths.

28 **SECTION 10.23.(b)** Funds appropriated in this act to the Department of Health  
29 and Human Services, Division of Public Health, for the CFEHDI shall be awarded as a  
30 grant-in-aid to honor the memory of the following recently deceased members of the General  
31 Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and  
32 William Martin. These funds shall be used for concerted efforts to address large gaps in health  
33 status among North Carolinians who are African-American, as well as disparities among other  
34 minority populations in North Carolina.

35 **SECTION 10.23.(c)** The Department of Health and Human Services shall report  
36 on the following with respect to funds appropriated to the CFEHDI for the 2009-2010 fiscal  
37 year. The report shall address the following:

38 (1) Which community programs and local health departments received CFEHDI  
39 grants.

40 (2) The amount of funding each program or local health department received.

41 (3) Which of the minority populations were served by the programs or local  
42 health departments.

43 (4) Which counties were served by the programs or local health departments.

44 (5) What activities were planned and implemented by the programs or local  
45 health departments to fulfill the community focus of the CFEHDI program.

46 (6) How the activities implemented by the programs or local health departments  
47 fulfilled the goal of reducing health disparities among minority populations.

48 The report shall also include specific activities undertaken pursuant to subsection (a)  
49 of this section to address large gaps in health status among North Carolinians who are  
50 African-American and other minority populations in this State. The Department shall submit  
51 the report not later than March 15, 2010, to the House of Representatives Appropriations

1 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
2 and Human Services, and the Fiscal Research Division.

#### 4 FUNDS FOR SCHOOL NURSES

5 **SECTION 10.24.(a)** All funds appropriated for the school nurse initiative shall be  
6 used to supplement and not supplant other State, local, or federal funds appropriated or  
7 allocated for this purpose. Communities shall maintain their current level of effort and funding  
8 for school nurses. These funds shall not be used for funding nurses for State agencies. All  
9 funds shall be used for direct services.

10 **SECTION 10.24.(b)** All school nurses funded with State funds shall participate, as  
11 needed, in child and family teams.

12 **SECTION 10.24.(c)** Of the funds appropriated to the Department of Health and  
13 Human Services, Division of Public Health, for the 2009-2010 and 2010-2011 fiscal years, the  
14 sum of one million dollars (\$1,000,000) in each fiscal year shall be used to hire 20 additional  
15 school health nurses bringing the total number of school nurses supported by DHHS to 232.  
16 The distribution of additional school nurses shall be made according to the criteria established  
17 by the Department in 2006.

#### 19 AIDS DRUG ASSISTANCE PROGRAM

20 **SECTION 10.25.** For the 2009-2010 and 2010-2011 fiscal years, the Department  
21 may, within existing Aids Drug Assistance Program (ADAP) resources, adjust the financial  
22 eligibility criterion of the ADAP up to an amount not exceeding three hundred percent (300%)  
23 of the federal poverty level in order to serve as many eligible North Carolinians living with  
24 HIV disease as possible within existing resources plus any new federal resources. If a waiting  
25 list develops as a result of the eligibility criterion being raised, the Department shall give first  
26 priority to those individuals on the waiting list with income at or below one hundred  
27 twenty-five percent (125%) of the federal poverty level, and second priority to those  
28 individuals with income above one hundred twenty-five percent (125%) and at or below two  
29 hundred fifty percent (250%) of federal poverty guidelines.

#### 31 PUBLIC HEALTH IMPROVEMENT PLAN

32 **SECTION 10.26.(a)** The Department of Health and Human Services (DHHS) shall  
33 develop a five-year Public Health Improvement Plan (Plan) by March 31, 2010. In developing  
34 the Plan the Secretary shall:

- 35 (1) Adopt a list of services and activities performed by local health departments  
36 that qualify as core public health functions of statewide significance.
- 37 (2) Adopt a list of performance measures with the intent of improving health  
38 status indicators applicable to core public health functions of statewide  
39 significance that local health departments (LHDs) must provide.
- 40 (3) Identify a set of health status indicators to be given priority by LHDs.

41 Under the Plan, all priorities and health status indicators must incorporate as an essential  
42 activity the disparity of diseases amongst populations and locales.

43 **SECTION 10.26.(b)** In order for measurable benefits to be realized through the  
44 implementation of the Plan, the Plan shall include the adoption of levels of performance  
45 necessary to promote:

- 46 (1) Uniformity across local health departments,
- 47 (2) Best evidence-based services,
- 48 (3) National standards of performance,
- 49 (4) Innovations in public health practice, and
- 50 (5) Reduction of geographic and racial health disparities.

1 LHDs shall have the flexibility and opportunity to use the resources available to achieve the  
2 required performance measures in a manner that best suits the LHD.

3 **SECTION 10.26.(c)** The Plan will address the need to provide county health  
4 departments with financial incentives to encourage and increase local investment in public  
5 health functions. County governments shall not supplant existing local funding with State  
6 incentive resources. The Secretary may revise the list of activities and performance measures as  
7 appropriate, but before doing so, the Secretary shall provide a written explanation of the  
8 rationale for the addition, deletion, or revision.

9 **SECTION 10.26.(d)** In developing the Plan the Secretary shall establish and chair  
10 the Public Health Improvement Plan Task Force (Task Force), the members and expertise of  
11 which shall include:

- 12 (1) Local health departments,
- 13 (2) Department staff,
- 14 (3) Individuals and entities with expertise in the development of performance  
15 measures, accountability, and systems management,
- 16 (4) Experts in development of evidence-based medical guidelines or public  
17 health practice guidelines, and
- 18 (5) Individuals and entities that will be affected by the performance measures.

19 **SECTION 10.26.(e)** The implementation schedule for the Plan shall be as follows:

- 20 (1) July 1, 2009, establish the Task Force to develop the Plan,
- 21 (2) March 31, 2010, submit the Plan to the 2010 Regular Session of the 2009  
22 General Assembly,
- 23 (3) July 1, 2010, implement the Plan, and
- 24 (4) November 15, 2011, and annually thereafter, report on Plan implementation.

25 **SECTION 10.26.(f)** The Department will identify the programmatic activities and  
26 funding in the Division of Public Health associated with the core functions and activities in the  
27 Plan. Funds associated with these activities shall be subject to a flexible spending formula  
28 adopted by the Department, as follows:

- 29 (1) Beginning in SFY 2010-2011, the flexible spending formula will begin to  
30 replace the current spending with a more effective method of funding public  
31 health activities at the local level and achieving the results expected.
- 32 (2) The Task Force shall identify a reliable and consistent source of State  
33 revenue to fund the flexible spending formula.
- 34 (3) If sufficient additional revenue is available to implement the Plan, a separate  
35 set-aside of available funds would be created. This set-aside would be  
36 available to contiguous LHDs that seek to address a specific women's health,  
37 child health, or adult health disease or chronic condition, and in doing so,  
38 choose to merge into a single Local Health District, thus saving  
39 administrative dollars to be focused on public health issues.

40 **SECTION 10.26.(g)** Funds appropriated to the Department for flexible spending  
41 shall be distributed to county health departments as follows:

- 42 (1) Each of the county health departments will receive a base amount to be  
43 determined by the DHHS.
- 44 (2) The balance of funds in the Flexible Spending Account is to be distributed to  
45 the counties on the basis of a formula that takes into consideration the  
46 following elements:
  - 47 a. Population,
  - 48 b. Per capita income,
  - 49 c. Rates of:
    - 50 1. Infant mortality,
    - 51 2. Teenage pregnancy,



3. Tobacco use,
4. Cancer,
5. Heart disease,
6. Diabetes, and
7. Stroke.

- d. Percent of minorities in the county,
- e. Body Mass Index (BMI) of public school students, and
- f. Other factors as the Secretary may find necessary to achieve the goals of the Plan.

- (3) The use of the funds by the LHD would reflect the core public health functions. It will be incumbent upon the LHD to use the funds in a manner that assures its achievement of the performance measures adopted by the Secretary.

**SECTION 10.26.(h)** To ensure compliance with Department directives, the Task Force shall consider requiring each county health department to submit to the Secretary such data as the Secretary determines is necessary to allow the Secretary to assess whether the county health department has used the funds in a manner consistent with achieving the performance measures associated with this Plan.

**SECTION 10.26.(i)** Beginning November 15, 2011, and biannually thereafter, the Secretary shall report to the Governor and the General Assembly on:

- (1) The distribution of funds to LHDs,
- (2) The use of these funds by LHDs,
- (3) The specific effect the funding from this Plan has had on:
  - a. LHDs' performance,
  - b. Health status indicators, and
  - c. Health disparities.

The Secretary's initial report will focus on implementation. Subsequent reports will evaluate trends in performance and expenditures.

## **HEALTH INFORMATION TECHNOLOGY**

**SECTION 10.27.(a)** The Department of Health and Human Services, in cooperation with the State Chief Information Officer and the North Carolina Office of Economic Recovery and Investment, shall coordinate health information technology (HIT) policies and programs within the State of North Carolina. The Department's goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and private entity that undertakes health information technology activities associated with the American Recovery and Reinvestment Act of 2009 (ARRA) does so within the area of its greatest expertise and technical capability, and in a manner that supports coordinated State and national goals, which shall include at least all of the following:

- (1) Ensuring that patient health information is secure and protected, in accordance with applicable law.
- (2) Improving health care quality, reducing medical errors, reducing health disparities, and advancing the delivery of patient-centered medical care.
- (3) Providing appropriate information to guide medical decisions at the time and place of care.
- (4) Ensuring meaningful public input into HIT infrastructure development.
- (5) Improving the coordination of information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

1 (6) Improving public health services and facilitating early identification and  
2 rapid response to public health threats and emergencies, including  
3 bioterrorist events and infectious disease outbreaks.

4 (7) Facilitating health and clinical research.

5 (8) Promoting early detection, prevention, and management of chronic diseases.

6 **SECTION 10.27.(b)** The Department of Health and Human Services shall  
7 establish and direct a HIT management structure that is efficient and transparent and that is  
8 compatible with the Office of the National Health Coordinator for Information Technology  
9 (National Coordinator) governance mechanism. The HIT management structure shall be  
10 responsible for all of the following:

11 (1) Developing a State plan for implementing and ensuring compliance with  
12 national HIT standards, and for the most efficient, effective, and widespread  
13 adoption of HIT.

14 (2) Ensuring that (i) specific populations are effectively integrated into the State  
15 plan, including aging populations, populations requiring mental health  
16 services, and populations utilizing the public health system; and (ii)  
17 unserved and underserved populations receive priority consideration for HIT  
18 support.

19 (3) Identifying all HIT stakeholders and soliciting feedback and participation  
20 from each stakeholder in the development of the State plan.

21 (4) Ensuring that existing HIT capabilities are considered and incorporated into  
22 the State plan.

23 (5) Identifying and eliminating conflicting HIT efforts where necessary.

24 (6) Identifying available resources for the implementation, operation, and  
25 maintenance of health information technology, including, but not limited to,  
26 the ARRA, with emphasis on identifying resources and available  
27 opportunities for North Carolina institutions of higher learning.

28 (7) Ensuring that the appropriate State entities receive all the necessary  
29 information and support to successfully compete for funding included in the  
30 ARRA.

31 (8) Ensuring that potential State plan participants are aware of HIT policies and  
32 programs and the opportunity for improved health information technology.

33 (9) Monitoring HIT efforts and initiatives in other States and replicating  
34 successful efforts and initiatives in North Carolina.

35 (10) Monitoring the development of the National Coordinator's strategic plan and  
36 ensuring that all stakeholders are aware of and in compliance with its  
37 requirements.

38 (11) Monitoring the progress and recommendations of the HIT Policy and  
39 Standards Committees and ensuring that all stakeholders remain informed of  
40 the Committee's recommendations.

41 (12) Monitoring all studies and reports provided to the United States Congress  
42 and reporting to the Joint Legislative Oversight Committee on Information  
43 Technology and the Fiscal Research Division on the impact of report  
44 recommendations on State efforts to implement coordinated HIT.

45 **SECTION 10.27.(c)** Beginning October 1, 2009, the Department of Health and  
46 Human Services shall provide quarterly written reports on the status of HIT efforts to the  
47 Senate Appropriations Committee on Health and Human Services, the House of  
48 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal  
49 Research Division. The report shall include the following:

50 (1) Current status of federal HIT initiatives.

- 1 (2) Current status of State HIT efforts and initiatives among both public and  
2 private entities.
- 3 (3) A breakdown of current public and private funding sources and dollar  
4 amounts for State HIT initiatives.
- 5 (4) Department efforts to coordinate HIT initiatives within the State, and any  
6 obstacles or impediments to coordination.
- 7 (5) HIT research efforts being conducted within the State, and sources of  
8 funding for research efforts.
- 9 (6) Opportunities for stakeholders to participate in HIT funding and other efforts  
10 and initiatives during the next quarter.
- 11 (7) Issues associated with the implementation of HIT in North Carolina and  
12 recommended solutions to these issues.

### 13 14 **HOSPITAL-ACQUIRED INFECTIONS**

15 **SECTION 10.28.** The Department of Health and Human Services shall apply for  
16 federal funds that are available through P.L. 111-15, the American Recovery and Reinvestment  
17 Act, to develop and implement a mandatory statewide hospital-acquired infections surveillance  
18 and reporting system, as recommended by the Joint Study Committee on Hospital Infection  
19 Control and Disclosure.

### 20 21 **MEN'S HEALTH**

22 **SECTION 10.29.** The Department of Health and Human Services, Division of  
23 Public Health, shall use funds available to delegate to the Chronic Disease Prevention and  
24 Control Office the responsibility for ensuring attention to the prevention of disease and  
25 improvement in the quality of life for men over their entire lifespan. The Department shall  
26 develop strategies for achieving these goals, which shall include (i) developing a strategic plan  
27 to improve health care services, (ii) build public health awareness, and (iii) develop initiatives  
28 within existing programs.

### 29 30 **FACILITATION OF ENROLLMENT AND REENROLLMENT OF ELIGIBLE** 31 **CHILDREN IN MEDICAID AND NC HEALTH CHOICE**

32 **SECTION 10.30.** The Department of Health and Human Services shall increase its  
33 efforts to simplify the eligibility determination and recertification process to facilitate the  
34 enrollment and reenrollment of eligible Medicaid and NC Health Choice individuals. The  
35 Department shall also:

- 36 (1) Explore various opportunities through public awareness campaigns and  
37 enlisting community organizations to alert families of the opportunities of  
38 Medicaid and NC Health Choice to provide preventive health care to their  
39 children; and
- 40 (2) Pursue opportunities in the federal Children's Health Insurance Program  
41 Reauthorization Act (CHIPRA) to enhance outreach efforts and enrollment  
42 for children in Medicaid and NC Health Choice. These enhancements  
43 include funding for outreach and enrollment activities and implementation of  
44 the "Express Lane" option that uses agencies that determine eligibility for  
45 TANF, IV-D SNAP, Head Start, and School Lunch programs to enroll  
46 children.

47 The Department shall also submit a Medicaid State Plan Amendment to take  
48 advantage of recent federal legislation (CHIPRA) allowing states to provide medical assistance  
49 to children and pregnant women who are lawfully residing in the United States.

### 50 51 **NC HEALTH CHOICE TRANSITION**

1           **SECTION 10.31.(a)** The Secretary of the Department of Health and Human  
2 Services shall develop and implement a plan for assuming administrative responsibility for the  
3 North Carolina Health Choice for Children program by transitioning all administrative  
4 oversight and claims processing activities from the Executive Administrator and Board of  
5 Trustees of the State Health Plan for Teachers and State Employees to the Division of Medical  
6 Assistance. The transition of all administrative oversight and claims processing from the State  
7 Health Plan to the Division of Medical Assistance shall be completed not later than July 1,  
8 2010. The Secretary shall report to the Joint Legislative Health Care Oversight Committee and  
9 the Committee on Employee Hospital and Medical Benefits at least 30 days prior to effecting  
10 the transition of the responsibilities for the administration and processing of claims for benefits  
11 provided under the North Carolina Health Choice for Children program from the Executive  
12 Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees  
13 to the Department.

14           **SECTION 10.31.(b)** In consultation with the Department of Health and Human  
15 Services, Division of Medical Assistance, and other appropriate organizations, the Office of  
16 State Budget and Management (OSBM) shall conduct an independent analysis of the cost to  
17 determine appropriate staffing levels to manage and implement the transition of NC Health  
18 Choice from the State Health Plan to the Division to ensure that the transition of NC Health  
19 Choice occurs with minimal disruption and that the Division has adequate staffing and an  
20 organizational structure that fits with its existing structure. The Office of State Budget and  
21 Management shall report with staffing recommendations by March 1, 2010, to the Senate  
22 Appropriations Committee on Health and Human Services, the House of Representatives  
23 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
24 Division.

## 25 26 **NC HEALTH CHOICE/PROCEDURES FOR CHANGING MEDICAL POLICY**

27           **SECTION 10.32.** Chapter 108A of the General Statutes is amended by adding a  
28 new section to read:

### 29 **"§ 108A-54.3. Procedures for changing medical policy.**

30           The Department shall develop, amend, and adopt medical coverage policy in accordance  
31 with the following:

- 32           (1) During the development of new medical coverage policy or amendment to  
33 existing medical coverage policy applicable to the North Carolina Health  
34 Choice Program for Children, consult with and seek the advice of the  
35 Physician Advisory Group of the North Carolina Medical Society and other  
36 organizations the Secretary deems appropriate. The Secretary shall also  
37 consult with and seek the advice of officials of the professional societies or  
38 associations representing providers who are affected by the new medical  
39 coverage policy or amendments to existing medical coverage policy.
- 40           (2) At least 45 days prior to the adoption of new or amended medical coverage  
41 policy, the Department shall:
- 42           a. Publish the proposed new or amended medical coverage policy on  
43 the Department's Web site;
- 44           b. Notify all North Carolina Health Choice Program for Children  
45 providers of the proposed, new, or amended policy; and
- 46           c. Upon request, provide persons copies of the proposed medical  
47 coverage policy.
- 48           (3) During the 45-day period immediately following publication of the proposed  
49 new or amended medical coverage policy, accept oral and written comments  
50 on the proposed new or amended policy.

- 1           (4) If, following the comment period, the proposed new or amended medical  
2 coverage policy is modified, then the Department shall, at least 15 days prior  
3 to its adoption:  
4           a. Notify all North Carolina Health Choice Program for Children  
5 providers of the proposed policy;  
6           b. Upon request, provide persons notice of amendments to the proposed  
7 policy; and  
8           c. Accept additional oral or written comments during this 15-day  
9 period."

## 11 NC HEALTH CHOICE MEDICAL POLICY

12           **SECTION 10.33.** Unless required for compliance with federal law, the Department  
13 shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC  
14 Health Choice health care services and who may provide services until the Division of Medical  
15 Assistance has prepared a five-year fiscal analysis documenting the increased cost of the  
16 proposed change in medical policy and submitted it for Departmental review. If the fiscal  
17 impact indicated by the fiscal analysis for any proposed medical policy change exceeds one  
18 million dollars (\$1,000,000) in total requirements for a given fiscal year, then the Department  
19 shall submit the proposed medical policy change with the fiscal analysis to the Office of State  
20 Budget and Management and the Fiscal Research Division. The Department shall not  
21 implement any proposed medical policy change exceeding one million dollars (\$1,000,000) in  
22 total requirements for a given fiscal year unless the source of State funding is identified and  
23 approved by the Office of State Budget and Management. For medical policy changes  
24 exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year that are  
25 required for compliance with federal law, the Department shall submit the proposed medical  
26 policy or policy interpretation change with a five-year fiscal analysis to the Office of State  
27 Budget and Management prior to implementing the change. The Department shall provide the  
28 Office of State Budget and Management and the Fiscal Research Division a quarterly report  
29 itemizing all medical policy changes with total requirements of less than one million dollars  
30 (\$1,000,000).

## 32 NC HEALTH CHOICE ENROLLMENT

33           **SECTION 10.34.** The Department of Health and Human Services may, in the NC  
34 Health Choice Program for the 2009-2010 fiscal year, allow enrollment to grow by not more  
35 than 15,583 children.

## 37 NCHC FUNDS REDUCTION/CCNC

38           **SECTION 10.35.(a)** The last paragraph of G.S. 108A-70.21(b) reads as rewritten:  
39 "**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing;**  
40 **coverage from private plans; purchase of extended coverage.**

41 ...

42           The Department shall provide services to children enrolled in the NC Health Choice  
43 Program through Community Care of North Carolina (CCNC) and shall pay Community Care  
44 of North Carolina providers for these services as allowed under Medicaid. The Department  
45 shall pay for these services only if sufficient information is available to the Department for  
46 utilization management of the services provided through CCNC."

47           **SECTION 10.35.(b)** The Department of Health and Human Services, Division of  
48 Medical Assistance, shall reduce or eliminate funding for per member/per month fees paid to  
49 Community Care of North Carolina (CCNC) if sufficient information is not available to the  
50 Department for utilization management of the provider services.

**COMMUNITY CARE OF NORTH CAROLINA**

**SECTION 10.36.(a)** Given the primary care case management foundation established by Community Care of North Carolina, the Department shall build upon that foundation to ensure quality care and cost control of CCNC by implementing the activities listed in subsection (b) of this section.

**SECTION 10.36.(b)** The Department shall contract with CCNC to manage the care of Medicaid recipients, through a per member, per month reimbursement. In the contract DHHS shall ensure that CCNC adheres to the following tenets, adapted from the National Committee of Quality Assurance's (NCQA) national measures for Medical Homes Models. The CCNC networks must demonstrate proficiency in:

- (1) Written standards for patient access and patient communication;
- (2) Use of data to show patients are meeting this standard;
- (3) Adoption and implementation of evidenced-based guidelines for priority diseases and conditions as identified by DHHS;
- (4) Active support, monitoring, follow-up, and documentation on patient self-management;
- (5) Tracking system to test and identify abnormal results, and follow-up in a timely manner;
- (6) Tracking referrals from and to other acute and long-term care facilities and providers, so as to provide continuous management of patient care;
- (7) Measurement of clinical and/or service performance by physician or across a practice; and
- (8) Reporting performance according to baseline data and performance measure established by the DHHS Independent Advisory Group across CCNC networks, practices, and physicians to achieve the maximum savings possible through the improvement in the quality of care.

**SECTION 10.36.(c)** By July 1, 2009, or as soon as possible thereafter, the Department shall establish an Independent Advisory Group (IAG) for the purpose of developing targeted (i) baseline data, (ii) clinically acceptable performance measures that recognize nationally accredited treatment protocols, and (iii) patient, physician, and practice goals that improve quality of care, and realize necessary savings within Medicaid. The members of the Independent Advisory Group shall have demonstrated experience in actuarial analysis, health policy analysis, medical practice, hospital administration, or management of long-term chronic conditions. The Independent Advisory Group and the Department shall ensure the following:

- (1) The IAG shall begin work immediately so that baseline data, clinically acceptable performance measures, and practice goals to improve quality and cost savings can be implemented no later than January 1, 2010.
- (2) The Department shall prepare a report to the General Assembly on the baseline data, clinically acceptable performance measures, and practice goals adopted by the IAG, and the improved quality and cost savings expected as a result of their implementation. This report will be due January 31, 2010.
- (3) The IAG shall establish baseline information and performance measures for the diseases and conditions listed in this subdivision, the focus of which shall be on Medicaid recipients who are children, adults, and among those who are aged, blind, or disabled. The diseases and conditions shall include:
  - a. Asthma,
  - b. Diabetes,
  - c. Heart disease,
  - d. Chronic Obstructive Pulmonary Disease,
  - e. Mental illness,

- 1 f. Substance abuse,
- 2 g. Obesity, and
- 3 h. High risk maternity care
- 4 (4) The baseline information, performance measures, and practice and physician
- 5 goals developed for the continuing care of Medicaid recipients, who are also
- 6 eligible for Medicare shall include attention to this population's:
- 7 a. Increased primary care visit rate,
- 8 b. Hospital admission rate,
- 9 c. Hospital readmission rate,
- 10 d. Emergency department visit rate,
- 11 e. Mortality rate, and
- 12 f. Prescription drug management, including:
- 13 1. Number of prescriptions prescribed,
- 14 2. Number of generic versus brand-name prescriptions, and
- 15 3. Reconciliation of a patient's prescriptions between hospital,
- 16 nursing facility, and primary care physician.

17 **SECTION 10.36.(d)** The Department shall conduct a Request for Proposal (RFP)

18 process to solicit bids from qualified outside entities with proven experience in conducting

19 actuarial and health care studies and evaluations to:

- 20 (1) Report, assess, and evaluate the CCNC networks proficiency in fulfilling the
- 21 eight tenets described above,
- 22 (2) Report, assess, and evaluate the CCNC networks implementation and
- 23 achievement of the baseline data, clinically acceptable performance
- 24 measures, and practice goals to improve quality and cost savings established
- 25 by the IAG, and
- 26 (3) Report on the Medicaid cost savings achieved by the CCNC networks during
- 27 a 12-month period.

28 **SECTION 10.36.(e)** The contractor's report, information, and data shall be in a

29 format that allows the Department to manipulate and assess the performance of CCNC as a

30 whole and for its 14 networks individually. Not later than November 1, 2010, the Department

31 shall provide to the Senate Appropriations Committee on Health and Human Services, the

32 House of Representatives Appropriations Subcommittee on Health and Human Services, and

33 the Fiscal Research Division copies of the contractor's report for CCNC activities conducted

34 during the 2009-2010 fiscal year.

35 **SECTION 10.36.(f)** Under the Children's Health Insurance Program

36 Reauthorization Act, P.L. 111-1, the U.S. Secretary of Health and Human Services is directed

37 to:

- 38 (1) Develop a standardized reporting format that encourages states to report
- 39 information regarding the quality of pediatric health care delivered through
- 40 the State Children's Health Insurance Program, and
- 41 (2) Establish a set of pediatric quality measures not later than January 1, 2011.

42 Given this directive, the IAG shall develop targeted baseline data, clinically

43 acceptable performance measures that recognize nationally accredited treatment protocols, and

44 patient, physician, and practice goals that improve quality of care, in order to realize necessary

45 savings within North Carolina's Health Choice program. The IAG shall begin this effort so that

46 baseline data, clinically acceptable performance measures, and practice goals to improve

47 quality and cost savings can be implemented by July 1, 2010, the date on which the Department

48 of Health and Human Services' Division of Medical Assistance assumes management

49 responsibility of the Health Choice program from the State Health Plan.

## 50 **COMMUNITY HEALTH CENTER CHANGES**

1           **SECTION 10.37.** Of the funds appropriated in this act for Community Health  
2 Grants, the sum of seven million eight hundred sixty thousand dollars (\$7,860,000) in recurring  
3 funds for the 2009-2010 fiscal year and the sum of seven million eight hundred sixty thousand  
4 dollars (\$7,860,000) for the 2010-2011 fiscal year. These funds shall be allocated as grants on  
5 a competitive basis to rural health centers, free clinics, public health departments, school-based  
6 health centers, qualified health centers, and other nonprofit organizations that provide primary  
7 care and preventive health services to uninsured and indigent persons. Community health  
8 centers that have received federal funds through the American Recovery and Reinvestment Act  
9 to provide new, expanded, or continuing health services are not eligible to receive funds under  
10 this section.

## 11 12 **LIABILITY INSURANCE**

13           **SECTION 10.38.(a)** The Secretary of the Department of Health and Human  
14 Services, the Secretary of the Department of Environment and Natural Resources, and the  
15 Secretary of the Department of Correction may provide medical liability coverage not to  
16 exceed one million dollars (\$1,000,000) per incident on behalf of employees of the  
17 Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who  
18 are faculty members of The University of North Carolina who work on contract for the  
19 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for  
20 incidents that occur in Division programs, and on behalf of physicians in all residency training  
21 programs from The University of North Carolina who are in training at institutions operated by  
22 the Department of Health and Human Services. This coverage may include commercial  
23 insurance or self-insurance and shall cover these individuals for their acts or omissions only  
24 while they are engaged in providing medical and dental services pursuant to their State  
25 employment or training.

26           **SECTION 10.38.(b)** The coverage provided under this section shall not cover any  
27 individual for any act or omission that the individual knows or reasonably should know  
28 constitutes a violation of the applicable criminal laws of any state or the United States or that  
29 arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to  
30 willful or wanton negligence.

31           **SECTION 10.38.(c)** The coverage provided pursuant to this section shall not  
32 require any additional appropriations and shall not apply to any individual providing  
33 contractual service to the Department of Health and Human Services, the Department of  
34 Environment and Natural Resources, or the Department of Correction, with the exception that  
35 coverage may include physicians in all residency training programs from The University of  
36 North Carolina who are in training at institutions operated by the Department of Health and  
37 Human Services and licensed physicians who are faculty members of The University of  
38 North Carolina who work for the Division of Mental Health, Developmental Disabilities, and  
39 Substance Abuse Services.

## 40 41 **FUNDS FOR JIM "CATFISH" HUNTER CHAPTER OF THE ALS ASSOCIATION**

42           **SECTION 10.39.** Funds appropriated in this act for the Jim "Catfish" Hunter  
43 Chapter of the ALS Association shall be expended only for services provided within North  
44 Carolina.

## 45 46 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

47           **SECTION 10.40.** Subject to rules adopted by the State Controller, an employee of  
48 the Department of Health and Human Services may authorize, in writing, the periodic  
49 deduction from the employee's salary or wages for employment by the State, a designated lump  
50 sum to be paid to satisfy the cost of services received for child care provided by the  
51 Department.



1  
2 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)**  
3 **FUNDS/IMPLEMENTATION OF MMIS**

4 **SECTION 10.41.(a)** Of the funds appropriated in this act to the Department of  
5 Health and Human Services (Department) from prior year earned revenues received by the  
6 Department for the Medicaid Management Information System (MMIS), the sum of eleven  
7 million seventy-one thousand five hundred two dollars (\$11,071,502) for fiscal year 2009-2010  
8 and the sum of nine million eight hundred twenty thousand six hundred eighty-nine dollars  
9 (\$9,820,689) for fiscal year 2010-2011 shall be (i) deposited to the Department's information  
10 technology budget code and (ii) used to match federal funds for the procurement, design,  
11 development, and implementation of the new MMIS system and to fund the central  
12 management of the project. In the event that the Department does not receive prior year earned  
13 revenues in these amounts, the Department is authorized with approval of the Office of State  
14 Budget and Management to use other over-realized receipts to the level appropriated in this act  
15 for MMIS expenditures.

16 **SECTION 10.41.(b)** The Department shall make full development of the  
17 replacement MMIS a top priority. During the development and implementation of MMIS, the  
18 Department shall develop plans to ensure the timely and effective implementation of  
19 enhancements to the system to provide the following capabilities:

- 20 (1) Receiving and tracking premium or other payments required by law.  
21 (2) Compatibility with the administration of the Health Information System.

22 The Department shall make every effort to expedite the implementation of the  
23 enhancements. The Office of Information Technology Services shall work in cooperation with  
24 the Department to ensure the timely and effective implementation of the MMIS and  
25 enhancements. The contract between the Department and the contract vendor shall contain an  
26 explicit provision requiring that the MMIS have the capability to fully implement the  
27 administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the  
28 Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid  
29 waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must  
30 have detailed cost information for each requirement before signing the contract. Any contract  
31 between the Department and a vendor for the MMIS that does not contain the explicit provision  
32 required under this subsection is void on its face. Notwithstanding any other provision of law to  
33 the contrary, the Secretary of the Department does not have the authority to sign a contract for  
34 the MMIS if the contract does not contain the explicit provision required under this section.

35 **SECTION 10.41.(c)** Notwithstanding G.S. 114-2.3, the Department shall engage  
36 the services of private counsel with the pertinent information technology and computer law  
37 expertise to review requests for proposals and to negotiate and review contracts associated with  
38 MMIS. The counsel engaged by the Department shall review the MMIS contract between the  
39 Department and the vendor to ensure that the requirements of subsection (a) of this section are  
40 met in their entirety.

41 **SECTION 10.41.(d)** The Department shall develop a comprehensive schedule for  
42 the development and implementation of the MMIS that fully incorporates federal and State  
43 project management and review requirements. The Department shall ensure that the schedule  
44 is as accurate as possible. Any changes to the design, development, and implementation  
45 schedule shall be reported as part of the Department's quarterly MMIS reporting requirements.  
46 The Department shall submit the schedule to the Chairs of the House of Representatives  
47 Committee on Appropriations and the House of Representatives Subcommittee on Health and  
48 Human Services, the Chairs of the Senate Committee on Appropriations and the Senate  
49 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.  
50 Any change to key milestones in either schedule shall be immediately reported to the Chairs of  
51 the House of Representatives Committee on Appropriations and the House of Representatives

1 Subcommittee on Health and Human Services, the Chairs of the Senate Committee on  
2 Appropriations and the Senate Appropriations Committee on Health and Human Services, and  
3 the Fiscal Research Division with a full explanation of the reason for the change.

4 **SECTION 10.41.(e)** Beginning July 1, 2009, the Department shall make quarterly  
5 reports on changes in the functionality and projected costs of the MMIS. The first quarterly  
6 submission shall contain a final report on the contract award to include total costs and  
7 functionality of the MMIS. Each report shall be made to the Chairs of the House of  
8 Representatives Committee on Appropriations and the House of Representatives Subcommittee  
9 on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the  
10 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
11 Division. A copy of the final report on the contract award shall also be submitted to the Joint  
12 Legislative Commission on Governmental Operations.

13 **SECTION 10.41.(f)** Upon initiation of the NC MMIS Program Reporting and  
14 Analytics Project and the Division of Health Services Regulation Project, the Department shall  
15 submit all reports regarding functionality, schedule, and cost in the next regular cycle of  
16 reporting identified in subsections (d) and (e) of this section. The Department shall ensure that  
17 the solution developed in the Reporting and Analytics Project supports the capability, in its  
18 initial implementation, to interface with the North Carolina Teachers' and State Employees'  
19 Health Plan. The costs for this capability shall be negotiated prior to the award of the  
20 Reporting and Analytics contract. The Reporting and Analytics solution must be completed  
21 simultaneously with the replacement MMIS.  
22

#### 23 **NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH** 24 **TECHNOLOGY (NC FAST) FUNDS**

25 **SECTION 10.42.** The sum of eighteen million three hundred twenty-seven  
26 thousand four hundred seventy-eight dollars (\$18,327,478) is appropriated from Budget Code  
27 24441, Fund Code 2006, to the Department of Health and Human Services, Division of Central  
28 Management Services, for the 2009-2010 fiscal year. These funds shall be used for the  
29 development and implementation of North Carolina Families Accessing Services Through  
30 Technology (NC FAST). Funds will be placed in the Department's information technology  
31 budget code and will match federal funds for project implementation.  
32

#### 33 **PROGRAM ON PREVENTION OF ABUSE AND NEGLECT**

34 **SECTION 10.43.(a)** The Children's Trust Fund, a program on prevention of abuse  
35 and neglect, is transferred from the Department of Public Instruction to the Division of Social  
36 Services in the Department of Health and Human Services, as if by a Type I transfer as defined  
37 in G.S. 143A-6, with all the elements of such a transfer.

38 **SECTION 10.43.(b)** G.S. 7B-1301 reads as rewritten:  
39 **"§ 7B-1301. Program on Prevention of Abuse and Neglect.**

40 (a) ~~The State Board of Education~~ Department of Health and Human Services, through  
41 ~~the Department of Public Instruction~~ Division of Social Services, shall implement the Program  
42 on Prevention of Abuse and Neglect. ~~The Department of Public Instruction~~ Division of Social  
43 Services ~~subject to the approval of the State Board of Education~~, shall provide the staff and  
44 support services for implementing this program.

45 (b) In order to carry out the purposes of this Article:

- 46 (1) ~~The Department of Public Instruction~~ Division of Social Services shall  
47 review applications and make recommendations ~~to the State Board of~~  
48 ~~Education~~ concerning the awarding of contracts under this Article.  
49 (2) ~~The State Board of Education~~ Division of Social Services shall contract with  
50 public or private nonprofit organizations, agencies, schools, or with qualified  
51 individuals to operate community-based educational and service programs

1 designed to prevent the occurrence of abuse and neglect. Every contract  
2 entered into by the ~~State Board of Education~~ Division of Social Services  
3 shall contain provisions that at least twenty-five percent (25%) of the total  
4 funding required for a program be provided by the administering  
5 organization in the form of in-kind or other services and that a mechanism  
6 for evaluation of services provided under the contract be included in the  
7 services to be performed. In addition, every proposal to the ~~Department of~~  
8 ~~Public Instruction~~ Division of Social Services for funding under this Article  
9 shall include assurances that the proposal has been forwarded to the local  
10 department of social services for comment so that the ~~Department of Public~~  
11 ~~Instruction~~ Division of Social Services may consider coordination and  
12 duplication of effort on the local level as criteria in making  
13 recommendations to the ~~State Board of Education~~.

14 (3) The ~~State Board of Education~~ Division of Social Services, with the  
15 assistance of the Department of ~~Public Instruction~~ Health and Human  
16 Services, shall develop appropriate guidelines and criteria for awarding  
17 contracts under this Article. These criteria shall include, but are not limited  
18 to: documentation of need within the proposed geographical impact area;  
19 diversity of geographical areas of programs funded under this Article;  
20 demonstrated effectiveness of the proposed strategy or program for  
21 preventing abuse and neglect; reasonableness of implementation plan for  
22 achieving stated objectives; utilization of community resources including  
23 volunteers; provision for an evaluation component that will provide outcome  
24 data; plan for dissemination of the program for implementation in other  
25 communities; and potential for future funding from private sources.

26 (4) The ~~State Board of Education~~ Division of Social Services, with the  
27 assistance of the Department of ~~Public Instruction~~ Health and Human  
28 Services, shall develop guidelines for regular monitoring of contracts  
29 awarded under this Article in order to maximize the investments in  
30 prevention programs by the Children's Trust Fund and to establish  
31 appropriate accountability measures for administration of contracts.

32 (5) The ~~State Board of Education~~ Division of Social Services shall develop a  
33 State plan for the prevention of abuse and neglect for submission to the  
34 Governor, the President of the Senate, and the Speaker of the House of  
35 Representatives.

36 (c) To assist in implementing this Article, the ~~State Board of Education~~ Division of  
37 Social Services may accept contributions, grants, or gifts in cash or otherwise from persons,  
38 associations, or corporations. All monies received by the ~~State Board of Education~~ Division of  
39 Social Services from contributions, grants, or gifts and not through appropriation by the  
40 General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds  
41 shall be on the authorization of the ~~State Board of Education~~ or that Board's duly authorized  
42 representative Department of Health and Human Services. In order to maintain an effective  
43 expenditure and revenue control, the funds are subject in all respects to State law and  
44 regulations, but no appropriation is required to permit expenditure of the funds.

45 (d) Programs contracted for under this Article are intended to prevent abuse and neglect  
46 of juveniles. Abuse and neglect prevention programs are defined to be those programs and  
47 services which impact on juveniles and families before any substantiated incident of abuse or  
48 neglect has occurred. These programs may include, but are not limited to:

49 (1) Community-based educational programs on prenatal care, perinatal bonding,  
50 child development, basic child care, care of children with special needs, and  
51 coping with family stress; and

1 (2) Community-based programs relating to crisis care, aid to parents, and  
2 support groups for parents and their children experiencing stress within the  
3 family unit.

4 (e) No more than twenty percent (20%) of each year's total awards may be utilized for  
5 funding State-level programs to coordinate community-based programs."

6 **SECTION 10.43.(c)** G.S. 7B-1302 reads as rewritten:

7 "**§ 7B-1302. Children's Trust Fund.**

8 (a) There is established a fund to be known as the "Children's Trust Fund," in the  
9 Department of State Treasurer, which shall be funded by a portion of the marriage license fee  
10 under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The  
11 money in the Fund shall be used by the ~~State Board of Education~~ Division of Social Services to  
12 fund abuse and neglect prevention programs so authorized by this Article.

13 (b) The Department of ~~Public Instruction~~ Health and Human Services shall report  
14 annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative  
15 Commission on Governmental Operations."

## 16 17 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 18 **PERFORMANCE ENHANCEMENTS**

19 **SECTION 10.44.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the  
20 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to  
21 children and families in cases of abuse, neglect, and dependency where a child is at imminent  
22 risk of removal from the home and to children and families in cases of abuse where a child is  
23 not at imminent risk of removal. The Program shall be developed and implemented statewide  
24 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria  
25 for determining imminent risk and clear criteria for determining out-of-home placement.

26 **SECTION 10.44.(b)** The Department of Health and Human Services shall require  
27 that any program or entity that receives State, federal, or other funding for the purpose of  
28 Intensive Family Preservation Services shall provide information and data that allows for:

- 29 (1) An established follow-up system with a minimum of six months of  
30 follow-up services.  
31 (2) Detailed information on the specific interventions applied, including  
32 utilization indicators and performance measurement.  
33 (3) Cost-benefit data.  
34 (4) Data on long-term benefits associated with Intensive Family Preservation  
35 Services. This data shall be obtained by tracking families through the  
36 intervention process.  
37 (5) The number of families remaining intact and the associated interventions  
38 while in IFPS and 12 months thereafter.  
39 (6) The number and percentage by race of children who received Intensive  
40 Family Preservation Services compared to the ratio of their distribution in  
41 the general population involved with Child Protective Services.

42 **SECTION 10.44.(c)** The Department shall establish performance-based funding  
43 protocol and shall only provide funding to those programs and entities providing the required  
44 information specified in subsection (b) of this section. The amount of funding shall be based on  
45 the individual performance of each program.

46 **SECTION 10.44.(d)** The Department shall publish an annual report on the  
47 Intensive Family Preservation Services Program, including the information and data under  
48 subdivisions (b)(2) through (b)(6) of this section.

## 49 50 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

1           **SECTION 10.45.(a)** The maximum rates for State participation in the foster care  
2 assistance program are established on a graduated scale as follows:

- 3           (1)     \$475.00 per child per month for children aged birth through 5;
- 4           (2)     \$581.00 per child per month for children aged 6 through 12; and
- 5           (3)     \$634.00 per child per month for children aged 13 through 18.

6           **SECTION 10.45.(b)** The maximum rates for the State adoption assistance program  
7 are established consistent with the foster care rates as follows:

- 8           (1)     \$475.00 per child per month for children aged birth through 5;
- 9           (2)     \$581.00 per child per month for children aged 6 through 12; and
- 10          (3)     \$634.00 per child per month for children aged 13 through 18.

11          **SECTION 10.45.(c)** In addition to providing board payments to foster and  
12 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of  
13 the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose  
14 shall be used to provide medical training in avoiding HIV transmission in the home.

15          **SECTION 10.45.(d)** The maximum rates for the State participation in HIV foster  
16 care and adoption assistance are established on a graduated scale as follows:

- 17          (1)     \$800.00 per child per month with indeterminate HIV status;
- 18          (2)     \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- 19          (3)     \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- 20          (4)     \$1,600 per child per month terminally ill with complex care needs.

21          **SECTION 10.45.(e)** The State and a county participating in foster care and  
22 adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost  
23 of care for a child placed by a county department of social services or child placing agency in a  
24 family foster home or residential child care facility. A county shall be held harmless from  
25 contributing fifty percent (50%) of the nonfederal share of the cost for a child currently in a  
26 family foster home or residential child care facility until the child leaves foster care or  
27 experiences a placement change.

28          **SECTION 10.45.(f)** The Department of Health and Human Services may establish  
29 foster care and adoption assistance rates based on the United States Department of Agriculture  
30 (USDA) "Expenditures on Children by Families" index subject to State appropriations for each  
31 fiscal year.

### 32           **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

33           **SECTION 10.46.** G.S. 110-129.1(a) is amended by adding the following new  
34 subdivision to read:

35           "(a) In addition to other powers and duties conferred upon the Department of Health and  
36 Human Services, Child Support Enforcement Program, by this Chapter or other State law, the  
37 Department shall have the following powers and duties:

38           ...

39           (8)     Implement and maintain performance standards for each of the State and  
40                   county child support enforcement offices across the State. The performance  
41                   standards shall include the following:

- 42           a.     Cost per collections.
  - 43           b.     Consumer satisfaction.
  - 44           c.     Paternity establishments.
  - 45           d.     Administrative costs.
  - 46           e.     Orders established.
  - 47           f.     Collections on arrearages.
  - 48           g.     Location of absent parents.
  - 49           h.     Other related performance measures.
- 50

1           The Department shall monitor the performance of each office and shall  
2           implement a system of reporting that allows each local office to review its  
3           performance as well as the performance of other local offices. The  
4           Department shall publish an annual performance report that includes the  
5           statewide and local office performance of each child support office."  
6

#### 7   **CHILD CARING INSTITUTIONS**

8           **SECTION 10.47.** Until the Social Services Commission adopts rules setting  
9           standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the  
10          maximum reimbursement for child caring institutions shall not exceed the rate established for  
11          the specific child caring institution by the Department of Health and Human Services, Office of  
12          the Controller. In determining the maximum reimbursement, the State shall include county and  
13          IV-E reimbursements.  
14

#### 15   **SPECIAL CHILDREN ADOPTION FUND**

16          **SECTION 10.48.** Part 4 of Article 2 of Chapter 108A of the General Statutes is  
17          amended by adding the following new section to read:

##### 18    "§ 108A-50.2. Special Children Adoption Fund.

19          (a) Funds appropriated by the General Assembly in the Current Operations  
20          Appropriations Act shall be used to support the Special Children Adoption Fund. The Division  
21          of Social Services of the Department of Health and Human Services, in consultation with the  
22          North Carolina Association of County Directors of Social Services and representatives of  
23          licensed private adoption agencies, shall develop guidelines for the awarding of funds to  
24          licensed public and private adoption agencies upon the adoption of children described in  
25          G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund  
26          by participating agencies shall be used exclusively to enhance the adoption services. No local  
27          match shall be required as a condition for receipt of these funds. In accordance with State rules  
28          for allowable costs, the Special Children Adoption Fund may be used for post-adoption  
29          services for families whose income exceeds two hundred percent (200%) of the federal poverty  
30          level.

31          (b) Of the total funds appropriated for the Special Children Adoption Fund each year,  
32          twenty percent (20%) of the total funds available shall be reserved for payment to participating  
33          private adoption agencies. If the funds reserved in this subsection for payments to private  
34          agencies have not been spent on or before March 31 of each State fiscal year, the Division of  
35          Social Services may reallocate those funds, in accordance with this section, to other  
36          participating adoption agencies.

37          (c) The Division of Social Services shall monitor the total expenditures in the Special  
38          Children Adoption Fund and redistribute unspent funds to ensure that the funds are used in  
39          accordance with the guidelines established in subsection (a) of this section. The Division of  
40          Social Services shall implement strategies to ensure that funds that have historically reverted  
41          for this program are used for the intended purpose."  
42

#### 43   **LIMITATION ON STATE ABORTION FUND**

44          **SECTION 10.49.** The limitations on funding of the performance of abortion  
45          established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section  
46          23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2009-2010 and 2010-2011 fiscal  
47          years.  
48

#### 49   **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT** 50          **FUND**

1           **SECTION 10.50.(a)** There is appropriated from the Escheat Fund income to the  
2 Department of Health and Human Services the sum of three million one hundred sixty-eight  
3 thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year. These funds  
4 shall be used to support the child welfare postsecondary support program for the educational  
5 needs of foster youth aging out of the foster care system and special needs children adopted  
6 from foster care after age 12 by providing assistance with the "cost of attendance" as that term  
7 is defined in 20 U.S.C. § 1087ll. The Department shall collaborate with the State Education  
8 Assistance Authority to develop policies and procedures for the distribution of these funds.

9           If the interest income generated from the Escheat Fund is less than the amounts  
10 referenced in this section, the difference may be taken from the Escheat Fund principal to reach  
11 the appropriations referenced in this section; however, under no circumstances shall the  
12 Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f).

13           Funds appropriated by this section shall be allocated by the State Education  
14 Assistance Authority.

15           The purpose for which funds are appropriated under this section is in addition to  
16 other purposes for which Escheat Fund income is distributed under G.S. 116B-7 and shall not  
17 be construed to otherwise affect the distribution of funds under G.S. 116B-7.

18           **SECTION 10.50.(b)** Of the funds appropriated from the General Fund to the  
19 Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the  
20 2009-2010 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal  
21 year shall be allocated to the North Carolina State Education Assistance Authority (SEAA).  
22 The SEAA shall use these funds only to perform administrative functions necessary to manage  
23 and distribute scholarship funds under the child welfare postsecondary support program.

24           **SECTION 10.50.(c)** Of the funds appropriated from the General Fund to the  
25 Department of Health and Human Services the sum of five hundred thousand dollars  
26 (\$500,000) for the 2009-2010 fiscal year and the sum of five hundred thousand dollars  
27 (\$500,000) for the 2010-2011 fiscal year shall be used to contract with an entity to develop and  
28 administer the child welfare postsecondary support program described under subsection (a) of  
29 this section, which development and administration shall include the performance of case  
30 management services.

31           **SECTION 10.50.(d)** Funds appropriated to the Department of Health and Human  
32 Services for the child welfare postsecondary support program shall be used only for students  
33 attending public institutions of higher education in this State.

34           **SECTION 10.50.(e)** It is the intent of the General Assembly that for the 2010-2011  
35 fiscal year and beyond, support for the child welfare postsecondary support program shall be  
36 appropriated from the General Fund.

## 37 38 **TANF BENEFIT IMPLEMENTATION**

39           **SECTION 10.51.(a)** The General Assembly approves the plan titled "North  
40 Carolina Temporary Assistance for Needy Families State Plan FY 2009-2011," prepared by the  
41 Department of Health and Human Services and presented to the General Assembly. The North  
42 Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,  
43 2009, through September 30, 2011. The Department shall submit the State Plan, as revised in  
44 accordance with subsection (b) of this section, to the United States Department of Health and  
45 Human Services, as amended by this act or any other act of the 2009 General Assembly.

46           **SECTION 10.51.(b)** The counties approved as Electing Counties in North  
47 Carolina's Temporary Assistance for Needy Families State Plan FY 2009-2011, as approved by  
48 this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson.

49           **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as an  
50 Electing County or to be redesignated as an Electing County and the accompanying county plan  
51 for fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the

1 Electing County budget requirements effective July 1, 2009. For programmatic purposes, all  
2 counties referred to in this subsection shall remain under their current county designation  
3 through September 30, 2009.

4  
5 **EVALUATION OF CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS OF**  
6 **COUNTY DEPARTMENTS OF SOCIAL SERVICES**

7 **SECTION 10.52.(a)** The Department of Health and Human Services, Division of  
8 Social Services, shall study the consolidation of administrative functions among county  
9 departments of social services.

10 **SECTION 10.52.(b)** The Department shall collaborate with counties to identify  
11 opportunities for functional consolidation, affected administrative functions, estimated cost  
12 savings, and requisite policy changes, if applicable, to accommodate the consolidation. The  
13 Department shall not consolidate administrative functions except as directed by an act of the  
14 General Assembly.

15 **SECTION 10.52.(c)** The Department shall report its findings and  
16 recommendations to the Senate Appropriations Committee on Health and Human Services, the  
17 House of Representatives Appropriations Subcommittee on Health and Human Services, the  
18 Senate Appropriations Committee on Education/Higher Education, the House of  
19 Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division  
20 by April 1, 2010.

21  
22 **ENHANCE MARKETING OF PUBLIC ASSISTANCE AVAILABILITY**

23 **SECTION 10.53.** To ensure that working families are aware of the availability of  
24 assistance from Food and Nutrition Services programs and Medical Assistance, the Office of  
25 Economic Opportunity, Division of Social Services, and county departments of social services  
26 shall enhance the marketing of available services, including Food and Nutrition Services, and  
27 Medical Assistance, for prospective recipients.

28  
29 **EVALUATION AND IMPLEMENTATION OF COST-EFFECTIVE EDUCATION FOR**  
30 **STUDENTS WHO ARE DEAF OR HEARING-IMPAIRED**

31 **SECTION 10.54.(a)** The Department of Health and Human Services, in  
32 collaboration with the Department of Public Instruction and the Free Appropriate Public  
33 Education Task Force (Task Force), shall develop a plan to reduce the costs of residential  
34 instruction for students who are deaf or hearing-impaired. The Plan shall include:

- 35 (1) The transitioning, as appropriate, of students served by the Western North  
36 Carolina School for the Deaf and Eastern North Carolina School for the Deaf  
37 to local education agencies (LEAs), and the identification of LEA resource  
38 requirements for the provision of appropriate instruction; and  
39 (2) Additional instructional alternatives.

40 **SECTION 10.54.(b)** The Department of Health and Human Services, the  
41 Department of Public Instruction, and the Task Force shall report their findings and reduction  
42 plan to the Senate Appropriations Committee on Health and Human Services, the House of  
43 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
44 Appropriations Committee on Education/Higher Education, the House of Representatives  
45 Appropriations Subcommittee on Education, and the Fiscal Research Division no later than  
46 April 1, 2010.

47  
48 **NON-MEDICAID REIMBURSEMENT CHANGES**

49 **SECTION 10.55.** Providers of medical services under the various State programs,  
50 other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates  
51 no higher than those under the North Carolina Medical Assistance Program.



1 The Department of Health and Human Services may reimburse hospitals at the full  
2 prospective per diem rates without regard to the Medical Assistance Program's annual limits on  
3 hospital days. When the Medical Assistance Program's per diem rates for inpatient services and  
4 its interim rates for outpatient services are used to reimburse providers in non-Medicaid  
5 medical service programs, retroactive adjustments to claims already paid shall not be required.

6 Notwithstanding the provisions of this section, the Department of Health and  
7 Human Services may negotiate with providers of medical services under the various  
8 Department of Health and Human Services programs, other than Medicaid, for rates as close as  
9 possible to Medicaid rates for the following purposes: contracts or agreements for medical  
10 services and purchases of medical equipment and other medical supplies. These negotiated  
11 rates are allowable only to meet the medical needs of its non-Medicaid eligible patients,  
12 residents, and clients who require such services which cannot be provided when limited to the  
13 Medicaid rate.

14 Maximum net family annual income eligibility standards for services in these  
15 programs shall be as follows:

16 DSB Medical Eye Care	125% FPL
17 DSB Independent Living <55	125% FPL
18 DSB Independent Living 55>	200% FPL
19 DSB Vocational Rehabilitation	125% FPL
20 DVR Independent Living	125% FPL
21 DVR Vocational Rehabilitation	125% FPL

22 The Department of Health and Human Services shall contract at, or as close as  
23 possible to, Medicaid rates for medical services provided to residents of State facilities of the  
24 Department.

## 25 26 **DIVISION OF SERVICES FOR THE DEAF AND HARD OF HEARING/FUNDS** 27 **TRANSFER AND APPROPRIATION**

28 **SECTION 10.56.(a)** Notwithstanding G.S. 62-157, on July 1, 2009, the State  
29 Controller shall transfer five million dollars (\$5,000,000) from the Special Account for  
30 Telecommunications Relay Service to Nontax Budget Code 19978 (Intra State Transfers) to  
31 support General Fund appropriations for the 2009-2010 fiscal year.

32 **SECTION 10.56.(b)** Of funds appropriated with Budget Code 67425, Fund Code  
33 6725, and Fund Code 6726 the sum of one million five hundred thousand dollars (\$1,500,000)  
34 shall be transferred to Budget Code 24410 for Information Technology Projects in the  
35 Department of Health and Human Services, Division of Central Management and Support for  
36 the Data Collection and Case Management Systems initiative. This initiative shall also be  
37 supported with federal funds from the Rehabilitation Act. Funds made available under this  
38 section shall be used for the development and implementation of a data collection and case  
39 management information system to replace the current system in use by the Division of  
40 Services for the Blind, Division of Services for the Deaf and Hard of Hearing, and the Division  
41 of Vocational Rehabilitation Services. The Department shall use federal funds first and then  
42 State funds, only as necessary, from Budget Code 67425. In accordance with  
43 G.S. 143C-1-2(b), funds appropriated for this project shall not revert to the fund from which  
44 they came until the project is complete.

45 **SECTION 10.56.(c)** If, upon the transfer and appropriation of funds under this  
46 section, available funds are insufficient to support recurring services the Division of Services  
47 for the Deaf and Hard of Hearing is authorized to provide, the Department of Health and  
48 Human Services, shall, pursuant to G.S. 62-157, file a petition with the North Carolina Utilities  
49 Commission to reset the surcharge provided for in G.S. 62-157 to maintain a reasonable margin  
50 for reserve for the operation of the statewide telecommunications relay service.

51

**STATE-COUNTY SPECIAL ASSISTANCE**

**SECTION 10.57.(a)** The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

**SECTION 10.57.(b)** Effective January 1, 2009, the maximum monthly rate for residents in adult care home facilities shall be one thousand two hundred seven dollars (\$1,207) per month per resident unless adjusted by the Department in accordance with subsection (d) of this section.

**SECTION 10.57.(c)** The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars (\$1,515) per month per resident unless adjusted by the Department in accordance with subsection (d) of this section.

**SECTION 10.57.(d)** Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State-County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State-County Special Assistance set forth in subsections (b) and (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance and related transfer costs and responsibilities from State-County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS) and prior to implementing this section, the Department may disregard a limited amount of income for individuals whose countable income exceeds the adjusted State-County Special Assistance rate. The amount of the disregard shall not exceed the difference between the Special Assistance rate prior to the adjustment and the Special Assistance rate after the adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid payment for the individual's personal care services provided in an adult care home. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of the services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.57.(e)** The Department of Health and Human Services shall recommend rates for State-County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive State-County Special Assistance funds and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

**MEDICAID****SECTION 10.58.(a)** Use of Funds, Allocation of Costs, Other Authorizations.

- (1) Use of funds. – Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy.
- (2) Allocation of nonfederal cost of Medicaid. – The State shall pay one hundred percent (100%) of the nonfederal costs of all applicable services listed in this section. 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.
- (3) Use of funds for development and acquisition of equipment and software. – If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software and related operational costs through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed funds allocated for the 2009-2010 and 2010-2011 fiscal years for the new contract for the fiscal agent for the Medicaid Management Information System.
- (4) Reports. – Unless otherwise provided, whenever the Department of Health and Human Services is required by this section to report to the General Assembly, the report shall be submitted to the House of Representatives Appropriations Subcommittee for Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division of the Legislative Services Office. Reports shall be submitted on the date provided in the reporting requirement.

**SECTION 10.58.(b)** Policy.

- (1) Volume purchase plans and single source procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.
- (2) Cost containment programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.
- (3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, 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.
- (4) Medical policy. – Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact

1 indicated by the fiscal analysis for any proposed medical policy change  
 2 exceeds three million dollars (\$3,000,000) in total requirements for a given  
 3 fiscal year, then the Department shall submit the proposed medical policy  
 4 change with the fiscal analysis to the Office of State Budget and  
 5 Management and the Fiscal Research Division. The Department shall not  
 6 implement any proposed medical policy change exceeding three million  
 7 dollars (\$3,000,000) in total requirements for a given fiscal year unless the  
 8 source of State funding is identified and approved by the Office of State  
 9 Budget and Management. For medical policy changes exceeding three  
 10 million dollars (\$3,000,000) in total requirements for a given fiscal year that  
 11 are required for compliance with federal law, the Department shall submit  
 12 the proposed medical policy or policy interpretation change with the  
 13 five-year fiscal analysis to the Office of State Budget and Management prior  
 14 to implementing the change. The Department shall provide the Office of  
 15 State Budget and Management and the Fiscal Research Division a quarterly  
 16 report itemizing all medical policy changes with total requirements of less  
 17 than three million dollars (\$3,000,000).

18 **SECTION 10.58.(c) Eligibility.** – Eligibility for Medicaid shall be determined in  
 19 accordance with the following:

20 (1) Medicaid and Work First Family Assistance.

21 a. Income eligibility standards. – The maximum net family annual  
 22 income eligibility standards for Medicaid and Work First Family  
 23 Assistance and the Standard of Need for Work First Family  
 24 Assistance shall be as follows:

	<b>CATEGORICALLY NEEDY – WFFA*</b>	<b>MEDICALLY NEEDY</b>
	Standard of Need	
	&	
	Families and Families and	Children &
Family	Children	AA, AB, AD*
Size	Income Level	Income Level
1	\$4,344	\$2,900
2	5,664	3,800
3	6,528	4,400
4	7,128	4,800
5	7,776	5,200
6	8,376	5,600
7	8,952	6,000
8	9,256	6,300

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44 \*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the  
 45 Blind (AB); and Aid to the Disabled (AD).

46 b. The payment level for Work First Family Assistance shall be fifty  
 47 percent (50%) of the standard of need. These standards may be  
 48 changed with the approval of the Director of the Budget.

49 c. The Department of Health and Human Services shall provide  
 50 Medicaid coverage to 19- and 20-year-olds in accordance with  
 51 federal rules and regulations.

- 1 d. Medicaid enrollment of categorically needy families with children  
2 shall be continuous for one year without regard to changes in income  
3 or assets.
- 4 (2) For the following Medicaid eligibility classifications for which the federal  
5 poverty guidelines are used as income limits for eligibility determinations,  
6 the income limits will be updated each April 1 immediately following  
7 publication of federal poverty guidelines. The Department of Health and  
8 Human Services, Division of Medical Assistance, shall provide Medicaid  
9 coverage to the following:
- 10 a. All elderly, blind, and disabled people who have incomes equal to or  
11 less than one hundred percent (100%) of the federal poverty  
12 guidelines.
- 13 b. Pregnant women with incomes equal to or less than one hundred  
14 eighty-five percent (185%) of the federal poverty guidelines and  
15 without regard to resources. Services to pregnant women eligible  
16 under this subsection continue throughout the pregnancy but include  
17 only those related to pregnancy and to those other conditions  
18 determined by the Department as conditions that may complicate  
19 pregnancy.
- 20 c. Infants under the age of one with family incomes equal to or less  
21 than two hundred percent (200%) of the federal poverty guidelines  
22 and without regard to resources.
- 23 d. Children aged one through five with family incomes equal to or less  
24 than two hundred percent (200%) of the federal poverty guidelines  
25 and without regard to resources.
- 26 e. Children aged six through 18 with family incomes equal to or less  
27 than one hundred percent (100%) of the federal poverty guidelines  
28 and without regard to resources.
- 29 f. Family planning services to men and women of childbearing age  
30 with family incomes equal to or less than one hundred eighty-five  
31 percent (185%) of the federal poverty guidelines and without regard  
32 to resources.
- 33 g. Workers with disabilities described in G.S. 108A-54.1 with unearned  
34 income equal to or less than one hundred fifty percent (150%) of the  
35 federal poverty guidelines.
- 36 (3) The Department of Health and Human Services, Division of Medical  
37 Assistance, shall provide Medicaid coverage to adoptive children with  
38 special or rehabilitative needs regardless of the adoptive family's income.
- 39 (4) The Department of Health and Human Services, Division of Medical  
40 Assistance, shall provide Medicaid coverage to "independent foster care  
41 adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the  
42 Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the  
43 adolescent's assets, resources, or income levels.
- 44 (5) ICF and ICF/MR work incentive allowances. – The Department of Health  
45 and Human Services may provide an incentive allowance to  
46 Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly  
47 engaged in work activities as part of their developmental plan, and for whom  
48 retention of additional income contributes to their achievement of  
49 independence. The State funds required to match the federal funds that are  
50 required by these allowances shall be provided from savings within the

1 Medicaid budget or from other unbudgeted funds available to the  
 2 Department. The incentive allowances may be as follows:

3	<b>Monthly Net Wages</b>	<b>Monthly Incentive Allowance</b>
4	\$1.00 to \$100.99	Up to \$50.00
5	\$101.00 to \$200.99	\$80.00
6	\$201.00 to \$300.99	\$130.00
7	\$301.00 and greater	\$212.00

8 (6) The Department of Health and Human Services, Division of Medical  
 9 Assistance, shall provide Medicaid coverage to women who need treatment  
 10 for breast or cervical cancer and who are defined in 42 U.S.C. §  
 11 1396a.(a)(10)(A)(ii)(XVIII).

12 **SECTION 10.58.(d) Services and Payment Bases.** – The Department shall spend  
 13 funds appropriated for Medicaid services in accordance with the following schedule of services  
 14 and payment bases. All services and payments are subject to the language at the end of this  
 15 subsection. Unless otherwise provided, services and payment bases will be as prescribed in the  
 16 State Plan as established by the Department of Health and Human Services and may be  
 17 changed with the approval of the Director of the Budget.

- 18 (1) Hospital inpatient. – Payment for hospital inpatient services will be  
 19 prescribed by the State Plan as established by the Department of Health and  
 20 Human Services.
- 21 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a  
 22 prospective reimbursement plan as established by the Department of Health  
 23 and Human Services.
- 24 (3) Nursing facilities. – Nursing facilities providing services to Medicaid  
 25 recipients who also qualify for Medicare must be enrolled in the Medicare  
 26 program as a condition of participation in the Medicaid program. State  
 27 facilities are not subject to the requirement to enroll in the Medicare  
 28 program. Residents of nursing facilities who are eligible for Medicare  
 29 coverage of nursing facility services must be placed in a Medicare-certified  
 30 bed. Medicaid shall cover facility services only after the appropriate services  
 31 have been billed to Medicare.
- 32 (4) Physicians, certified nurse midwife services, certified registered nurse  
 33 anesthetists, nurse practitioners. – Fee schedules as developed by the  
 34 Department of Health and Human Services.
- 35 (5) Community Alternative Program, EPSDT Screens. – Payments in  
 36 accordance with rate schedule developed by the Department of Health and  
 37 Human Services.
- 38 (6) Home health and related services, durable medical equipment. – Payments  
 39 according to reimbursement plans developed by the Department of Health  
 40 and Human Services.
- 41 (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 42 (8) Rural health clinical services. – Provider-based, reasonable cost,  
 43 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 44 (9) Family planning. – Negotiated rate for local health departments. For other  
 45 providers see specific services, e.g., hospitals, physicians.
- 46 (10) Independent laboratory and X-ray services. – Uniform fee schedules as  
 47 developed by the Department of Health and Human Services.
- 48 (11) Ambulatory surgical centers.
- 49 (12) Private duty nursing, clinic services, prepaid health plans.
- 50 (13) Intermediate care facilities for the mentally retarded.
- 51 (14) Chiropractors, podiatrists, optometrists, dentists.

- 1 (15) Limitations on dental coverage. – Dental services shall be provided on a  
2 restricted basis in accordance with criteria adopted by the Department to  
3 implement this subsection.
- 4 (16) Medicare Buy-In. – Social Security Administration premium.
- 5 (17) Ambulance services. – Uniform fee schedules as developed by the  
6 Department of Health and Human Services. Public ambulance providers will  
7 be reimbursed at cost.
- 8 (18) Optical supplies. – Payment for materials is made to a contractor in  
9 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers  
10 are negotiated fees established by the State agency based on industry  
11 charges.
- 12 (19) Medicare crossover claims. – The Department shall apply Medicaid medical  
13 policy to Medicare claims for dually eligible recipients. The Department  
14 shall pay an amount up to the actual coinsurance or deductible or both, in  
15 accordance with the State Plan, as approved by the Department of Health  
16 and Human Services. The Department may disregard application of this  
17 policy in cases where application of the policy would adversely affect  
18 patient care.
- 19 (20) Physical therapy, occupational therapy, and speech therapy. – Services  
20 limited to EPSDT-eligible children. Payments are to be made only to  
21 qualified providers at rates negotiated by the Department of Health and  
22 Human Services.
- 23 (21) Personal care services. – Payment in accordance with the State Plan  
24 developed by the Department of Health and Human Services.
- 25 (22) Case management services. – Reimbursement in accordance with the  
26 availability of funds to be transferred within the Department of Health and  
27 Human Services.
- 28 (23) Hospice.
- 29 (24) Medically necessary prosthetics or orthotics. – In order to be eligible for  
30 reimbursement, providers must be licensed or certified by the occupational  
31 licensing board or the certification authority having authority over the  
32 provider's license or certification. Medically necessary prosthetics and  
33 orthotics are subject to prior approval and utilization review.
- 34 (25) Health insurance premiums.
- 35 (26) Medical care/other remedial care. – Services not covered elsewhere in this  
36 section include related services in schools; health professional services  
37 provided outside the clinic setting to meet maternal and infant health goals;  
38 and services to meet federal EPSDT mandates.
- 39 (27) Pregnancy-related services. – Covered services for pregnant women shall  
40 include nutritional counseling, psychosocial counseling, and predelivery and  
41 postpartum home visits by maternity care coordinators and public health  
42 nurses.
- 43 (28) Drugs. – Reimbursements. Reimbursements shall be available for  
44 prescription drugs as allowed by federal regulations plus a professional  
45 services fee per month, excluding refills for the same drug or generic  
46 equivalent during the same month. Payments for drugs are subject to the  
47 provisions of this subdivision or in accordance with the State Plan adopted  
48 by the Department of Health and Human Services, consistent with federal  
49 reimbursement regulations. Payment of the professional services fee shall be  
50 made in accordance with the State Plan adopted by the Department of Health  
51 and Human Services, consistent with federal reimbursement regulations. The

1 professional services fee shall be five dollars and sixty cents (\$5.60) per  
2 prescription for generic drugs and four dollars (\$4.00) per prescription for  
3 brand-name drugs. Adjustments to the professional services fee shall be  
4 established by the General Assembly. In addition to the professional services  
5 fee, the Department may pay an enhanced fee for pharmacy services.

6 Limitations on quantity. – The Department of Health and Human  
7 Services may establish authorizations, limitations, and reviews for specific  
8 drugs, drug classes, brands, or quantities in order to manage effectively the  
9 Medicaid pharmacy program, except that the Department shall not impose  
10 limitations on brand-name medications for which there is a generic  
11 equivalent in cases where the prescriber has determined, at the time the drug  
12 is prescribed, that the brand-name drug is medically necessary and has  
13 written on the prescription order the phrase "medically necessary."

14 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through  
15 G.S. 90-85.31, or any other law to the contrary, under the Medical  
16 Assistance Program (Title XIX of the Social Security Act), and except as  
17 otherwise provided in this subsection for drugs listed in the narrow  
18 therapeutic index, a prescription order for a drug designated by a trade or  
19 brand name shall be considered to be an order for the drug by its established  
20 or generic name, except when the prescriber has determined, at the time the  
21 drug is prescribed, that the brand-name drug is medically necessary and has  
22 written on the prescription order the phrase "medically necessary." An initial  
23 prescription order for a drug listed in the narrow therapeutic drug index that  
24 does not contain the phrase "medically necessary" shall be considered an  
25 order for the drug by its established or generic name, except that a pharmacy  
26 shall not substitute a generic or established name prescription drug for  
27 subsequent brand or trade name prescription orders of the same prescription  
28 drug without explicit oral or written approval of the prescriber given at the  
29 time the order is filled. Generic drugs shall be dispensed at a lower cost to  
30 the Medical Assistance Program rather than trade or brand-name drugs. As  
31 used in this subsection, "brand name" means the proprietary name the  
32 manufacturer places upon a drug product or on its container, label, or  
33 wrapping at the time of packaging; and "established name" has the same  
34 meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic  
35 Act, as amended, 21 U.S.C. § 352(e)(3).

36 Prior authorization. – The Department of Health and Human Services  
37 shall not impose prior authorization requirements or other restrictions under  
38 the State Medical Assistance Program on medications prescribed for  
39 Medicaid recipients for the treatment of HIV/AIDS.

40 (29) Other mental health services. – Unless otherwise covered by this section,  
41 coverage is limited to:

- 42 a. Services as defined by the Division of Mental Health, Developmental  
43 Disabilities, and Substance Abuse Services and approved by the  
44 Centers for Medicare and Medicaid Services (CMS) when provided  
45 in agencies meeting the requirements of the rules established by the  
46 Commission for Mental Health, Developmental Disabilities, and  
47 Substance Abuse Services and reimbursement is made in accordance  
48 with a State Plan developed by the Department of Health and Human  
49 Services not to exceed the upper limits established in federal  
50 regulations, and
- 51 b. For children eligible for EPSDT services provided by:



- 1 1. Licensed or certified psychologists, licensed clinical social  
2 workers, certified clinical nurse specialists in psychiatric  
3 mental health advanced practice, nurse practitioners certified  
4 as clinical nurse specialists in psychiatric mental health  
5 advanced practice, licensed psychological associates, licensed  
6 professional counselors, licensed marriage and family  
7 therapists, licensed clinical addictions specialists, and  
8 certified clinical supervisors, when Medicaid-eligible children  
9 are referred by the Community Care of North Carolina  
10 primary care physician, a Medicaid-enrolled psychiatrist, or  
11 the area mental health program or local management entity,  
12 and
- 13 2. Institutional providers of residential services as defined by the  
14 Division of Mental Health, Developmental Disabilities, and  
15 Substance Abuse Services and approved by the Centers for  
16 Medicare and Medicaid Services (CMS) for children and  
17 Psychiatric Residential Treatment Facility services that meet  
18 federal and State requirements as defined by the Department.
- 19 c. For Medicaid-eligible adults, services provided by licensed or  
20 certified psychologists, licensed clinical social workers, certified  
21 clinical nurse specialists in psychiatric mental health advanced  
22 practice, and nurse practitioners certified as clinical nurse specialists  
23 in psychiatric mental health advanced practice, licensed  
24 psychological associates, licensed professional counselors, licensed  
25 marriage and family therapists, certified clinical addictions  
26 specialists, and licensed clinical supervisors, Medicaid-eligible adults  
27 may be self-referred.
- 28 d. Payments made for services rendered in accordance with this  
29 subdivision shall be to qualified providers in accordance with  
30 approved policies and the State Plan. Nothing in sub-subdivision b.  
31 or c. of this subdivision shall be interpreted to modify the scope of  
32 practice of any service provider, practitioner, or licensee, nor to  
33 modify or attenuate any collaboration or supervision requirement  
34 related to the professional activities of any service provider,  
35 practitioner, or licensee. Nothing in sub-subdivision b. or c. of this  
36 subdivision shall be interpreted to require any private health insurer  
37 or health plan to make direct third-party reimbursements or payments  
38 to any service provider, practitioner, or licensee.

39 Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human  
40 Services may adopt temporary rules in accordance with Chapter 150B of the  
41 General Statutes further defining the qualifications of providers and referral  
42 procedures in order to implement this subdivision. Coverage policy for  
43 services defined by the Division of Mental Health, Developmental  
44 Disabilities, and Substance Abuse Services under sub-subdivisions a. and  
45 b.2. of this subdivision shall be established by the Division of Medical  
46 Assistance.

47 **SECTION 10.58.(e) Provider Performance Bonds and Visits. –**

- 48 (1) Subject to the provisions of this subdivision, the Department may require  
49 Medicaid-enrolled providers to purchase a performance bond in an amount  
50 not to exceed one hundred thousand dollars (\$100,000) naming as  
51 beneficiary the Department of Health and Human Services, Division of

1 Medical Assistance, or provide to the Department a validly executed letter of  
2 credit or other financial instrument issued by a financial institution or agency  
3 honoring a demand for payment in an equivalent amount. The Department  
4 may require the purchase of a performance bond or the submission of an  
5 executed letter of credit or financial instrument as a condition of initial  
6 enrollment, reenrollment, or reinstatement if:

- 7 a. The provider fails to demonstrate financial viability,
- 8 b. The Department determines there is significant potential for fraud  
9 and abuse,
- 10 c. The Department otherwise finds it is in the best interest of the  
11 Medicaid program to do so.

12 The Department shall specify the circumstances under which a performance  
13 bond or executed letter of credit will be required.

14 (1a) The Department may waive or limit the requirements of this paragraph for  
15 individual Medicaid-enrolled providers or for one or more classes of  
16 Medicaid-enrolled providers based on the following:

- 17 a. The provider's or provider class's dollar amount of monthly billings  
18 to Medicaid.
- 19 b. The length of time an individual provider has been licensed,  
20 endorsed, certified, or accredited in this State to provide services.
- 21 c. The length of time an individual provider has been enrolled to  
22 provide Medicaid services in this State.
- 23 d. The provider's demonstrated ability to ensure adequate record  
24 keeping, staffing, and services.
- 25 e. The need to ensure adequate access to care.

26 In waiving or limiting requirements of this paragraph, the Department shall  
27 take into consideration the potential fiscal impact of the waiver or limitation  
28 on the State Medicaid Program. The Department shall provide to the affected  
29 provider written notice of the findings upon which its action is based and  
30 shall include the performance bond requirements and the conditions under  
31 which a waiver or limitation apply. The Department may adopt temporary  
32 rules in accordance with G.S. 150B-21.1 as necessary to implement this  
33 provision.

34 (2) Reimbursement is available for up to 30 visits per recipient per fiscal year  
35 for the following professional services: hospital outpatient providers,  
36 physicians, nurse practitioners, nurse midwives, clinics, health departments,  
37 optometrists, chiropractors, and podiatrists. The Department of Health and  
38 Human Services shall adopt medical policies in accordance with  
39 G.S. 108A-54.2 to distribute the allowable number of visits for each service  
40 or each group of services consistent with federal law. In addition, the  
41 Department shall establish a threshold of some number of visits for these  
42 services. The Department shall ensure that primary care providers or the  
43 appropriate CCNC network are notified when a patient is nearing the  
44 established threshold to facilitate care coordination and intervention as  
45 needed.

46 Prenatal services, all EPSDT children, emergency room visits, and  
47 mental health visits subject to independent utilization review are exempt  
48 from the visit limitations contained in this subdivision. Subject to  
49 appropriate medical review, the Department may authorize exceptions when  
50 additional care is medically necessary. Routine or maintenance visits above  
51 the established visit limit will not be covered unless necessary to actively

1 manage a life threatening disorder or as an alternative to more costly care  
2 options.

3 **SECTION 10.58.(f)** Exceptions and Limitations on Services; Authorization of  
4 Co-Payments and Other Services. –

5 (1) Exceptions to service limitations, eligibility requirements, and payments. –  
6 Service limitations, eligibility requirements, and payment bases in this  
7 section may be waived by the Department of Health and Human Services,  
8 with the approval of the Director of the Budget, to allow the Department to  
9 carry out pilot programs for prepaid health plans, contracting for services,  
10 managed care plans, or community-based services programs in accordance  
11 with plans approved by the United States Department of Health and Human  
12 Services or when the Department determines that such a waiver will result in  
13 a reduction in the total Medicaid costs for the recipient.

14 (2) Co-payment for Medicaid services. – The Department of Health and Human  
15 Services may establish co-payments up to the maximum permitted by federal  
16 law and regulation.

17 **SECTION 10.58.(g)** Rules, Reports, and Other Matters. –

18 (1) Rules. – The Department of Health and Human Services may adopt  
19 temporary or emergency rules according to the procedures established in  
20 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are  
21 necessary to maximize receipt of federal funds within existing State  
22 appropriations, to reduce Medicaid expenditures, and to reduce fraud and  
23 abuse. The Department of Health and Human Services shall adopt rules  
24 requiring providers to attend training as a condition of enrollment and may  
25 adopt temporary or emergency rules to implement the training requirement.

26 Prior to the filing of the temporary or emergency rules authorized under  
27 this subsection with the Rules Review Commission and the Office of  
28 Administrative Hearings, the Department shall consult with the Office of  
29 State Budget and Management on the possible fiscal impact of the temporary  
30 or emergency rule and its effect on State appropriations and local  
31 governments.

32 (2) Changes to Medicaid program; reports. – The Department shall report on  
33 any change it anticipates making in the Medicaid program that impacts the  
34 type or level of service, reimbursement methods, or waivers, any of which  
35 require a change in the State Plan or other approval by the Centers for  
36 Medicare and Medicaid Services (CMS). The reports shall be provided at the  
37 same time they are submitted to CMS for approval. In addition to the entities  
38 listed in subdivision (a)(4) of this section, the report shall be submitted to the  
39 Joint Legislative Health Care Oversight Committee.

#### 40 **DMA CONTRACT SHORTFALL**

41 **SECTION 10.59.(a)** Budget approval is required by the Office of State Budget and  
42 Management prior to the Department of Health and Human Services, Division of Medical  
43 Assistance, entering into any new contract or the renewal or amendment of existing contracts  
44 that exceed the current contract amounts.

45 **SECTION 10.59.(b)** The Division of Medical Assistance shall make every effort to  
46 effect savings within its operational budget and use those savings to offset its contract shortfall.  
47 Notwithstanding G.S. 143C-6-4(b)(3), the Department may use funds appropriated in this act to  
48 cover the contract shortfall in the Division of Medical Assistance if insufficient funds exist  
49 within the Division.  
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**MEDICAID COST CONTAINMENT ACTIVITIES**

**SECTION 10.60.(a)** The Department of Health and Human Services may use up to five million dollars (\$5,000,000) in the 2009-2010 fiscal year and up to five million dollars (\$5,000,000) in the 2010-2011 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost containment programs.

Medicaid cost containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic striped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost containment activity and documentation of the amount of savings expected to be realized from the cost containment activity.

**SECTION 10.60.(b)** The Department shall provide a copy of proposals for expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. On or before April 1, 2010, the Department shall report on the methods used to achieve savings and the amount saved by these methods. If the Department deploys fraud detection software, a report on the software implementation and fraud detection results shall be submitted to the House and Senate Appropriations Subcommittees on Health and Human Services and the Fiscal Research Division of the General Assembly not later than April 1, 2010.

**MEDICAID SPECIAL FUND TRANSFER**

**SECTION 10.61.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars (\$43,000,000) for the 2009-2010 fiscal year and the sum of forty-three million dollars (\$43,000,000) for the 2010-2011 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act. The Department may also use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share Hospital payment audit issues between the Department of Health and Human Services and the federal government related to fiscal years 1997-2002, and funds are appropriated from the Fund for the 2009-2010 fiscal year for this purpose.

**EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS REIMBURSEMENT SYSTEM**

**SECTION 10.62.** Full implementation for the Community Alternatives Programs reimbursement system shall be not later than 12 months after the date on which the replacement Medicaid Management Information System becomes operational and stabilized.

**DMA REDUCTION OPTION FLEXIBILITY**

1           **SECTION 10.63.(a)** The Department of Health and Human Services, Division of  
2 Medical Assistance, shall, in consultation with provider groups and other interested parties,  
3 review ways to improve health care quality, ensure appropriate use of services, improve clinical  
4 outcomes, and reduce the cost of care for beneficiaries with medically complex conditions as  
5 well as to strengthen fraud and abuse oversight efforts. In the review the Division shall explore  
6 all viable options to improve the quality of care and to control health care costs, including, but  
7 not limited to, the following options:

- 8           (1) Increasing utilization review and management practices to improve value  
9           and quality internally or with private vendors with proven records in other  
10           states' Medicaid programs;
- 11           (2) Expanding and enhancing programs that increase Aged, Blind, and Disabled  
12           (ABD) Medicaid eligibles participation within CCNC's medical home efforts  
13           and/or encourage single physician care management;
- 14           (3) Developing and enhancing incentives for increased provider participation in  
15           CCNC;
- 16           (4) Requiring inpatient and outpatient care management for select Medicaid  
17           enrollees;
- 18           (5) Adopting specific network and physician performance and compliance  
19           standards within the Community Care of North Carolina (CCNC) that are  
20           tied to any enhanced reimbursement structure;
- 21           (6) Initiative to address State nursing home payment methods and to offer  
22           incentives in payment methods to achieve certain quality and cost goals;
- 23           (7) Initiative to control drug cost and utilization as well as to maximize  
24           collection of supplemental rebates;
- 25           (8) Increasing third-party recovery and/or cost avoidance efforts, including  
26           enhancing Medicaid fraud and abuse oversight initiatives;
- 27           (9) Reducing or eliminating the occurrence of hospital "never events" –  
28           nonreimbursement for serious and costly errors in the provision of health  
29           care services that should never happen.

30           **SECTION 10.63.(b)** In order to consider all proposals prior to preparing  
31 adjustments to the fiscal year 2010-2011 budget, the Division shall report its recommendations  
32 on methods to better manage and save Medicaid costs to the Governor's Office by January 15,  
33 2010. All proposals shall include the steps necessary for implementation, including time  
34 frames, and the amount of projected savings over a five-year period.

## 35 36 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

37           **SECTION 10.64.(a)** Receivables reserved at the end of the 2009-2010 and  
38 2010-2011 fiscal years shall, when received, be accounted for as nontax revenue for each of  
39 those fiscal years.

40           **SECTION 10.64.(b)** For the 2009-2010 fiscal year, the Department of Health and  
41 Human Services shall deposit from its revenues one hundred twenty-four million nine hundred  
42 ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of  
43 State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the  
44 Department of Health and Human Services shall deposit from its revenues one hundred million  
45 dollars (\$100,000,000) with the Department of State Treasurer to be accounted for as nontax  
46 revenue. Any revenue collected in each of the fiscal years in excess of one of the amounts  
47 listed above shall be reserved by the State Treasurer in the Department's account for future  
48 appropriations by the General Assembly. These deposits shall represent the return of General  
49 Fund appropriations provided to the Department of Health and Human Services to provide  
50 indigent care services at State-owned and operated mental hospitals. The treatment of any

1 revenue derived from federal programs shall be in accordance with the requirements specified  
2 in the Code of Federal Regulations, Volume 2, Part 225.

3  
4 **FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD**  
5 **PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY**  
6 **INCOME**

7 **SECTION 10.65.(a)** Subject to approval from the Centers for Medicare and  
8 Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical  
9 Assistance, shall, in consultation with the Division of Mental Health, Developmental  
10 Disabilities, and Substance Abuse Services, and Community Alternatives Program (CAP)  
11 stakeholders, develop a schedule of cost-sharing requirements for families of children with  
12 incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid  
13 expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation  
14 and Developmentally Disabled) and the CAP-C (Community Alternatives Program for  
15 Children). The cost-sharing amounts shall be based on a sliding scale of family income and  
16 shall take into account the impact on families with more than one child in the CAP programs.  
17 In developing the schedule, the Department shall also take into consideration how other states  
18 have implemented cost-sharing in their CAP programs. The Division of Medical Assistance  
19 may establish monthly deductibles as a means of implementing this cost-sharing. The  
20 Department shall provide for at least one public hearing and other opportunities for individuals  
21 to comment on the imposition of cost-sharing under the CAP program schedule.

22 **SECTION 10.65.(b)** The Division of Medical Assistance shall also, in  
23 collaboration with the Controller's Office of the Department of Health and Human Services, the  
24 Division of Information Resource Management (DIRM), and the new vendor of the  
25 replacement Medicaid Management Information System, develop business rules, program  
26 policies and procedures, and define relevant technical requirements.

27 **SECTION 10.65.(c)** Prior to seeking approval from CMS, but not later than  
28 October 1, 2009, the Department shall report to the Joint Legislative Oversight Committee on  
29 Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding  
30 Needs, and to the Senate Appropriations Committee on Health and Human Services, the House  
31 of Representatives Appropriations Subcommittee on Health and Human Services, and the  
32 Fiscal Research Division. The report shall include a summary of comments the Department has  
33 received at the public hearing, business rules, policies and procedures, and technical  
34 requirements of the initiative and shall also indicate any barriers to implementing the  
35 cost-sharing.

36  
37 **PREFERRED DRUG LIST PROGRAM**

38 **SECTION 10.66.(a)** In the event insufficient savings are realized from enhancing  
39 the utilization management of the Prescription Advantage List, increasing the utilization of  
40 generic drugs in place of brand-name drugs and increasing rebate collections on generic drugs,  
41 the Department of Health and Human Services shall establish and implement a preferred drug  
42 list program under the Division of Medical Assistance. The Department shall submit a medical  
43 assistance State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) of  
44 the United States Department of Health and Human Services to implement the program.

45 **SECTION 10.66.(b)** The pharmaceutical and therapeutics committee of the  
46 Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list.  
47 Members of the committee shall submit conflict of interest disclosure statements to the  
48 Department and shall have an ongoing duty to disclose conflicts of interest not included in the  
49 original disclosure.

50 **SECTION 10.66.(c)** The Department, in consultation with the PAG, shall adopt and  
51 publish policies and procedures relating to the preferred drug list, including:

- 1 (1) Guidelines for the presentation and review of drugs for inclusion on the
- 2 preferred drug list,
- 3 (2) The manner and frequency of audits of the preferred drug list for
- 4 appropriateness of patient care and cost-effectiveness,
- 5 (3) An appeals process for the resolution of disputes, and
- 6 (4) Such other policies and procedures as the Department deems necessary and
- 7 appropriate.

8 The Department and the pharmaceutical and therapeutics committee shall consider  
9 all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except  
10 medications for treatment of human immunodeficiency virus or acquired immune deficiency  
11 syndrome shall not be subject to consideration for inclusion on the preferred drug list.

12 The Department shall maintain an updated preferred drug list in electronic format  
13 and shall make the list available to the public on the Department's Internet Web site.

14 The Department shall: (i) enter into a multistate purchasing pool; (ii) negotiate  
15 directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for  
16 negotiated discounts or rebates for all prescription drugs under the medical assistance program;  
17 or (iv) effectuate any combination of these options in order to achieve the lowest available  
18 price for such drugs under such program.

19 The Department may negotiate supplemental rebates from manufacturers that are in  
20 addition to those required by Title XIX of the federal Social Security Act. The committee shall  
21 consider a product for inclusion on the preferred drug list if the manufacturer provides a  
22 supplemental rebate. The Department may procure a sole source contract with an outside entity  
23 or contractor to conduct negotiations for supplemental rebates.

24 **SECTION 10.66.(d)** This section becomes effective if the Department cannot  
25 demonstrate by June 1, 2010, that twenty million seven hundred ninety-one thousand two  
26 hundred sixty-four dollars (\$20,791,264) in prescription drug savings have been realized by  
27 employing the methods outlined in subsection (a) of this section.

#### 28 **MEDICAID APPEALS/FUNDS DO NOT REVERT**

29 **SECTION 10.67.** Funds transferred from the Department of Health and Human  
30 Services to the Office of Administrative Hearings in the 2008-2009 fiscal year for mediation  
31 services shall not revert to the General Fund on June 30, 2009, but shall remain in the Office of  
32 Administrative Hearings for the purposes for which the funds were transferred.

#### 33 **CLARIFYING CHANGES TO STATE MEDICAID RESPONSIBILITIES**

34 **SECTION 10.68.** Consistent with Sections 31.16.1(c) and (d) of S.L. 2007-323  
35 that require the State to assume responsibility for the nonfederal share of the costs of medical  
36 services provided under the Medicaid Program starting June 1, 2009, the counties shall neither  
37 bear any responsibility for settlement payments to providers nor refunds of expenditures for  
38 program service claims paid on or before June 1, 2009. Counties will continue to participate in  
39 their share of administrative costs.

#### 40 **CO-PAYMENTS FOR TICKET TO WORK**

41 **SECTION 10.69.** G.S. 108A-54.1(d) reads as rewritten:  
42 **"§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

43 ...  
44 (d) Fees, Premiums, and Co-Payments. – Individuals who participate in HCWD and  
45 have countable income greater than one hundred fifty percent (150%) of FPG shall pay an  
46 annual enrollment fee of fifty dollars (\$50.00) to their county department of social services.  
47 Individuals who participate in HCWD and have countable income greater than or equal to two  
48 hundred percent (200%) of FPG shall pay a monthly premium in addition to the annual fee. The  
49  
50  
51

1 Department shall set a sliding scale for premiums, which is consistent with applicable federal  
 2 law. An individual with countable income equal to or greater than four hundred fifty percent  
 3 (450%) of FPG shall pay not less than one hundred percent (100%) of the cost of the premium,  
 4 as determined by the Department. The premium shall be based on the experience of all  
 5 individuals participating in the Medical Assistance Program. Individuals who participate in  
 6 HCWD are subject to co-payments equal to those required under the ~~North Carolina Health~~  
 7 ~~Choice Program.~~ Medical Assistance Program."

## 9 MEDICAID FALSE CLAIMS

10 **SECTION 10.70.(a)** G.S. 108A-70.11(5) reads as rewritten:

11 "(5) "Medical Assistance Program" means the Medical Assistance Program  
 12 established pursuant to G.S. 108A-54 and includes the North Carolina  
 13 Division of Medical Assistance and or its fiscal agent."

14 **SECTION 10.70.(b)** G.S. 108A-70.12(a) reads as rewritten:

### 15 "§ 108A-70.12. Liability for certain acts; damages; effect of repayment.

16 (a) Liability for Certain Acts. – It shall be unlawful for any provider of medical  
 17 assistance under the Medical Assistance Program ~~to do any of the following:~~

- 18 (1) Knowingly present, or cause to be presented to the Medical Assistance  
 19 Program a false or fraudulent claim for payment or ~~approval; or approval.~~
- 20 (2) Knowingly make, use, or cause to be made or used a false record or  
 21 statement to get a false or fraudulent claim paid or approved by the Medical  
 22 Assistance ~~Program.~~ Program.
- 23 (3) Conspire to defraud the Medical Assistance Program by obtaining a false or  
 24 fraudulent claim allowed or paid.
- 25 (4) Knowingly make, use, or cause to be made or used, a false record or  
 26 statement to conceal, avoid, or decrease an obligation to pay or transmit  
 27 money or property to the Medical Assistance Program. Each claim presented  
 28 or caused to be presented in violation of this section is a separate violation."

29 **SECTION 10.70.(c)** G.S. 108A-70.12(b)(1) reads as rewritten:

30 "(b) Damages. –

- 31 (1) Except as provided in subdivision (2) of this subsection, a court shall assess  
 32 against any provider of medical assistance under the Medical Assistance  
 33 Program who violates this section a civil penalty of not less than five  
 34 thousand five hundred dollars (~~\$5,000~~)(\$5,500) and not more than ~~ten~~  
 35 ~~thousand~~ dollars (~~\$10,000~~)eleven thousand dollars (\$11,000) plus three  
 36 times the amount of damages which the ~~Medicaid~~ Medical Assistance  
 37 Program sustained because of the act of the provider."

38 **SECTION 10.70.(d)** Article 2 of Chapter 108A of the General Statutes is amended  
 39 by adding the following new Part to read:

40 "Part 7A. Civil Action by Private Persons for Provider False Claims.

### 41 "§ 108A-70.17. Civil action filed by private persons.

42 (a) A person may initiate a civil action for a violation of G.S. 108A-70.12 on behalf of  
 43 the person and the State. The action shall be brought in the name of the State. The action may  
 44 be dismissed prior to service of the complaint upon the defendant under subsection (c) of this  
 45 section only if the court and the Attorney General have given written consent to the dismissal  
 46 and their reasons for consenting.

47 (b) A copy of the complaint and written disclosure of substantially all material evidence  
 48 and information the person possesses shall be served on the State. The complaint shall be filed  
 49 in camera, shall remain under seal for at least 120 days, and shall not be served on the  
 50 defendant until the court so orders. The State may elect to intervene and proceed with the  
 51 action within 120 days after it receives both the complaint and the material evidence and



1 information. The State may, for good cause shown, move the court for a partial lifting of the  
2 seal to facilitate the investigative process or settlement.

3 (c) The State may, for good cause shown, move the court for extensions of the time  
4 during which the complaint remains under seal. Any of these motions may be supported by  
5 affidavits or other submission in camera. The time period to respond to any complaint filed  
6 under this section shall commence 21 days after the complaint is unsealed and served upon the  
7 defendant.

8 (d) Before the expiration of the 120-day period or any extensions obtained under  
9 subsection (c) of this section, the State shall either proceed with the action, in which case the  
10 action shall be conducted by the State, or notify the court that it declines to take over the action,  
11 in which case the person initiating the action shall have the right to prosecute the action.

12 (e) When a person initiates an action under this section, no person other than the State  
13 may intervene or bring a related action based on the facts underlying the pending action. If  
14 another action is filed based on the facts underlying the pending action while the complaint is  
15 sealed under subsections (b) and (c) of this section, the court may consolidate the actions or  
16 dismiss the subsequent action.

17 **"§ 108A-70.17A. Rights of private plaintiff and State.**

18 (a) If the State proceeds with the action, it shall have the primary responsibility for  
19 prosecuting the action and shall not be bound by any act of the person initiating the action. The  
20 person bringing the action shall have the right to continue as a party to the action, subject to the  
21 limitations of this section.

22 (b) The State may dismiss the action notwithstanding the objections of the person  
23 initiating the action if the person has been notified by the State of the filing of the motion, and  
24 the court has provided the person with an opportunity for a hearing on the motion.

25 (c) The State may settle the action with the defendant notwithstanding the objections of  
26 the person initiating the action if the court determines, after a hearing, that the proposed  
27 settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of  
28 good cause, such hearing may be held in camera.

29 (d) If the State proceeds with the action, the court may, in its discretion, impose  
30 limitations on the person's participation in the litigation as set forth in subsection (e) of this  
31 section. Such limitations must be imposed after any of the following:

32 (1) A showing by the State that unrestricted participation during the course of  
33 the litigation by the person initiating the action would interfere with or  
34 unduly delay the State's prosecution of the case, or would be repetitious,  
35 irrelevant, or for purposes of harassment.

36 (2) A showing by the defendant that unrestricted participation during the course  
37 of the litigation by the person initiating the action would be for purposes of  
38 harassment or would cause the defendant undue burden or unnecessary  
39 expense.

40 (e) Limitations on participation of the person initiating the action shall include all of the  
41 following:

42 (1) Limiting the number of witnesses the person may call.

43 (2) Limiting the length of the testimony of such witnesses.

44 (3) Limiting the person's cross-examination of witnesses.

45 (4) Other limits on the participation by the person initiating the action in the  
46 litigation as the court deems appropriate.

47 (f) If the State elects not to proceed with the action, the person who initiated the action  
48 shall have the right to conduct the action. If the State so requests, it shall be served with copies  
49 of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts  
50 at the State's expense. When a person initiating the action proceeds with the action, the court,

1 without limiting the status and rights of the person initiating the action, may nevertheless  
2 permit the State to intervene at a later date upon a showing of good cause.

3 (g) Whether or not the State proceeds with the action, upon a showing by the State that  
4 certain actions of discovery by the person initiating the action would interfere with the State's  
5 investigation or prosecution of a criminal or civil matter arising out of the same facts, the court  
6 may stay the discovery for a period of not more than 60 days. The showing by the State shall be  
7 conducted in camera. The court may extend the 60-day period upon a further showing in  
8 camera that the State has pursued the criminal or civil investigation or proceedings with  
9 reasonable diligence and any proposed discovery in the civil action will interfere with the  
10 ongoing criminal or civil investigation or prosecution of the criminal or civil matter.

11 (h) Notwithstanding G.S. 108A-70.17(b), the State may elect to pursue its claim  
12 through any alternate remedy available to the State, including any administrative proceeding to  
13 determine a civil money penalty. Any finding of fact or conclusion of law made in the alternate  
14 proceeding that has become final shall be conclusive on all parties to an action under this Part.  
15 For purposes of this subsection, a finding or conclusion is final if it has been finally determined  
16 on appeal by a court of competent jurisdiction of the State, if the time for filing an appeal with  
17 respect to the finding or conclusion has expired, or if the finding or conclusions are not subject  
18 to judicial review.

19 **"§ 108A-70.17B. Award to qui tam plaintiff.**

20 (a) Except as otherwise provided in this section, if the State proceeds with an action  
21 brought by a person under G.S. 108A-70.17, the person shall receive at least fifteen percent  
22 (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement  
23 of the claim, if any, depending upon the extent to which the person substantially contributed to  
24 the prosecution of the action. The plaintiff's share in the proceeds of the action or settlement is  
25 administrative costs of the action. A share of the proceeds of an action or settlement of the  
26 claim shall not be awarded to the person initiating the action in State court under this Part if the  
27 person has received or may receive a share of the proceeds or settlement of an action or claim  
28 on the same facts brought in federal court. Where the action is one that the court finds to be  
29 based primarily on disclosures of specific information, other than information proved by the  
30 person initiating the action, relating to allegations or transactions in a criminal, civil, or  
31 administrative hearing, in a legislative, administrative, or State Auditor's report, hearing, audit,  
32 or investigation, or from the news media, the court may reduce the award under this subsection  
33 to such sums as it considers appropriate, but in no case more than ten percent (10%) of the  
34 proceeds of the action, taking into account the significance of the information and the role of  
35 the person initiating the action in advancing the case to litigation.

36 (b) If the State does not proceed with an action, the person initiating the action or  
37 settling the claim shall receive an amount that the court decides is reasonable for collecting the  
38 civil penalty and damages, if awarded. The amount shall be not less than twenty-five percent  
39 (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and  
40 shall be paid out of the proceeds.

41 (c) Notwithstanding subsections (a) and (b) of this section, if the person initiating the  
42 action is a person who primarily planned and initiated the violation of G.S. 108A-70.12 upon  
43 which the action was brought, that person shall be dismissed as a qui tam plaintiff and shall not  
44 receive any share of the proceeds of the action. If the person initiating the action is convicted of  
45 criminal conduct arising from the person's role in the violation of G.S. 108A-70.12, that person  
46 shall be dismissed from the civil action and shall not receive any share of the proceeds of the  
47 action. The dismissal shall not prejudice the right of the State to continue the action.

48 (d) If the State does not proceed with the action and the person initiating the action  
49 conducts the action, the court may award to the defendant its reasonable attorneys' fees and  
50 expenses if the defendant prevails in the action and if the court finds that the claim of the

1 person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for  
2 purposes of harassment.

3 **"§ 108A-70.17C. Certain actions barred.**

4 (a) No court shall have jurisdiction over an action brought under this Part based on  
5 information discovered by a present or former employee of the State or a political subdivision  
6 of the State during the course of the present or former employee's employment unless that  
7 employee first, in good faith, exhausted existing internal procedures for reporting and seeking  
8 recovery of the falsely claimed sums through official channels, and unless the State or political  
9 subdivision failed to act on the information provided within a reasonable period of time.

10 (b) In no event may a person bring an action under this Part that is based upon  
11 allegations or transactions that are the subject of a criminal action, civil action, or an  
12 administrative proceeding in which the State is already a party.

13 (c) No court shall have jurisdiction over an action under this Part based upon the public  
14 disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a  
15 legislative, administrative, or State Auditor's report, hearing, audit, or investigation, or from the  
16 news media, unless the action is brought by the Attorney General, or the person initiating the  
17 action is an original source of the information. For purposes of this section, "original source"  
18 means an individual who has direct and independent knowledge of the information on which  
19 the allegations are based and has voluntarily provided the information to the State before filing  
20 an action under this Part that is based on the information.

21 (d) The State is not liable for expenses a person incurs in bringing an action under this  
22 Part.

23 (e) G.S. 108A-70.14 and G.S. 108A-70.15 apply to this Part.

24 **"§ 108A-70.17D. Procedure; statute of limitations.**

25 (a) A civil action under this Part may not be brought after the later of either of the  
26 following:

27 (1) More than six years after the date on which the violation is committed.

28 (2) More than three years after the date when facts material to the right of the  
29 action are known or reasonably should have been known by the official of  
30 the State charged with responsibility to act in the circumstances.

31 (b) If the civil action is brought under subdivision (a)(2) of this section, it may not be  
32 brought more than 10 years after the date on which the violation is committed."

33 **SECTION 10.70.(e)** G.S. 108A-70.15 reads as rewritten:

34 **"§ 108A-70.15. Employee remedies.**

35 (a) In the absence of fraud or malice, no person who furnishes information to officials  
36 of the State responsible for investigating false claims violations shall be liable for damages in a  
37 civil action for any oral or written statement made or any other action that is necessary to  
38 supply information required pursuant to this Part. Part or Part 7A of this Article.

39 (b) Any employee of a provider who is discharged, demoted, suspended, threatened,  
40 harassed, or in any other manner discriminated against in the terms and conditions of  
41 employment by the employee's employer because of lawful acts done by the employee on  
42 behalf of the employee or others in furtherance of an action under ~~G.S. 108A-70.12,~~  
43 G.S. 108A-70.12, or Part 7A of this Article, including investigation for, initiation of, testimony  
44 for, or assistance in an action filed or to be filed under ~~G.S. 108A-70.12,~~ G.S. 108A-70.12, or  
45 Part 7A of this Article, shall be entitled to all relief necessary to make the employee whole.  
46 Relief shall include reinstatement with the same seniority status as the employee would have  
47 had but for the discrimination, two times the amount of back pay, interest on the back pay, and  
48 compensation for any special damages sustained as a result of the discrimination, including  
49 litigation costs and reasonable attorneys' fees. An employee may bring an action in the  
50 appropriate court for the relief provided in this section."

1           **SECTION 10.70.(f)** Provided that the Medicaid False Claims State legislation is  
2 adopted, and the State legislation meets federal Center for Medicare and Medicaid Services  
3 criteria to receive ten percent (10%) bonuses subject to the False Claims Act, the Department of  
4 Health and Human Services, Division of Medical Assistance, shall transfer three hundred  
5 fifty-two thousand one hundred thirty-six dollars (\$352,136) in fiscal year 2010-2011, and each  
6 year thereafter, to fund five permanent staff positions at the Attorney General's Office  
7 necessary to implement the Medicaid False Claims Act.

8           **SECTION 10.70.(g)** Subsection (b) of this section becomes effective December 1,  
9 2009, and applies to offenses committed on or after that date. The remainder of this section  
10 becomes effective July 1, 2009, and applies to civil actions that accrue on or after that date.

## 11 12 **PROVIDER RATES**

13           **SECTION 10.71.** The Department of Health and Human Services shall freeze rates  
14 for fiscal year 2009-2010 for most Medicaid providers at the level authorized in fiscal year  
15 2008-2009. The rate freeze applies to all Medicaid private and public providers with the  
16 following exceptions: federally qualified health clinics, rural health centers, State institutions,  
17 outpatient hospital, pharmacy, and the noninflationary components of the case-mix  
18 reimbursement system for nursing facilities. Medicaid rates predicated upon Medicare fee  
19 schedules shall follow Medicare reductions but not Medicare increases unless federally  
20 required. Inflationary increases for Medicaid providers paying provider fees (private ICF-MRs  
21 and nursing facilities) can occur if the State share of the increases can be funded with provider  
22 fees.

## 23 24 **MEDICAID WAIVER FOR LOW-INCOME PERSONS WITH HIV**

25           **SECTION 10.72.** The Department of Health and Human Services, Division of  
26 Medical Assistance, shall study whether to apply to the Centers for Medicare and Medicaid  
27 Services (CMS) for a 1115 waiver to permit individuals who test positive for HIV and have  
28 incomes at or below two hundred percent (200%) of the federal poverty level to access  
29 Medicaid services. The study shall determine the number of people who may be eligible, and  
30 the financial, programmatic, and technical impact of the waiver. The Department shall report  
31 on the results of its study of the waiver to the Senate Appropriations Committee on Health and  
32 Human Services, the House of Representatives Appropriations Subcommittee on Health and  
33 Human Services, and the Fiscal Research Division not later than December 31, 2009.

## 34 35 **MAINTAIN MEDICAID ELIGIBILITY**

36           **SECTION 10.73.** The Department of Health and Human Services, Division of  
37 Medical Assistance, shall study policies that will prevent a Medicaid recipient from losing  
38 Medicaid eligibility when the annual Social Security and Railroad Retirement Cost of Living  
39 Adjustments (COLAs) and the annual Federal Poverty Level adjustment cause a Medicaid  
40 recipient to become income-ineligible for Medicaid. The policies shall apply only in cases  
41 where Medicaid income eligibility is affected only by Social Security and Railroad Retirement  
42 COLAs and Federal Poverty Level adjustments and shall not render a Medicaid recipient  
43 eligible if all other eligibility requirements are not met. The Department shall report the results  
44 of the study to the Senate Appropriations Committee on Health and Human Services, the House  
45 of Representatives Appropriations Subcommittee on Health and Human Services, and the  
46 Fiscal Research Division on or before December 31, 2009. The Department shall also study  
47 policies that allow individuals who are at or marginally above Medicaid income limits to buy-in  
48 to Medicaid coverage on a sliding fee scale.

## 49 50 **REDUCE INFANT MORTALITY AND PRETERM BIRTHS**

1           **SECTION 10.74.(a)** The Department of Health and Human Services, Division of  
2 Medical Assistance, shall seek a Medicaid 1115 waiver or implement other available Medicaid  
3 options to provide interconceptional coverage to low-income women with incomes below one  
4 hundred eighty-five percent (185%) of the federal poverty guidelines who have given birth to a  
5 high-risk infant. A high-risk infant is defined as weighing less than 1500 grams, is born less  
6 than 34 weeks gestation, is born with a congenital anomaly, or who has died within the first 28  
7 days of life.

8           **SECTION 10.74.(b)** Interconceptional care shall be limited to two years following  
9 the birth of a high-risk infant, or until a subsequent birth, whichever comes first.

10           **SECTION 10.74.(c)** The Division is authorized to develop a benefit package to  
11 improve interconceptional care to decrease poor birth outcomes in subsequent pregnancies.

12           **SECTION 10.74.(d)** The Division shall provide estimates of the cost savings from  
13 improved birth outcomes that will offset the cost of providing Medicaid coverage to this  
14 targeted population. The Division shall report the status of the waiver to the Senate  
15 Appropriations Committee on Health and Human Services, the House of Representatives  
16 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
17 Division on or before October 1, 2009. The Division shall not implement the waiver unless  
18 authorized by an act of the General Assembly.

## 19 20 **MEDICAID WAIVER TO PROVIDE HOME AND COMMUNITY-BASED MEDICAID** 21 **SERVICES FOR CERTAIN INDIVIDUALS**

22           **SECTION 10.74A.** The Department of Health and Human Services, Division of  
23 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall apply to the  
24 Centers for Medicare and Medicaid Services for a 1915(c) waiver to permit individuals who  
25 sustain traumatic brain injury after age 22 to access home and community-based Medicaid  
26 services. If approved, the Department shall not implement the waiver except as authorized by  
27 an act of the General Assembly appropriating funds for this purpose. The Department shall  
28 report on the status of the waiver to the Joint Legislative Oversight Committee on Mental  
29 Health, Developmental Disabilities, and Substance Abuse Services, the Senate Appropriations  
30 Committee on Health and Human Services, the House of Representatives Appropriations  
31 Subcommittee on Health and Human Services, and the Fiscal Research Division not later than  
32 March 1, 2010.

## 33 34 **NC NOVA**

35           **SECTION 10.75.** The Department of Health and Human Services, Division of  
36 Health Services Regulation, may use up to eighty-eight thousand dollars (\$88,000) for fiscal  
37 year 2009-2010 and ninety-three thousand seven hundred dollars (\$93,700) for fiscal year  
38 2010-2011 of existing resources to continue the NC New Organizational Vision Award  
39 certification program. The Division shall use federal civil monetary penalty receipts as a source  
40 of support for this initiative, when appropriate.

## 41 42 **DHSR LICENSE FEE INCREASES**

43           **SECTION 10.76.(a)** G.S. 131D-2(b) reads as rewritten:

### 44 **"§ 131D-2. Licensing of adult care homes for the aged and disabled.**

45           (b) Licensure; inspections. –

46           (1) The Department of Health and Human Services shall inspect and license,  
47 under rules adopted by the Medical Care Commission, all adult care homes  
48 for persons who are aged or mentally or physically disabled except those  
49 exempt in subsection (c) of this section. Licenses issued under the authority  
50 of this section shall be valid for one year from the date of issuance unless  
51 revoked earlier by the Secretary for failure to comply with any part of this

1 section or any rules adopted hereunder. Licenses shall be renewed annually  
2 upon filing and the Department's approval of the renewal application. The  
3 Department shall charge each adult care home with six or fewer beds a  
4 nonrefundable annual license fee in the amount of ~~two hundred fifty dollars~~  
5 ~~(\$250.00)~~ three hundred fifteen dollars (\$315.00). The Department shall  
6 charge each adult care home with more than six beds a nonrefundable annual  
7 license fee in the amount of ~~three hundred fifty dollars (\$350.00)~~ three  
8 hundred sixty dollars (\$360.00) plus a nonrefundable annual per-bed fee of  
9 ~~twelve dollars and fifty cents (\$12.50)~~ seventeen dollars and fifty cents  
10 (\$17.50)."

11 **SECTION 10.76.(b)** G.S. 131E-147 reads as rewritten:

12 **"§ 131E-147. Licensure requirement.**

13 (a) No person shall operate an ambulatory surgical facility without a license obtained  
14 from the Department.

15 (b) Applications shall be available from the Department, and each application filed with  
16 the Department shall contain all necessary and reasonable information that the Department may  
17 by rule require. A license shall be granted to the applicant upon a determination by the  
18 Department that the applicant has complied with the provisions of this Part and the rules  
19 promulgated by the Commission under this Part. The Department shall charge the applicant a  
20 nonrefundable annual base license fee in the amount of ~~seven hundred dollars (\$700.00)~~ eight  
21 hundred fifty dollars (\$850.00) plus a nonrefundable annual per-operating room fee in the  
22 amount of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00)."

23 **SECTION 10.76.(c)** G.S. 131E-167(a) reads as rewritten:

24 **"§ 131E-167. Certificate requirement.**

25 (a) Applications for certification shall be available from the Department, and each  
26 application filed with the Department shall contain all necessary and reasonable information  
27 that the Department may by rule require. A certificate shall be granted to the applicant for a  
28 period not to exceed one year upon a determination by the Department that the applicant has  
29 substantially complied with the provisions of this Article and the rules promulgated by the  
30 Department under this Article. The Department shall charge the applicant a nonrefundable  
31 annual certification fee in the amount of ~~two hundred fifty dollars (\$250.00)~~ three hundred  
32 eighty-five dollars (\$385.00)."

33 **SECTION 10.76.(d)** G.S. 131E-138(c) reads as rewritten:

34 **"§ 131E-138. Licensure requirements.**

35 (c) An application for a license shall be available from the Department, and each  
36 application filed with the Department shall contain all information requested by the  
37 Department. A license shall be granted to the applicant upon a determination by the  
38 Department that the applicant has complied with the provisions of this Part and the rules  
39 promulgated by the Commission under this Part. The Department shall charge the applicant a  
40 nonrefundable annual license fee in the amount of ~~four hundred dollars (\$400.00)~~ five hundred  
41 ten dollars (\$510.00)."

42 **SECTION 10.76.(e)** G.S. 131E-77 reads as rewritten:

43 **"§ 131E-77. Licensure requirement.**

44 (a) No person or governmental unit shall establish or operate a hospital in this state  
45 without a license. An infirmary is not required to obtain a license under this Part.

46 (b) The Commission shall prescribe by rule that any licensee or prospective applicant  
47 seeking to make specified types of alteration or addition to its facilities or to construct new  
48 facilities shall submit plans and specifications before commencement to the Department for  
49 preliminary inspection and approval or recommendations with respect to compliance with the  
50 applicable rules under this Part.

(c) An applicant for licensing under this Part shall provide information related to hospital operations as requested by the Department. The required information shall be submitted by the applicant on forms provided by the Department and established by rule.

(d) The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Facility Type	Number of Beds	Base Fee	Per-Bed Fee
General Acute Hospitals:	1-49 beds	\$250.00	<del>\$12.50</del> <u>\$17.50</u>
	50-99 beds	\$350.00	<del>\$12.50</del> <u>\$17.50</u>
	100-199 beds	\$450.00	<del>\$12.50</del> <u>\$17.50</u>
	200-399 beds	\$550.00	<del>\$12.50</del> <u>\$17.50</u>
	400-699 beds	\$750.00	<del>\$12.50</del> <u>\$17.50</u>
Other Hospitals:	700+ beds	\$950.00	<del>\$12.50</del> <u>\$17.50</u>
		\$500.00	<del>\$12.50</del> <u>\$17.50</u>

(e) The Department shall issue the license to the operator of the hospital who shall not transfer or assign it except with the written approval of the Department. The license shall designate the number and types of inpatient beds, the number of operating rooms, and the number of gastrointestinal endoscopy rooms.

(f) The operator shall post the license on the licensed premises in an area accessible to the public."

**SECTION 10.76.(f)** G.S. 122C-23(h) reads as rewritten:

"(h) The Department shall charge facilities licensed under this Chapter a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF/MR):	0 beds	<del>\$175.00</del> <u>\$215.00</u>	\$0
	1 to 6 beds	<del>\$250.00</del> <u>\$305.00</u>	\$0
	More than 6 beds	<del>\$350.00</del> <u>\$475.00</u>	<del>\$12.50</del> <u>\$17.50</u>
ICF/MR Only:	1 to 6 beds	<del>\$650.00</del> <u>\$845.00</u>	\$0
	More than 6 beds	<del>\$650.00</del> <u>\$800.00</u>	<del>\$12.50</del> <u>\$17.50</u> "

**SECTION 10.76.(g)** G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of ~~four hundred fifty dollars (\$450.00)~~ four hundred twenty dollars (\$420.00) plus a nonrefundable annual per-bed fee of ~~twelve dollars and fifty cents (\$12.50)~~ seventeen dollars and fifty cents (\$17.50)."

**DHSR INITIAL LICENSURE FEES NEW FACILITIES**

**SECTION 10.77.** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-272. Initial licensure fees for new facilities.**

The following fees are initial licensure fees for new facilities and are applicable as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Initial License Fee</u>	<u>Initial Bed Fee</u>
----------------------	-----------------------	----------------------------	------------------------

1	<u>Adult Care Licensure</u>	<u>More than 6</u>	<u>\$400.00</u>	<u>\$19.00</u>
2		<u>6 or Fewer</u>	<u>\$350.00</u>	<u>\$ -</u>
3	<u>Acute and Home Care</u>			
4	<u>General Acute Hospitals</u>	<u>1-49</u>	<u>\$550.00</u>	<u>\$19.00</u>
5		<u>50-99</u>	<u>\$750.00</u>	<u>\$19.00</u>
6		<u>100-199</u>	<u>\$950.00</u>	<u>\$19.00</u>
7		<u>200-399</u>	<u>\$1150.00</u>	<u>\$19.00</u>
8		<u>400-699</u>	<u>\$1550.00</u>	<u>\$19.00</u>
9		<u>700+</u>	<u>\$1950.00</u>	<u>\$19.00</u>
10	<u>Other Hospitals</u>		<u>\$1050.00</u>	<u>\$19.00</u>
11				
12	<u>Home Care</u>	=	<u>\$560.00</u>	<u>\$ -</u>
13	<u>Ambulatory Surgical Ctrs.</u>	=	<u>\$900.00</u>	<u>\$85.00</u>
14	<u>Hospice (Free Standing)</u>	=	<u>\$450.00</u>	<u>\$ -</u>
15	<u>Abortion Clinics</u>	=	<u>\$750.00</u>	<u>\$ -</u>
16	<u>Cardiac Rehab. Centers</u>	=	<u>\$425.00</u>	<u>\$ -</u>
17				
18	<u>Nursing Home &amp; L&amp;C</u>			
19	<u>Nursing Homes</u>		<u>\$470.00</u>	<u>\$19.00</u>
20	<u>All Others</u>		<u>\$ -</u>	<u>\$19.00</u>
21				
22	<u>Mental Health Facilities</u>			
23	<u>Nonresidential</u>		<u>\$265.00</u>	<u>\$ -</u>
24	<u>Non ICF-MR</u>	<u>6 or fewer</u>	<u>\$350.00</u>	<u>\$ -</u>
25	<u>ICF-MR only</u>	<u>6 or fewer</u>	<u>\$900.00</u>	<u>\$ -</u>
26	<u>Non ICF-MR</u>	<u>More than 6</u>	<u>\$525.00</u>	<u>\$19.00</u>
27	<u>ICF-MR only</u>	<u>More than 6</u>	<u>\$850.00</u>	<u>\$19.00."</u>

**DHHS BLOCK GRANTS**

**SECTION 10.78.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2010, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES  
(TANF) BLOCK GRANT

Local Program Expenditures

Division of Social Services

40	01.	Work First Family Assistance (Cash Assistance)	\$87,518,579
41			
42	02.	Work First County Block Grants	94,453,315
43			
44	03.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
45			
46			
47	04.	Work First – Boys and Girls Clubs	800,000
48			
49	05.	Work First – Connect, Inc.	67,523
50			
51	06.	Child Welfare Collaborative	887,517



1		
2	Division of Child Development	
3		
4	07. Subsidized Child Care Program	61,087,077
5		
6	Division of Public Health	
7		
8	08. Teen Pregnancy Prevention Initiatives	450,000
9		
10	DHHS Administration	
11		
12	09. Division of Social Services	1,093,176
13		
14	10. Office of the Secretary	75,392
15		
16	11. Office of the Secretary/DIRM – TANF	
17	Automation Projects	720,000
18		
19	12. Office of the Secretary/DIRM – NC FAST	
20	Implementation	1,200,000
21		
22	Transfers to Other Block Grants	
23		
24	Division of Child Development	
25		
26	13. Transfer to the Child Care and	
27	Development Fund	84,330,900
28		
29	Division of Social Services	
30		
31	14. Transfer to Social Services Block Grant for Child	
32	Protective Services – Child Welfare Training in	
33	Counties	2,550,000
34		
35	15. Transfer to Social Services Block Grant for	
36	Maternity Homes	60,503
37		
38	16. Transfer to Social Services Block Grant for Teen	
39	Pregnancy Prevention Initiatives	2,500,000
40		
41	17. Transfer to Social Services Block Grant for County	
42	Departments of Social Services for Children's Services	4,500,000
43		
44	18. Transfer to Social Services Block Grant for	
45	Foster Care Services	390,000
46		
47	19. Transfer to Social Services Block Grant for	
48	Medically Fragile Children	260,000
49		
50	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
51	(TANF) BLOCK GRANT	\$357,396,373

1		
2	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
3	(TANF) CONTINGENCY FUNDS BLOCK GRANT	
4		
5	Local Program Expenditures	
6		
7	Division of Social Services	
8		
9	01. Work First Family Assistance (Cash Assistance)	\$1,857,193
10		
11	02. Work First – Boys and Girls Clubs	1,200,000
12		
13	03. Work First – Afterschool Services	
14	For At-Risk Children	1,229,785
15		
16	04. Work First – Afterschool Programs	
17	For At-Risk Youth in Middle Schools	300,000
18		
19	05. Work First – Connect, Inc. (Work Central)	301,025
20		
21	06. Work First – Citizens Schools Program	360,000
22		
23	07. County Demonstration Grants	3,239,789
24		
25	08. Adoption Services – Special Children's Adoption Fund	3,000,000
26		
27	09. Family Violence Prevention	2,200,000
28		
29	10. Child Welfare Collaborative	987,995
30		
31	11. Work First Functional Assessment	600,000
32		
33	12. Electing County State Funding Swap Out	2,378,213
34		
35	13. State Subsidized Child Care Funding Swap	12,452,484
36		
37	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
38	(TANF) CONTINGENCY FUNDS BLOCK GRANT	\$30,106,484
39		
40	SOCIAL SERVICES BLOCK GRANT	
41		
42	Local Program Expenditures	
43		
44	Divisions of Social Services and Aging and Adult Services	
45		
46	01. County Departments of Social Services	\$ 28,868,189
47	(Transfer from TANF – \$4,500,000)	
48		
49	02. State In-Home Services Fund	2,101,113
50		
51	03. State Adult Day Care Fund	2,155,301

1		
2	04.	Child Protective Services/CPS Investigative
3		Services-Child Medical Evaluation Program
4		243,121
5	05.	Foster Care Services
6		(Transfer from TANF – \$390,000)
7		2,372,619
8	06.	Maternity Homes (Transfer from TANF – \$60,503)
9		943,002
10	07.	Special Children Adoption Incentive Fund
11		500,000
12	08.	Child Protective Services-Child Welfare Training
13		for Counties
14		(Transfer from TANF)
15		2,550,000
16		Division of Aging and Adult Services
17		
18	09.	Home and Community Care Block Grant (HCCBG)
19		1,834,077
20		Division of Mental Health, Developmental Disabilities, and Substance
21		Abuse Services
22		
23	10.	Mental Health Services Program
24		422,003
25	11.	Developmental Disabilities Services Program
26		5,000,000
27	12.	Mental Health Services-Adult and
28		Child/Developmental Disabilities Program/
29		Substance Abuse Services-Adult
30		3,234,601
31		Division of Child Development
32		
33	13.	Subsidized Child Care Program
34		3,150,000
35		Division of Vocational Rehabilitation
36		
37	14.	Vocational Rehabilitation Services – Easter Seal
38		Society/UCP Community Health Program
39		188,263
40		Division of Public Health
41		
42	15.	Teen Pregnancy Prevention Initiatives
43		(Transfer from TANF)
44		2,500,000
45	16.	Services for Medically Fragile Children
46		(Transfer from TANF – \$260,000)
47		360,000
48		DHHS Program Expenditures
49		
50		Division of Aging and Adult Services
51		

1	17.	UNC-CARES Training Contract	247,920
2			
3		Division of Services for the Blind	
4			
5	18.	Independent Living Program	3,714,211
6			
7		Division of Health Service Regulation	
8			
9	19.	Adult Care Licensure Program	411,897
10			
11	20.	Mental Health Licensure and Certification Program	205,668
12			
13		DHHS Administration	
14			
15	21.	Division of Aging and Adult Services	688,436
16			
17	22.	Division of Social Services	892,624
18			
19	23.	Office of the Secretary/Controller's Office	138,058
20			
21	24.	Office of the Secretary/DIRM	87,483
22			
23	25.	Division of Child Development	15,000
24			
25	26.	Division of Mental Health, Developmental	
26		Disabilities, and Substance Abuse Services	29,665
27			
28	27.	Division of Health Service Regulation	235,625
29			
30	28.	Office of the Secretary-NC Inter-Agency Council	
31		For Coordinating Homeless Programs	250,000
32			
33	29.	Office of the Secretary	48,053
34			
35		Transfers to Other State Agencies	
36			
37		Department of Administration	
38			
39	30.	NC Commission of Indian Affairs In-Home	
40		Services for the Elderly	203,198
41			
42		Transfers to Other Block Grants	
43			
44		Division of Public Health	
45			
46	31.	Transfer to Preventive Health Services Block Grant	
47		For HIV/STD Prevention and Community Planning	145,819
48			
49		TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 63,735,946
50			
51		LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT	

1		
2	Local Program Expenditures	
3		
4	Division of Social Services	
5		
6	01. Low-Income Energy Assistance Program (LIEAP)	\$ 25,909,124
7		
8	02. Crisis Intervention Program (CIP)	20,224,269
9		
10	Office of the Secretary – Office of Economic Opportunity	
11		
12	03. Weatherization Program	1,000,000
13		
14	04. Heating Air Repair & Replacement Program (HARRP)	3,385,583
15		
16	Local Administration	
17		
18	Division of Social Services	
19		
20	05. County DSS Administration	3,608,360
21		
22	Office of the Secretary – Office of Economic Opportunity	
23		
24	06. Local Residential Energy Efficiency Service	
25	Providers – Weatherization	420,035
26		
27	07. Local Residential Energy Efficiency Service	
28	Providers – HARRP	195,910
29		
30	DHHS Administration	
31		
32	08. Division of Social Services	275,000
33		
34	09. Division of Mental Health, Developmental	
35	Disabilities, and Substance Abuse Services	8,128
36		
37	10. Office of the Secretary/DIRM	269,935
38		
39	11. Office of the Secretary/Controller's Office	12,332
40		
41	12. Office of the Secretary/Office of Economic	
42	Opportunity – Weatherization	294,874
43		
44	13. Office of the Secretary/Office of Economic	
45	Opportunity – HARRP	137,574
46		
47	Transfers to Other State Agencies	
48		
49	14. Department of Administration –	
50	N.C. State Commission of Indian Affairs	67,042
51		

1	TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
2	BLOCK GRANT	\$ 55,808,166
3		
4	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
5		
6	Local Program Expenditures	
7		
8	Division of Child Development	
9		
10	01.    Subsidized Child Care Services (CCDF)	\$144,097,307
11		
12	02.    Contract Subsidized Child Care Services Support	507,617
13		
14	03.    Subsidized Child Care Services	
15	(Transfer from TANF)	84,330,900
16		
17	04.    Quality and Availability Initiatives	20,760,876
18		
19	05.    T.E.A.C.H. Program	3,800,000
20		
21	Division of Social Services	
22		
23	06.    Local Subsidized Child Care Services Support	\$16,594,417
24		
25	DHHS Administration	
26		
27	Division of Child Development	
28		
29	07.    DCD Administrative Expenses	6,539,277
30		
31	Division of Central Administration	
32		
33	08.    DHHS Central Administration – DIRM	
34	Technical Services	763,356
35		
36	TOTAL CHILD CARE AND DEVELOPMENT FUND	
37	BLOCK GRANT	\$277,393,750
38		
39	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH	
40	THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
41		
42	Local Program Expenditures	
43		
44	Division of Child Development	
45		
46	01.    Subsidized Child Care Services (CCDF)	
47	(High Quality Four-Year-Old Classrooms)	\$53,993,329
48		
49	02.    Contract Subsidized Child Care Services Support	29,030
50		
51	DHHS Program Expenditures	

1		
2	Division of Child Development	
3		
4	03. Quality and Availability Initiatives	11,519,144
5		
6	Local Administration	
7		
8	Division of Social Services	
9		
10	04. Subsidy Services Support	2,001,631
11		
12	TOTAL CHILD CARE AND DEVELOPMENT FUND	
13	BLOCK GRANT RECEIVED THROUGH ARRA	\$67,543,143
14		
15	MENTAL HEALTH SERVICES BLOCK GRANT	
16		
17	Local Program Expenditures	
18		
19	01. Mental Health Services – Adult	\$ 5,977,762
20		
21	02. Mental Health Services – Child	3,921,991
22		
23	03. Comprehensive Treatment Service Program	1,500,000
24		
25	04. Mental Health Services – UNC School of Medicine, Department of Psychiatry	300,000
26		
27		
28	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 11,699,753
29		
30	SUBSTANCE ABUSE PREVENTION	
31	AND TREATMENT BLOCK GRANT	
32		
33	Local Program Expenditures	
34		
35	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
36		
37	01. Substance Abuse Services – Adult	\$ 22,258,080
38		
39	02. Substance Abuse Treatment Alternative for Women	8,069,524
40		
41		
42	03. Substance Abuse – HIV and IV Drug	5,116,378
43		
44	04. Substance Abuse Prevention – Child	7,186,857
45		
46	05. Substance Abuse Services – Child	4,940,500
47		
48	06. Implementation – Institute of Medicine's Study Recommendations	250,000
49		
50		
51	Division of Public Health	

1			
2	07.	Risk Reduction Projects	633,980
3			
4	08.	Aid-to-Counties	209,576
5			
6	09.	Maternal Health	37,779
7			
8	TOTAL SUBSTANCE ABUSE PREVENTION		
9	AND TREATMENT BLOCK GRANT		\$ 48,702,674
10			
11	MATERNAL AND CHILD HEALTH BLOCK GRANT		
12			
13	Local Program Expenditures		
14			
15	Division of Public Health		
16			
17	01.	Children's Health Services	7,534,865
18			
19	02.	Women's Health	7,701,691
20			
21	03.	Oral Health	38,041
22			
23	DHHS Program Expenditures		
24			
25	Division of Public Health		
26			
27	04.	Children's Health Services	1,359,636
28			
29	05.	Women's Health	135,452
30			
31	06.	State Center for Health Statistics	179,483
32			
33	07.	Quality Improvement in Public Health	14,646
34			
35	08.	Health Promotion	88,746
36			
37	09.	Office of Minority Health	55,250
38			
39	10.	Immunization Program – Vaccine Distribution	382,648
40			
41	DHHS Administration		
42			
43	Division of Public Health		
44			
45	11.	Division of Public Health Administration	631,966
46			
47	TOTAL MATERNAL AND CHILD		
48	HEALTH BLOCK GRANT		\$ 18,122,424
49			
50	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
51			



1	Local Program Expenditures	
2		
3	Division of Public Health	
4		
5	01.    NC Statewide Health Promotion	\$1,730,653
6		
7	02.    Services to Rape Victims	197,112
8		
9	03.    HIV/STD Prevention and Community Planning	
10	(Transfer from Social Services Block Grant)	145,819
11		
12	DHHS Program Expenditures	
13		
14	Division of Public Health	
15		
16	04.    NC Statewide Health Promotion	1,699,044
17		
18	05.    Oral Health	70,000
19		
20	06.    State Laboratory of Public Health	16,600
21		
22	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$3,859,228
23		
24	COMMUNITY SERVICES BLOCK GRANT	
25		
26	Local Program Expenditures	
27		
28	Office of Economic Opportunity	
29		
30	01.    Community Action Agencies	\$ 16,673,336
31		
32	02.    Limited Purpose Agencies	926,297
33		
34	DHHS Administration	
35		
36	03.    Office of Economic Opportunity	926,296
37		
38	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 18,525,929
39		
40	COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN	
41	RECOVERY AND REINVESTMENT ACT (ARRA)	
42		
43	Local Program Expenditures	
44		
45	Office of Economic Opportunity	
46		
47	01.    Community Action Agencies	\$ 20,558,585
48		
49	02.    Limited Purpose Agencies	1,093,541
50		
51	DHHS Administration	

1  
2 03. Office of Economic Opportunity 218,709  
3  
4 TOTAL COMMUNITY SERVICES BLOCK GRANT  
5 RECEIVED THROUGH ARRA \$ 21,870,834  
6

#### 7 **GENERAL PROVISIONS**

8 **SECTION 10.78.(b)** Changes in Federal Fund Availability. – If the Congress of  
9 the United States increases the federal fund availability for any of the Block Grants  
10 administered by the Department of Health and Human Services from the amounts appropriated  
11 in this section, the Department shall allocate the increase proportionally across the program and  
12 activity appropriations identified for that Block Grant in this section. In allocating an increase  
13 in federal fund availability, the Department shall not propose funding for new programs or  
14 activities not appropriated in this section.

15 If the Congress of the United States decreases the federal fund availability for any of  
16 the Block Grants administered by the Department of Health and Human Services from the  
17 amounts appropriated in this section, the Department shall reduce State administration by at  
18 least the percentage of the reduction in federal funds. After determining the State  
19 administration, the remaining reductions shall be allocated proportionately across the program  
20 and activity appropriations identified for that Block Grant in this section.

21 Prior to allocating the change in federal fund availability, the proposed allocation  
22 must be approved by the Office of State Budget and Management. If the Department adjusts the  
23 allocation of any Block Grant due to changes in federal fund availability, then a report shall be  
24 made to the Joint Legislative Commission on Governmental Operations, the House of  
25 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
26 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

27 **SECTION 10.78.(c)** Appropriations from federal block grant funds are made for  
28 the fiscal year ending June 30, 2010, according to the schedule enacted for State fiscal year  
29 2009-2010 or until a new schedule is enacted by the General Assembly.

30 **SECTION 10.78.(d)** All changes to the budgeted allocations to the Block Grants  
31 administered by the Department of Health and Human Services that are not specifically  
32 addressed in this section shall be approved by the Office of State Budget and Management, and  
33 a report shall be submitted to the Joint Legislative Commission on Governmental Operations  
34 for review prior to implementing the changes. All changes to the budgeted allocations to the  
35 Block Grants shall be reported immediately to the House of Representatives Appropriations  
36 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
37 and Human Services, and the Fiscal Research Division. This subsection does not apply to  
38 Block Grant changes caused by legislative salary increases and benefit adjustments.  
39

#### 40 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)**

41 **SECTION 10.78.(e)** The sum of one million ninety-three thousand one hundred  
42 seventy-six dollars (\$1,093,176) appropriated in this section in the TANF Block Grant to the  
43 Department of Health and Human Services, Division of Social Services, for the 2009-2010  
44 fiscal year shall be used to support administration of TANF-funded programs.

45 **SECTION 10.78.(f)** The sum of two million two hundred thousand dollars  
46 (\$2,200,000) appropriated under this section in TANF Contingency funds to the Department of  
47 Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year shall be  
48 used to provide domestic violence services to Work First recipients. These funds shall be used  
49 to provide domestic violence counseling, support, and other direct services to clients. These  
50 funds shall not be used to establish new domestic violence shelters or to facilitate lobbying  
51 efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000)

1 in TANF funds to support one administrative position within the Division of Social Services to  
2 implement this subsection.

3 Each county department of social services and the local domestic violence shelter  
4 program serving the county shall jointly develop a plan for utilizing these funds. The plan shall  
5 include the services to be provided and the manner in which the services shall be delivered. The  
6 county plan shall be signed by the county social services director or the director's designee and  
7 the domestic violence program director or the director's designee and submitted to the Division  
8 of Social Services by December 1, 2009. The Division of Social Services, in consultation with  
9 the Council for Women, shall review the county plans and shall provide consultation and  
10 technical assistance to the departments of social services and local domestic violence shelter  
11 programs, if needed.

12 The Division of Social Services shall allocate these funds to county departments of  
13 social services according to the following formula: (i) each county shall receive a base  
14 allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of  
15 the remaining funds based on the county's proportion of the statewide total of the Work First  
16 caseload as of July 1, 2009, and the county's proportion of the statewide total of the individuals  
17 receiving domestic violence services from programs funded by the Council for Women as of  
18 July 1, 2009. The Division of Social Services may reallocate unspent funds to counties that  
19 submit a written request for additional funds.

20 **SECTION 10.78.(g)** The sum of one million two hundred twenty-nine thousand  
21 seven hundred eighty-five dollars (\$1,229,785) appropriated in this section in TANF  
22 Contingency funds to the Department of Health and Human Services, Division of Social  
23 Services, for the 2009-2010 fiscal year shall be used to expand after-school programs and  
24 services for at-risk children. The Department shall develop and implement a grant program to  
25 award grants to community-based programs that demonstrate the ability to reach children at  
26 risk of teen pregnancy, school dropout, and gang participation. The Department shall award  
27 grants to community-based organizations that demonstrate the ability to develop and implement  
28 linkages with local departments of social services, area mental health programs, schools, and  
29 other human services programs in order to provide support services and assistance to the child  
30 and family. These funds may be used to fund one position within the Division of Social  
31 Services to coordinate at-risk after-school programs and shall not be used for other State  
32 administration.

33 **SECTION 10.78.(h)** The sum of fourteen million four hundred fifty-two thousand  
34 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department  
35 of Health and Human Services, Division of Social Services, in the TANF Block Grant for the  
36 2009-2010 fiscal year for child welfare improvements shall be allocated to the county  
37 departments of social services for hiring or contracting staff to investigate and provide services  
38 in Child Protective Services cases; to provide foster care and support services; to recruit, train,  
39 license, and support prospective foster and adoptive families; and to provide interstate and  
40 post-adoption services for eligible families.

41 **SECTION 10.78.(i)** The sum of three million dollars (\$3,000,000) appropriated in  
42 this section in TANF Contingency funds to the Department of Health and Human Services,  
43 Special Children Adoption Fund, for the 2009-2010 fiscal year shall be used in accordance with  
44 G.S. 108A-50.2, as enacted in Section 10.48 of this act. The Division of Social Services, in  
45 consultation with the North Carolina Association of County Directors of Social Services and  
46 representatives of licensed private adoption agencies, shall develop guidelines for the awarding  
47 of funds to licensed public and private adoption agencies upon the adoption of children  
48 described in G.S. 108A-50 and in foster care. Payments received from the Special Children  
49 Adoption Fund by participating agencies shall be used exclusively to enhance the adoption  
50 services program. No local match shall be required as a condition for receipt of these funds.

1           **SECTION 10.78.(j)** The sum of one million two hundred thousand dollars  
2 (\$1,200,000) in this section appropriated to the Department of Health and Human Services in  
3 the TANF Block Grant for the 2009-2010 fiscal year shall be used to implement N.C. FAST  
4 (North Carolina Families Accessing Services through Technology). The N.C. FAST Program  
5 involves the entire automation initiative through which families access services and local  
6 departments of social services deliver benefits, supervised by the Department of Health and  
7 Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance,  
8 and Child Development. The statewide automated initiative shall be implemented in  
9 compliance with federal regulations in order to ensure federal financial participation in the  
10 project. The Department of Health and Human Services shall report on its compliance with this  
11 subsection to the House of Representatives Appropriations Subcommittee on Health and  
12 Human Services, the Senate Appropriations Committee on Health and Human Services, and the  
13 Fiscal Research Division no later than January 1, 2010.

14           **SECTION 10.78.(k)** The sum of three hundred thousand dollars (\$300,000)  
15 appropriated in this section to the Department of Health and Human Services, Division of  
16 Social Services, in TANF Contingency funds for the 2009-2010 fiscal year shall be used to  
17 expand after-school programs for at-risk children attending middle school. The Department  
18 shall develop and implement a grant program to award funds to community-based programs  
19 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and  
20 gang participation. These funds shall not be used for training or administration at the State  
21 level. All funds shall be distributed to community-based programs, focusing on those  
22 communities where similar programs do not exist in middle schools.

23           **SECTION 10.78.(l)** In implementing the TANF Block Grants, the Department of  
24 Health and Human Services shall review policies, programs, and initiatives to ensure that they  
25 support men in their role as fathers and strengthen fathers' involvement in their children's lives.  
26 The Department shall encourage county departments of social services to ensure their Work  
27 First programs emphasize responsible fatherhood and increased participation by noncustodial  
28 fathers.

29           **SECTION 10.78.(m)** The sum of sixty-seven thousand five hundred twenty-three  
30 dollars (\$67,523) appropriated in this section to the Department of Health and Human Services  
31 in the TANF Block Grant and the sum of three hundred one thousand twenty-five dollars  
32 (\$301,025) appropriated in this section to the Department in TANF Contingency funds for the  
33 2009-2010 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the  
34 number of people served and the services received as a result of the receipt of funds. The report  
35 shall contain expenditure data, including the amount of funds used for administration and direct  
36 training. The report shall also include the number of people who have been employed as a  
37 direct result of services provided by Connect, Inc., including the length of employment in the  
38 new position. The Department of Health and Human Services shall evaluate the program and  
39 ensure that services provided are not duplicative of local employment security commissions in  
40 the nine counties served by Connect, Inc. The evaluation report shall be submitted to the House  
41 of Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
42 Appropriations Committee on Health and Human Services, and the Fiscal Research Division no  
43 later than May 1, 2010.

44           **SECTION 10.78.(n)** The sum of eight hundred thousand dollars (\$800,000)  
45 appropriated in this section to the Department of Health and Human Services in the TANF  
46 Block Grant and the sum of one million two hundred thousand dollars (\$1,200,000)  
47 appropriated in this section to the Department in TANF Contingency funds for Boys and Girls  
48 Clubs for the 2009-2010 fiscal year shall be used to make grants for approved programs. The  
49 Department of Health and Human Services, in accordance with federal regulations for the use  
50 of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and  
51 Girls Clubs across the State in order to implement programs that improve the motivation,

1 performance, and self-esteem of youths and to implement other initiatives that would be  
2 expected to reduce gang participation, school dropout, and teen pregnancy rates. The  
3 Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and  
4 Support Our Students, Communities in Schools, and similar programs to submit joint  
5 applications for the funds if appropriate.

6 **SECTION 10.78.(o)** The Department of Health and Human Services, Division of  
7 Social Services, shall continue implementing county demonstration grants that began in the  
8 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years  
9 with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the  
10 county demonstration grants is to identify best practices that can be used by counties to  
11 improve the work participation rates. The Division of Social Services is authorized to establish  
12 two time-limited positions to manage the grant award process and monitor the demonstration  
13 projects through fiscal year 2009-2010.

14 Funding provided under the county demonstration grants shall not be used to  
15 supplant local funds, and counties shall be required to maintain the current level of effort and  
16 funding for the Work First program.

17 The Department of Health and Human Services, Division of Social Services, shall  
18 report on the status of county demonstration grants implemented pursuant to this subsection to  
19 the House of Representatives Appropriations Subcommittee on Health and Human Services,  
20 the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
21 Division no later than February 1, 2010.

22 **SECTION 10.78.(p)** The sum of one million eight hundred seventy-five thousand  
23 five hundred twelve dollars (\$1,875,512) appropriated in this section to the Department of  
24 Health and Human Services in the TANF Block Grant and in TANF Contingency funds for the  
25 2009-2010 fiscal year shall be used to continue support for the Child Welfare Collaborative.

## 26 **SOCIAL SERVICES BLOCK GRANT**

27 **SECTION 10.78.(q)** Social Services Block Grant funds appropriated to the North  
28 Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina  
29 Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

30 **SECTION 10.78.(r)** The sum of two million five hundred fifty thousand dollars  
31 (\$2,550,000) appropriated in this section in the Social Services Block Grant to the Department  
32 of Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year to  
33 support various child welfare training projects as follows:

- 34 (1) Provide a regional training center in southeastern North Carolina.
- 35 (2) Provide training for residential child caring facilities.
- 36 (3) Provide for various other child welfare training initiatives.

37 **SECTION 10.78.(s)** The sum of nine hundred forty-three thousand two dollars  
38 (\$943,002) appropriated in this section to the Department of Health and Human Services in the  
39 Social Services Block Grant for the 2009-2010 fiscal year shall be used to support payments to  
40 maternity home providers.

41 **SECTION 10.78.(t)** The sum of three hundred sixty thousand dollars (\$360,000)  
42 appropriated in this section to the Department of Health and Human Services, Division of  
43 Public Health, in the Social Services Block Grant for the 2009-2010 fiscal year shall be used to  
44 continue support for the Medically Fragile Children program.

45 **SECTION 10.78.(u)** The sum of two million three hundred seventy-two thousand  
46 six hundred nineteen dollars (\$2,372,619) appropriated in this section in the Social Services  
47 Block Grant for child caring agencies for the 2009-2010 fiscal year shall be allocated to the  
48 State Private Child Caring Agencies Fund.

49 **SECTION 10.78.(v)** The Department of Health and Human Services is authorized,  
50 subject to the approval of the Office of State Budget and Management, to transfer Social  
51

1 Services Block Grant funding allocated for departmental administration between divisions that  
2 have received administrative allocations from the Social Services Block Grant.

3 **SECTION 10.78.(w)** Social Services Block Grant funds appropriated for the  
4 Special Children's Adoption Incentive Fund will require fifty percent (50%) local match.

5  
6 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

7 **SECTION 10.78.(x)** Additional emergency contingency funds received may be  
8 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior  
9 consultation with the Joint Legislative Commission on Governmental Operations. Additional  
10 funds received shall be reported to the Joint Legislative Commission on Governmental  
11 Operations and the Fiscal Research Division upon notification of the award. The Department of  
12 Health and Human Services shall not allocate funds for any activities, including increasing  
13 administration, other than assistance payments, without prior consultation with the Joint  
14 Legislative Commission on Governmental Operations.

15 In addition to funds available for weatherization appropriated within the  
16 Low-Income Home Energy Assistance Block Grant, funds available through the American  
17 Recovery and Reinvestment Act shall be used to continue to enhance weatherization activities  
18 coordinated by local agencies.

19  
20 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

21 **SECTION 10.78.(y)** Payment for subsidized child care services provided with  
22 federal TANF funds shall comply with all regulations and policies issued by the Division of  
23 Child Development for the subsidized child care program.

24 **SECTION 10.78.(z)** If funds appropriated through the Child Care and  
25 Development Fund Block Grant for any program cannot be obligated or spent in that program  
26 within the obligation or liquidation periods allowed by the federal grants, the Department may  
27 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the  
28 grant, in order to use the federal funds fully.

29 **SECTION 10.78.(aa)** Funds from the Child Care and Development Fund Block  
30 Grant and Child Care and Development Fund Block Grant received through the American  
31 Recovery and Reinvestment Act shall be used to increase access to child care subsidy. To help  
32 address the economic downturn and increasing unemployment in North Carolina, the  
33 Department of Health and Human Services, Division of Child Development shall adopt  
34 temporary policies that facilitate and expedite the prudent expenditure of these funds as  
35 follows:

- 36 (1) Permit the local purchasing agencies to issue time-limited vouchers to assist  
37 counties in managing one-time, nonrecurring subsidy funding.
- 38 (2) Extend the current 30/60 day job search policy to six months when a  
39 recipient experiences a loss of employment.
- 40 (3) Provide an upfront job search period of six months for former recipients who  
41 have lost employment since October 1, 2008.
- 42 (4) Provide a job search period of six months for recipients that complete school  
43 and are entering the job market.
- 44 (5) Notwithstanding any other provision of law, extend the 24-month education  
45 time limit for an additional 12 months for a child care recipient who has lost  
46 a job since October 1, 2008, or otherwise needs additional training to  
47 enhance his or her marketable skills for job placement due to the economic  
48 downturn and who has depleted his or her 24-month allowable education  
49 time.

- 1 (6) Lower the number of hours a parent must be working in order to be eligible  
2 for subsidy to assist parents who are continuing to work but at reduced  
3 hours.

4 **SECTION 10.78.(bb)** If American Recovery and Reinvestment Act funds  
5 appropriated through the Child Care and Development Fund Block Grant for any program  
6 cannot be obligated or spent in that program within the obligation or liquidation periods  
7 allowed by the federal grants, the Department may move funds to child care subsidies, unless  
8 otherwise prohibited by federal requirements of the grant, in order to use the federal funds  
9 fully.

#### 10 **MENTAL HEALTH BLOCK GRANT**

11 **SECTION 10.78.(cc)** The sum of one million five hundred thousand dollars  
12 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department  
13 of Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
14 Substance Abuse Services, for the 2009-2010 fiscal year and the sum of four hundred  
15 twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services  
16 Block Grant to the Department of Health and Human Services, Division of Social Services, for  
17 the 2009-2010 fiscal year shall be used to continue a Comprehensive Treatment Services  
18 Program for Children.

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

20 **SECTION 10.78.(dd)** If federal funds are received under the Maternal and Child  
21 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193  
22 (42 U.S.C. § 710), for the 2009-2010 fiscal year, then those funds shall be transferred to the  
23 State Board of Education to be administered by the Department of Public Instruction. The  
24 Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage  
25 Education Program and shall delegate to one or more persons the responsibility of  
26 implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction  
27 shall carefully and strictly follow federal guidelines in implementing and administering the  
28 abstinence education grant funds.

29 **SECTION 10.78.(ee)** The Department of Health and Human Services shall ensure  
30 that there will be follow-up testing in the Newborn Screening Program.

#### 31 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

32 **SECTION 10.78.(ff)** The sum of two hundred fifty thousand dollars (\$250,000)  
33 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to  
34 the Department of Health and Human Services, Division of Mental Health, Developmental  
35 Disabilities, and Substance Abuse Services, for the 2009-2010 fiscal year shall be used to  
36 implement one or more priority recommendations of the North Carolina Institute of Medicine  
37 (NCIOM) Substance Abuse Task Force, which include:

- 38 (1) Development of a comprehensive substance abuse prevention plan for use at  
39 the State and local levels.  
40 (2) Providing funding for the establishment of six pilot projects to implement  
41 county or multicounty comprehensive prevention plans.  
42 (3) Supporting efforts to reduce high-risk drinking on college campuses.  
43 (4) Development of a pilot program to provide chronic disease management  
44 services to substance abuse clients and former clients. The purpose of the  
45 pilot is to decrease the number of short-term hospital admissions and to  
46 provide discharge planning and follow-up to reduce substance abuse client  
47 recidivism.  
48  
49  
50

- 1 (5) Educating and encouraging health care professionals to use the screening,  
2 brief intervention, and referral to treatment (SBIRT) model promoted by the  
3 federal government.  
4

#### 5 **COMMUNITY SERVICES BLOCK GRANT**

6 **SECTION 10.78.(gg)** In accordance with the intent of the American Recovery and  
7 Reinvestment Act, the North Carolina General Assembly strongly encourages recipients of  
8 Community Services Block Grant and Community Services Block Grant Recovery funds to  
9 enhance cooperation with county departments of social services and regional food banks to  
10 increase benefits enrollment for eligible persons, including Food and Nutrition Services and  
11 Medical Assistance.  
12

### 13 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

#### 14 **COMMERCIAL FERTILIZER FEES**

15 **SECTION 11.1.** G.S. 106-671(a) reads as rewritten:

16 "(a) For the purpose of defraying expenses on the inspection and of otherwise  
17 determining the value of commercial fertilizers in this State, there shall be paid to the  
18 Department of Agriculture and Consumer Services a charge of ~~twenty five cents (25¢)~~fifty  
19 cents (50¢) per ton on all commercial fertilizers other than packages of five pounds or less.  
20 Inspection fees shall be paid on all tonnage distributed into North Carolina to any person not  
21 having a valid reporting permit. On individual packages of five pounds or less there shall be  
22 paid in lieu of the tonnage fee an annual registration fee of twenty-five dollars (\$25.00) for  
23 each brand offered for sale, sold, or distributed; provided that any per annum (fiscal) tonnage of  
24 any brand sold in excess of one hundred tons may be subject to the charge of ~~twenty five cents~~  
25 ~~(25¢)~~fifty cents (50¢) per ton on any amount in excess of one hundred tons as provided herein.  
26 Whenever any manufacturer of commercial fertilizer shall have paid the charges required by  
27 this section his goods shall not be liable to further tax, whether by city, town, or county;  
28 provided, this shall not exempt the commercial fertilizers from an ad valorem tax."  
29  
30

#### 31 **INCREASE PESTICIDE REGISTRATION FEE**

32 **SECTION 11.2.** G.S. 143-442(b) reads as rewritten:

33 "(b) The applicant shall pay an annual registration fee of ~~one hundred dollars (\$100.00)~~  
34 one hundred fifty dollars (\$150.00) plus an additional annual assessment for each brand or  
35 grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the  
36 applicant's gross sales of the pesticide in this State for the preceding 12 months for the period  
37 ending September 30th were more than five thousand dollars (\$5,000.00) and twenty-five  
38 dollars (\$25.00) if gross sales were less than five thousand dollars (\$5,000.00). An additional  
39 two hundred dollars (\$200.00) delinquent registration penalty shall be assessed against the  
40 registrant for each brand or grade of pesticide which is marketed in North Carolina prior to  
41 registration as required by this Article. In the case of multi-year registration, the annual fee and  
42 additional assessment for each year shall be paid at the time of the initial registration. The  
43 Board shall give a pro rata refund of the registration fee and additional assessment to the  
44 registrant in the event that registration is canceled by the Board or by the United States  
45 Environmental Protection Agency."  
46

#### 47 **BOARD OF AGRICULTURE REVIEW OF FEE SCHEDULES**

48 **SECTION 11.3.** G.S. 106-6.1 reads as rewritten:

49 "§ 106-6.1. Fees.

50 (a) A board or commission within the Department of Agriculture and Consumer  
51 Services may establish fees or charges for the services it provides. The Board of Agriculture,



1 subject to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule  
2 for the use of facilities operated by the Department of Agriculture and Consumer Services.

3 (b) No later than February 1 of each odd numbered year, the Board of Agriculture shall  
4 review the fees it established under this section to determine whether any of these fees should  
5 be changed and report to the Fiscal Research Division the amount of each fee reviewed, when  
6 the fee was last changed, the number of times the fee was collected during the prior fiscal year,  
7 the total receipts from the fee during the prior fiscal year, and any recommendations for  
8 increasing or decreasing the amount of any such fees. This report shall also include for each fee  
9 an evaluation of any inflationary change since the last change to the amount of the fee and any  
10 other information deemed relevant to this evaluation."

## 11 **PART XII. DEPARTMENT OF LABOR**

### 12 **DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM**

13  
14 **SECTION 12.1.** Chapter 94 of the General Statutes is amended by adding a new  
15 section to read as follows:

#### 16 **"§ 94-12. Fees.**

17 A fee of twenty-five dollars (\$25.00) is imposed on each apprentice who is covered by a  
18 written apprenticeship agreement entered into under this Chapter. The fee is payable by the  
19 apprentice unless the employer who enters into the agreement pays the fee on behalf of the  
20 apprentice. The fees are departmental receipts and must be applied to the costs of  
21 administering the apprenticeship program. The Commissioner may adopt rules pursuant to  
22 Chapter 150B of the General Statutes to implement this section."

## 23 **PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

### 24 **REVISE CLEAN WATER MANAGEMENT TRUST FUND OPERATIONS LIMIT**

25 **SECTION 13.1.** Notwithstanding G.S. 113A-253(d), of the funds appropriated to  
26 the Clean Water Management Trust Fund for each fiscal year of the 2009-2011 fiscal biennium,  
27 no more than three million dollars (\$3,000,000) may be used for administrative and operating  
28 expenses of the Board of Trustees of the Clean Water Management Trust Fund and its staff.

### 29 **FOOD AND LODGING INSPECTION FEES INCREASES**

30 **SECTION 13.2.(a)** G.S. 130A-248(d) reads as rewritten:

31 "(d) The Department shall charge each establishment subject to this section, except  
32 nutrition programs for the elderly administered by the Division of Aging of the Department of  
33 Health and Human Services, establishments that prepare and sell meat food products or poultry  
34 products, and public school cafeterias, an annual fee of ~~fifty dollars (\$50.00)~~ sixty dollars  
35 (\$60.00). The Commission shall adopt rules to implement this subsection. Fees collected under  
36 this subsection shall be used for State and local food, lodging, and institution sanitation  
37 programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees  
38 collected under this subsection may be used to support State health programs and activities."

39 **SECTION 13.2.(b)** G.S. 130A-248(e) reads as rewritten:

40 "(e) In addition to the fees under subsection (d) of this section, the Department may  
41 charge a fee of ~~two hundred dollars (\$200.00)~~ two hundred thirty-five dollars (\$235.00) for plan  
42 review of plans for prototype franchised or chain facilities for food establishments subject to  
43 this section. All of the fees collected under this subsection may be used to support the State  
44 food, lodging, and institution sanitation programs and activities under this Part."

45 **SECTION 13.2.(c)** G.S. 130A-248(f) reads as rewritten:

46 "(f) Any local health department may charge a fee not to exceed ~~two hundred dollars~~  
47 (\$200.00) two hundred thirty-five dollars (\$235.00) for plan review by that local health  
48

1 department of plans for food establishments subject to this section that are not subject to  
2 subsection (e) of this section. All of the fees collected under this subsection may be used for  
3 local food, lodging, and institution sanitation programs and activities. No food establishment  
4 that pays a fee under subsection (e) of this section is liable for a fee under this subsection."  
5

## 6 **RADIATION PROTECTION SECTION SUPPORTED BY FEES**

7 **SECTION 13.3.(a)** G.S. 104E-19 reads as rewritten:

### 8 **"§ 104E-19. Fees.**

9 (a) ~~In order to meet the anticipated costs of administering the educational and training~~  
10 ~~programs in G.S. 104E-11(e), of enforcing and carrying out the inspection provisions in G.S.~~  
11 ~~104E-7(a)(7) and G.S. 104E-11(a), and of administering the licensing program in G.S.~~  
12 ~~104E-10.3, the Department is authorized to charge and collect such reasonable fees as it may~~  
13 ~~by rule establish. An annual fee in the amount set by the Department is imposed on a person~~  
14 ~~who is required to be registered or licensed under this Chapter. The Department must set the~~  
15 ~~fees at amounts that provide revenue to offset its costs in performing its duties under this~~  
16 Chapter.

17 (b) Repealed by Session Laws 1987, c. 850, s. 13."

18 **SECTION 13.3.(b)** G.S. 104E-9(a)(8) is rewritten to read:

19 "(8) To establish fees in accordance with G.S. 104E-19."  
20

## 21 **SCRAP TIRE DISPOSAL ACCOUNT FUNDS**

22 **SECTION 13.4.** Notwithstanding the provisions of G.S. 105-187.19(b), effective  
23 for taxes levied during the 2009-2010 fiscal year, the Secretary of Revenue shall credit to the  
24 General Fund three million dollars (\$3,000,000) of the net tax proceeds that G.S. 105-187.19(b)  
25 directs the Secretary to credit to the Scrap Tire Disposal Account.  
26

## 27 **MARINE FISHERIES FUNDS FOR THE FISHERY RESOURCES GRANT** 28 **PROGRAM**

29 **SECTION 13.5.** Of the funds appropriated in this act to the Department of  
30 Environment and Natural Resources for the Division of Marine Fisheries for the Fishery  
31 Resource Grant Program established under G.S. 113-200, the sum of one hundred forty-six  
32 thousand three hundred twelve dollars (\$146,312) for the 2009-2010 fiscal year and the sum of  
33 one hundred forty-six thousand three hundred twelve dollars (\$146,312) for the 2010-2011  
34 fiscal year shall be used for river herring research in the Department. The remaining funds  
35 appropriated in this act to the Department for the Fishery Resource Grant Program for the  
36 2009-2011 biennium shall be used for research related to the Sea Grant College Program only  
37 and shall not be used for any other purpose.  
38

## 39 **NEW LEASE PURCHASE/INSTALLMENT CONTRACTS FOR FORESTRY** 40 **EQUIPMENT**

41 **SECTION 13.6.** Prior to the Division of Forest Resources of the Department of  
42 Environment and Natural Resources entering into either a new lease purchase contract for the  
43 purchase of forestry equipment or a new installment contract for the purchase of forestry  
44 equipment, the Division of Forest Resources shall submit a detailed list of the forestry  
45 equipment to be purchased under the contract to the Joint Legislative Commission on  
46 Governmental Operations and the Fiscal Research Division. Prior to the Department of  
47 Administration entering into either a new lease purchase contract for the purchase of forestry  
48 equipment or a new installment contract for the purchase of forestry equipment on behalf of the  
49 Division of Forest Resources, the Department of Administration shall submit a detailed list of  
50 the forestry equipment to be purchased under the contract to the Joint Legislative Commission  
51 on Governmental Operations and the Fiscal Research Division. If a list is modified after it is

submitted under this section, the modified list shall be submitted to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division prior to entering into the contract.

#### GRASSROOTS SCIENCE PROGRAM

**SECTION 13.7.(a)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million four hundred eleven thousand seven hundred thirteen dollars (\$3,411,713) for the 2009-2010 fiscal year and the sum of three million four hundred eleven thousand seven hundred thirteen dollars (\$3,411,713) for the 2010-2011 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2009-2010	2010-2011
Aurora Fossil Museum	\$57,875	\$57,875
Cape Fear Museum	\$157,787	\$157,787
Carolina Raptor Center	\$109,931	\$109,931
Catawba Science Center	\$143,429	\$143,429
Colburn Earth Science Museum, Inc.	\$73,054	\$73,054
Core Sound Waterfowl Museum	\$49,000	\$49,000
Discovery Place	\$649,608	\$649,608
Eastern NC Regional Science Center	\$49,000	\$49,000
Fascinate-U	\$79,451	\$79,451
Granville County Museum Commission, Inc.–Harris Gallery	\$55,294	\$55,294
Greensboro Children's Museum	\$132,374	\$132,374
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$152,499	\$152,499
Highlands Nature Center	\$77,683	\$77,683
Imagination Station	\$84,313	\$84,313
The Iredell Museums, Inc. Kidsenses	\$60,080	\$60,080
Museum of Coastal Carolina	\$79,656	\$79,656
The Natural Science Center of Greensboro, Inc.	\$76,460	\$76,460
North Carolina Museum of Life and Science	\$182,627	\$182,627
Pisgah Astronomical Research Institute	\$372,229	\$372,229
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	\$49,000	\$49,000
Rocky Mount Children's Museum	\$70,809	\$70,809
Schiele Museum of Natural History and Planetarium, Inc.	\$224,956	\$224,956
Sci Works Science Center and Environmental Park of Forsyth County	\$143,569	\$143,569
Sylvan Heights Waterfowl Park and Eco-Center	\$49,000	\$49,000
Western North Carolina Nature Center	\$110,621	\$110,621
Wilmington Children's Museum	\$72,408	\$72,408

1 Total \$3,411,713 \$3,411,713

2 **SECTION 13.7.(b)** No later than March 1, 2010, the Department of Environment  
3 and Natural Resources shall report to the Fiscal Research Division all of the following  
4 information for each museum that receives funds under this section:

- 5 (1) The actual operating budget for the 2008-2009 fiscal year.
- 6 (2) The proposed operating budget for the 2009-2010 fiscal year.
- 7 (3) The total attendance at the museum during the 2009 calendar year.

8 **SECTION 13.7.(c)** No later than March 1, 2011, the Department of Environment  
9 and Natural Resources shall report to the Fiscal Research Division all of the following  
10 information for each museum that receives funds under this section:

- 11 (1) The actual operating budget for the 2009-2010 fiscal year.
- 12 (2) The proposed operating budget for the 2010-2011 fiscal year.
- 13 (3) The total attendance at the museum during the 2010 calendar year.

14 **SECTION 13.7.(d)** As a condition for qualifying to receive funding under this  
15 section, all of the following documentation shall, no later than November 1 of each year of the  
16 2009-2011 biennium, be submitted for each museum under this section to the Department of  
17 Environment and Natural Resources for fiscal years ending between July 1, 2007, and June 30,  
18 2008, and only those costs that are properly documented under this subsection are allowed by  
19 the Department in calculating the distribution of funds under this section:

- 20 (1) Each museum under this section shall submit its IRS (Internal Revenue  
21 Service) Form 990 to show its annual operating expenses, its annual report,  
22 and a reconciliation that explains any differences between expenses as  
23 shown on the IRS Form 990 and the annual report.
- 24 (2) Each friends association of a museum under this section shall submit its IRS  
25 Form 990 to show its reported expenses for the museum, its annual report,  
26 and a reconciliation that explains any differences between expenses as  
27 shown on the IRS Form 990 and the annual report, unless the association  
28 does not have both an IRS Form 990 and an annual report available, in  
29 which case, it shall submit either an IRS Form 990 or an annual report.
- 30 (3) The chief financial officer of each county or municipal government that  
31 provides funds for the benefit of the museum shall submit a detailed signed  
32 statement of documented costs spent for the benefit of the museum that  
33 includes documentation of the name, address, title, and telephone number of  
34 the person making the assertion that the museum receives funds from the  
35 county or municipality for the benefit of the museum.
- 36 (4) The chief financial officer of each county or municipal government or each  
37 friends association that provides indirect or allocable costs that are not  
38 directly charged to a museum under this section but that benefit the museum  
39 shall submit in the form of a detailed statement enumerating each cost by  
40 type and amount that is verified by the financial officer responsible for the  
41 completion of the documentation and that includes the name, address, title,  
42 and telephone number of the person making the assertion that the county,  
43 municipality, or association provides indirect or allocable costs to the  
44 museum.

45 **SECTION 13.7.(e)** As used in subsection (d) of this section, "friends association"  
46 means a nonprofit corporation established for the purpose of supporting and assisting a  
47 museum that receives funding under this section.

48  
49 **TIMBER ASSESSMENT DESPITE APPROPRIATION**

50 **SECTION 13.8.** G.S. 113A-192(c) is repealed.  
51

**FOREST DEVELOPMENT FUND/FOREST PRODUCTS ASSESSMENT RATES**

**SECTION 13.9.(a)** G.S. 113A-192(c) through G.S. 113A-192(e) are repealed.

**SECTION 13.9.(b)** G.S. 113A-193(b) is amended by adding a new subdivision to read:

"(6) Determine the appropriate assessment to be levied on primary forest products in accordance with G.S. 113A-194."

**SECTION 13.9.(c)** G.S. 113A-194(b) reads as rewritten:

"(b) The assessment levied on primary forest products shall ~~be at~~not exceed the following rates:

(1) ~~Fifty cents (50¢)~~One dollar (\$1.00) per thousand board feet for softwood sawtimber, veneer logs and bolts, and all other softwood products normally measured in board ~~feet;~~feet.

(2) ~~Forty cents (40¢)~~Eighty cents (80¢) per thousand board feet for hardwood and bald cypress sawtimber, veneer, and all other hardwood and bald cypress products normally measured in board ~~feet;~~feet.

(3) ~~Twenty cents (20¢)~~Forty cents (40¢) per cord for softwood pulpwood and other softwood products normally measured in ~~cords;~~cords.

(4) ~~Twelve cents (12¢)~~Twenty-four cents (24¢) per cord for hardwood pulpwood and other hardwood and bald cypress products normally measured in ~~cords;~~cords.

(5) All material harvested within North Carolina for shipment outside the State for primary processing will be assessed at a percentage of the invoice value. This percentage will be established to yield rates equal to those if the material were processed within the State."

**BEAVER DAMAGE CONTROL PROGRAM FUNDS**

**SECTION 13.10.** G.S. 113-291.10(f) reads as rewritten:

"(f) Each county that volunteers to participate in this program for a given fiscal year shall provide written notification of its wish to participate no later than September 30 of that year and shall commit the sum of four thousand dollars (\$4,000) in local funds no later than September 30 of that year. At least three hundred forty-nine thousand dollars (\$349,000) each fiscal year of the biennium shall be paid from funds available to the Wildlife Resources Commission to provide the State share necessary to support this program, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share."

**PART XIV. DEPARTMENT OF COMMERCE****ONE NORTH CAROLINA FUND**

**SECTION 14.1.** Of the funds appropriated in this act to the One North Carolina Fund for the 2009-2010 fiscal year, the Department of Commerce may use up to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2009-2010 fiscal year.

**ONE NORTH CAROLINA FUNDS/USE OF CASH BALANCE**

**SECTION 14.2.(a)** Of the funds appropriated to the One North Carolina Fund in prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become unencumbered or unexpended thereafter, the Department of Commerce shall use the sum of one million dollars (\$1,000,000) in the 2009-2010 fiscal year to market the State as a business destination.

1           **SECTION 14.2.(b)** Of the funds appropriated to the One North Carolina Fund in  
2 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become  
3 unencumbered or unexpended thereafter, the sum of two million dollars (\$2,000,000) shall be  
4 transferred to the One North Carolina Small Business Fund for the 2009-2010 fiscal year.

5           **SECTION 14.2.(c)** Of the funds appropriated to the One North Carolina Fund in  
6 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become  
7 unencumbered or unexpended thereafter, the Department of Commerce shall allocate the sum  
8 of one million dollars (\$1,000,000) for the 2009-2010 fiscal year to the North Carolina  
9 Minority Support Center, Inc., to expand economic development lending. The funds allocated  
10 under this subsection shall be used to assist small businesses having difficulty accessing credit  
11 due to a lack of liquidity in financial markets. It is the General Assembly's intent that these  
12 funds be used to further community economic development lending and support in low-wealth  
13 communities and to make capital accessible to small businesses in a way that will have an  
14 economic stimulus impact.

15           **SECTION 14.2.(d)** Of the funds appropriated to the One North Carolina Fund in  
16 prior fiscal years that are unencumbered and unexpended as of June 30, 2009, or that become  
17 unencumbered or unexpended thereafter, the sum of two million dollars (\$2,000,000) shall be  
18 transferred for the 2009-2010 fiscal year to the Regional Economic Development  
19 Commissions.

## 20 21 **SMALL BUSINESS ASSISTANCE FUND**

22           **SECTION 14.3.(a)** Part 2I of Article 10 of Chapter 143B of the General Statutes  
23 reads as rewritten:

24           "Part 2I. ~~One North Carolina Small Business Program Assistance.~~

25           "Subpart A. One North Carolina Small Business Program."

26           **SECTION 14.3.(b)** Part 2I of Article 10 of Chapter 143B of the General Statutes is  
27 amended by adding a new Subpart to read:

28           "Subpart B. Small Business Assistance Fund.

29           "**§ 143B-437.89. Establishment of fund; use of moneys; application for moneys from the**  
30 **fund; disbursal; repayment; inspections; rules; reports.**

31           (a) Fund Established. – A revolving, special revenue fund to be known as the Small  
32 Business Jobs Preservation and Emergency Assistance Fund is established in the Department of  
33 Commerce. This Fund shall be administered by the Department. The Department shall be  
34 responsible for receipt and disbursement of all moneys as provided in this section. Interest  
35 earnings shall be credited to the Fund. The Fund consists of revenue resulting from funds  
36 appropriated by the State, repayments of principal of and interest on loans, fees, and other  
37 amounts received by the Department with respect to financial assistance provided by the  
38 Department, and any other public or private funds made available to the Fund.

39           (b) Department Authority; Loan Terms. – The Department may approve for  
40 disbursements of moneys in the Fund to small businesses in accordance with the provisions of  
41 this section. The Department shall develop criteria, technical specifications, policies, and  
42 procedures to be used in determining whether the conditions of this section are satisfied and  
43 whether the activities described in the application are otherwise consistent with the purposes of  
44 this section. As used in this section, "moneys" means a disbursement from the Fund in the form  
45 of a loan, and "small business" means a business whose annual receipts and number of full-time  
46 employees, combined with the annual receipts and full-time employees of all related persons,  
47 did not exceed one million dollars (\$1,000,000) or 100 full-time employees. A small business  
48 may apply for a loan for:

- 49           (1) Up to eighty percent (80%) of the projected cost of the proposed activities,  
50 subject to repayment within five years at the prime rate plus four percent  
51 (4%).

- 1           (2)    Up to eighty percent (80%) of the projected cost of the proposed activities,  
2                    subject to repayment within 10 years at the prime rate plus six percent (6%).
- 3           (3)    Up to eighty percent (80%) of the projected cost of the proposed activities,  
4                    subject to repayment within 15 years at the prime rate plus eight percent  
5                    (8%).
- 6           (c)    Eligible Purposes. – Moneys in the Fund shall be used for any of the following  
7                    eligible purposes:
- 8                    (1)    To guarantee commercial loans.  
9                    (2)    To provide emergency bridge loans where clear and apparent ability to repay  
10                    has been established but credit remains unavailable.  
11                    (3)    To lend for other purposes related to small business job preservation as  
12                    approved or recommended by the Department.
- 13           (d)    Application. – Any small business may apply for moneys from the Fund by  
14                    submitting an application to the Department. The application shall list each of the following:
- 15                    (1)    The proposed activities for which the moneys are to be used.  
16                    (2)    The amount of moneys requested for these activities.  
17                    (3)    Projections of the dollar amount of private investment that is expected to  
18                    occur as a direct result of the proposed activities.  
19                    (4)    An explanation of the nature of the private investment that will result from  
20                    the proposed activities.  
21                    (5)    A requirement for any reports, disclosures, or information required by this  
22                    section or necessary for the Department to fulfill its duties under this section.  
23                    (6)    The total compensation received for the previous year from the small  
24                    business and all related persons for each of the five highest-compensated  
25                    employees of the small business.  
26                    (7)    Any additional or supplemental information required by the Department  
27                    upon written request.
- 28           (e)    Determination. – The Department shall review an application submitted by a small  
29                    business, determine whether the activities listed in the application are activities that are eligible  
30                    for moneys from the Fund, and determine which applicants are selected to receive moneys from  
31                    the Fund. A small business whose application is denied may file a new or amended application.
- 32           (f)    Limitation. – A small business that is selected may not receive moneys from the  
33                    Fund pursuant to this section with an aggregate total of more than thirty-five thousand dollars  
34                    (\$35,000).
- 35           (g)    Disbursements of Moneys. – The Department shall not disburse moneys for any  
36                    loans until the small business has confirmed a method of repayment for the loan. The terms for  
37                    repayment established for a given loan shall apply through the period of that loan. A small  
38                    business that has been selected to receive moneys shall use the full amount of the moneys for  
39                    the activities that were approved pursuant to subsection (b) of this section. Moneys are deemed  
40                    used if the small business is legally committed to spend the moneys on the approved activities.  
41                    For purposes of this section, approved activities do not include an increase in the total  
42                    compensation of any employee identified in the application under subdivision (d)(6) of this  
43                    section. A small business shall lose any moneys that have not been used within three years of  
44                    being selected. These unused moneys shall be credited to the Fund. A small business that loses  
45                    moneys pursuant to this subsection may file a new application. Any moneys repaid or credited  
46                    to the Fund pursuant to this subsection shall be available to other applicants as long as the Fund  
47                    exists.
- 48           (h)    Cost Report. – After activities financed in whole or in part pursuant to this section  
49                    have been completed, the small business shall report the actual cost of the project to the  
50                    Department. If the actual costs of the activities exceed the projected cost upon which the  
51                    moneys were based, the small business may submit an application to the Department for

1 additional moneys for the difference. If the actual costs of the activities are less than the  
2 projected cost, the small business shall arrange to pay the difference to the Fund according to  
3 terms set by the Department.

4 (i) Inspection. – Inspection of a project for which moneys have been awarded may be  
5 performed by personnel of the Department. No person may be approved to perform inspections  
6 who is an officer or employee of the small business to which the moneys were disbursed or  
7 who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the  
8 activities for which the moneys were disbursed.

9 (j) Administration. – The Department may adopt, modify, and repeal rules establishing  
10 the procedures to be followed in the administration of this section and interpreting and applying  
11 the provisions of this section, as provided in the Administrative Procedure Act.

12 (k) Legislative Reports. – The Department shall prepare and file on or before  
13 September 1 of each year with the Joint Legislative Commission on Governmental Operations  
14 and the Fiscal Research Division a consolidated report for the preceding fiscal year concerning  
15 the allocation of moneys authorized by this section, including a separate listing of the moneys  
16 disbursed to historically underutilized businesses. The report shall set forth for the preceding  
17 fiscal year itemized and total allocations from the Fund. The Department shall also prepare a  
18 summary report of all allocations made from the Fund for each fiscal year; the total funds  
19 received and allocations made; the total amount of moneys repaid to the Fund; and the total  
20 unallocated funds in the Fund.

21 Small businesses that have been selected to receive moneys from the Fund shall prepare and  
22 file a report that shall include the following information:

- 23 (1) The total amount of private funds that was committed and the amount that  
24 was invested in activities for which moneys from the Fund were made  
25 available during the preceding fiscal year.
- 26 (2) The total amount and character of moneys received from the Fund during the  
27 preceding fiscal year.
- 28 (3) The total amount of moneys repaid to the Fund during the preceding fiscal  
29 year.
- 30 (4) A description of how moneys from the Fund and funds from private  
31 investors were used during the preceding fiscal year.
- 32 (5) Details regarding the types of private investment created or stimulated, the  
33 dates of this activity, the amount of public money involved, and any other  
34 pertinent information, including any jobs created, businesses started, and  
35 number of jobs retained due to the approved activities."

36 **SECTION 14.3.(c)** This act becomes effective July 1, 2009.

### 37 38 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

39 **SECTION 14.4.(a)** Funds appropriated to the Department of Commerce for the  
40 2009-2010 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and  
41 unencumbered as of June 30, 2009, shall not revert to the General Fund on June 30, 2009, but  
42 shall remain available to the Department to be expended by the Wanchese Seafood Industrial  
43 Park for operations, maintenance, repair, and capital improvements in accordance with Article  
44 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available  
45 to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair,  
46 and capital improvements under Article 23C of Chapter 113 of the General Statutes.

47 **SECTION 14.4.(b)** Funds appropriated to the Department of Commerce for the  
48 2009-2010 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of  
49 June 30, 2009, shall not revert to the General Fund on June 30, 2009, but shall remain available  
50 to the Department to be expended by the Wanchese Seafood Industrial Park for securing  
51 adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and



1 capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes.  
 2 These funds shall be in addition to funds available to the North Carolina Seafood Industrial  
 3 Park Authority for operations, maintenance, repair, and capital improvements under Article  
 4 23C of Chapter 113 of the General Statutes.

5 **SECTION 14.4.(c)** This section becomes effective June 30, 2009.

6  
 7 **NER BLOCK GRANTS**

8 **SECTION 14.5.(a)** Appropriations from federal block grant funds are made for  
 9 the fiscal year ending June 30, 2010, according to the following schedule:

10  
 11 **COMMUNITY DEVELOPMENT BLOCK GRANT**

12			
13	01. State Administration	\$	1,000,000
14			
15	02. Urgent Needs and Contingency		1,000,000
16			
17	03. Scattered Site Housing		13,200,000
18			
19	04. Economic Development		8,710,000
20			
21	05. Small Business/Entrepreneurship		1,000,000
22			
23	06. Community Revitalization		13,000,000
24			
25	07. State Technical Assistance		450,000
26			
27	08. Housing Development		1,500,000
28			
29	09. Infrastructure		5,140,000
30			

31 **TOTAL COMMUNITY DEVELOPMENT**

32 **BLOCK GRANT – 2009 Program Year** \$ 45,000,000

33  
 34 **SECTION 14.5.(b)** Decreases in Federal Fund Availability. – If federal funds are  
 35 reduced below the amounts specified above after the effective date of this act, then every  
 36 program in each of these federal block grants shall be reduced by the same percentage as the  
 37 reduction in federal funds.

38 **SECTION 14.5.(c)** Increases in Federal Fund Availability for Community  
 39 Development Block Grant. – Any block grant funds appropriated by the Congress of the United  
 40 States in addition to the funds specified in this section shall be expended as follows: each  
 41 program category under the Community Development Block Grant shall be increased by the  
 42 same percentage as the increase in federal funds.

43 **SECTION 14.5.(d)** Limitations on Community Development Block Grant Funds. –  
 44 Of the funds appropriated in this section for the Community Development Block Grant, the  
 45 following shall be allocated in each category for each program year: up to one million dollars  
 46 (\$1,000,000) may be used for State Administration; not less than one million dollars  
 47 (\$1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two  
 48 hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; eight million  
 49 seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; up  
 50 to one million dollars (\$1,000,000) may be used for Small Business/Entrepreneurship; not less  
 51 than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization; up to

1 four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up  
2 to one million five hundred thousand dollars (\$1,500,000) may be used for Housing  
3 Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used  
4 for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the  
5 United States after the effective date of this act, then these reductions or increases shall be  
6 allocated in accordance with subsection (b) or (c) of this section, as applicable.

7 **SECTION 14.5.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to  
8 nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in  
9 partnership with units of local government is an eligible activity under any program category in  
10 accordance with federal regulations. Capacity building grants may be made from funds  
11 available within program categories, program income, or unobligated funds.

12 **SECTION 14.5.(f)** The Department of Commerce shall consult with the Joint  
13 Legislative Commission on Governmental Operations prior to reallocating Community  
14 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
15 the Director of the Budget finds that:

16 (1) A reallocation is required because of an emergency that poses an imminent  
17 threat to public health or public safety, the Director of the Budget may  
18 authorize the reallocation without consulting the Commission. The  
19 Department of Commerce shall report to the Commission on the reallocation  
20 no later than 30 days after it was authorized and shall identify in the report  
21 the emergency, the type of action taken, and how it was related to the  
22 emergency.

23 (2) The State will lose federal block grant funds or receive less federal block  
24 grant funds in the next fiscal year unless a reallocation is made. The  
25 Department of Commerce shall provide a written report to the Commission  
26 on the proposed reallocation and shall identify the reason that failure to take  
27 action will result in the loss of federal funds. If the Commission does not  
28 hear the issue within 30 days of receipt of the report, the Department may  
29 take the action without consulting the Commission.

30 **SECTION 14.5.(g)** By September 1, 2009, the Division of Community Assistance,  
31 Department of Commerce, shall report to the Joint Legislative Commission on Governmental  
32 Operations and the Fiscal Research Division on the use of Community Development Block  
33 Grant Funds appropriated in the prior fiscal year.

## 34 MAIN STREET GRANT FUNDS

35 **SECTION 14.6.(a)** Part 15 of Article 10 of Chapter 143B of the General Statutes  
36 reads as rewritten:

37 "Part 15. Main Street ~~Financial Incentive Fund~~ Solutions.

38 **"§ 143B-472.35. Establishment of fund; use of ~~moneys~~ funds; application for ~~grants and~~  
39 ~~loans; grants~~ ; disbursement; repayment; inspections; rules; reports.**

40 (a) A ~~revolving~~ fund to be known as the Main Street ~~Financial Incentive~~ Solutions Fund  
41 is established in the Department of Commerce. This Fund shall be administered by the  
42 Department of Commerce. The Department of Commerce shall be responsible for receipt and  
43 disbursement of all ~~moneys~~ funds as provided in this section. Interest earnings shall be credited  
44 to the Main Street ~~Financial Incentive~~ Solutions Fund.

45 (b) ~~Moneys~~ Funds in the Main Street ~~Financial Incentive~~ Solutions Fund shall be  
46 available to ~~the North Carolina cities affiliated with the North Carolina Main Street Center~~  
47 ~~Program~~ micropolitan cities in development tier two and three counties in the State. For  
48 purposes of this section, a "micropolitan city" is a city located within the State with a  
49 population, according to the most recent U.S. census, of between 10,000 and 50,000 people.  
50

1 ~~Moneys~~Funds in the Main Street ~~Financial Incentive~~Solutions Fund shall be used for any of the  
2 following eligible activities:

- 3 (1) The acquisition or rehabilitation of properties in connection with private  
4 investment in a designated downtown ~~area;~~area.
- 5 (2) The establishment of revolving loan programs for private investment in a  
6 designated downtown ~~area;~~area.
- 7 (3) The subsidization of interest rates for these revolving loan  
8 ~~programs;~~programs.
- 9 (4) The establishment of facade incentive grants in connection with private  
10 investment in a designated downtown ~~area;~~area.
- 11 (5) Market studies, design studies, design assistance, or strategic planning  
12 efforts, provided the activity can be shown to lead directly to private  
13 investment in a designated downtown ~~area;~~area.
- 14 (6) Any approved project that provides construction or rehabilitation in a  
15 designated downtown area and can be shown to lead directly to private  
16 investment in the designated downtown ~~area;~~ ~~and~~area.
- 17 (7) Public improvements and public infrastructure within a designated  
18 downtown area, provided these improvements are necessary to create or  
19 stimulate private investment in the designated downtown area.

20 (c) Any ~~North Carolina micropolitan~~ city ~~affiliated with the North Carolina Main Street~~  
21 ~~Center Program~~ located within a development tier two or three county may apply for ~~moneys~~  
22 assistance from the Main Street ~~Financial Incentive~~Solutions Fund by submitting an application  
23 to the Main Street Center in the Division of Community Assistance, Department of Commerce.  
24 Any city affiliated with the North Carolina Main Street Center Program may apply for a grant  
25 equal to ten percent (10%) of the projected cost of the ~~for a~~ proposed project. ~~A city may apply~~  
26 ~~for additional moneys as one or more loans from the Fund. Specifically, a city may apply for a~~  
27 ~~loan for:~~

- 28 (1) ~~Up to fifteen percent (15%) of the projected cost of the proposed project in~~  
29 ~~excess of the amount to be received as a grant, subject to repayment within~~  
30 ~~fifteen years at five percent (5%) interest;~~
- 31 (2) ~~Up to twenty percent (20%) of the projected cost of the proposed project in~~  
32 ~~excess of the amount to be received as a grant, subject to repayment within~~  
33 ~~ten years at eight percent (8%) interest; and~~
- 34 (3) ~~Up to thirty five percent (35%) of the projected cost of the proposed project~~  
35 ~~in excess of the amount to be received as a grant, subject to repayment~~  
36 ~~within seven years at ten percent (10%) interest.~~

37 (c1) The application shall ~~list;~~include each of the following:

- 38 (1) A copy of the consensus local economic development plan developed by the  
39 micropolitan city in conjunction with the Department's Main Street Program  
40 and the city's regional economic development commission or its local  
41 council of government or both.
- 42 (1a) The proposed activities for which the ~~moneys-~~funds are to be used and the  
43 projected cost of the ~~project;~~project.
- 44 (2) The amount of grant ~~moneys and any loans~~funds requested for these  
45 ~~activities;~~activities.
- 46 (3) Projections of the dollar amount of private investment that is expected to  
47 occur in the designated downtown area as a direct result of the city's  
48 proposed ~~activities;~~activities.
- 49 (4) Whether local public dollars are required to match any grant ~~plus any loan~~  
50 ~~moneys~~funds according to the provisions of subdivision (g)(2) of this  
51 section, and if so, the amount of local public ~~dollars required;~~funds required.

- 1 (5) An explanation of the nature of the private investment in the designated  
2 downtown area that will result from the city's proposed ~~activities;~~activities.
- 3 (6) Projections of the time needed to complete the city's proposed  
4 ~~activities;~~activities.
- 5 (7) Projections of the time needed to realize the private investment that is  
6 expected to result from the city's proposed ~~activities;~~ and activities.
- 7 (8) Identification of the proposed source of funds to be used for repayment of  
8 any loan obligations.
- 9 (9) Any additional or supplemental information requested by the Division.

10 ~~The applicant shall furnish additional or supplemental information upon written request.~~

11 (d) A committee, comprised of representatives of: the Division of Community  
12 Assistance of the Department of Commerce, the North Carolina Main Street Program, the  
13 Local Government Commission, and the League of Municipalities ~~shall;~~ shall do each of the  
14 following:

- 15 (1) Review a city's ~~application;~~ application.
- 16 (2) Determine whether the activities listed in the application are activities that  
17 are eligible for a ~~loan;~~ and grant.
- 18 (3) Determine which applicants are selected to receive ~~moneys-~~ funds from the  
19 Main Street ~~Financial Incentive~~ Solutions Fund.

20 A city whose application is denied may file a new or amended application.

21 (e) A Main Street City that is selected may not receive a grant ~~plus any loans~~ pursuant  
22 to this section totaling less than twenty thousand dollars (\$20,000) or more than three hundred  
23 thousand dollars (\$300,000).

24 (f) ~~The Department of Commerce may not disburse moneys for any loans until the city~~  
25 ~~has confirmed a method of repayment of the loan. The terms for repayment established for a~~  
26 ~~given loan shall apply throughout the period of that loan.~~

27 ~~The Department of Commerce shall establish an account in the amount of the grant plus~~  
28 ~~any loans for each city that is selected. These moneys shall be disbursed as expended through~~  
29 ~~warrants drawn on the Department of Commerce.~~

- 30 (g) (1) A city that has been selected to receive a grant ~~plus any loans~~ shall use the  
31 full amount of the grant ~~plus any loans~~ for the activities that were approved  
32 pursuant to subsection (d) of this section. ~~Moneys-~~ Funds are deemed used if  
33 the city is legally committed to spend the ~~moneys-~~ funds on the approved  
34 activities.
- 35 (2) If a city has received approval to use the grant ~~plus any loans~~ for public  
36 improvements or public infrastructure, that city shall be required to raise,  
37 before ~~moneys-~~ funds for these public improvements may be drawn from the  
38 city's account, local public funds to match the amount of the grant ~~plus any~~  
39 ~~loans~~ from the Main Street ~~Financial Incentive~~ Solutions Fund on the basis of  
40 at least one local public dollar (\$1.00) for every one dollar (\$1.00) from the  
41 Main Street ~~Financial Incentive~~ Solutions Fund. This match requirement  
42 applies only to those ~~moneys-~~ funds received for public improvements or  
43 public infrastructure and is in addition to the requirement set forth in  
44 subdivision (1) of this subsection.
- 45 (3) A city that fails to satisfy the condition set forth in subdivision (1) of this  
46 subsection shall lose any ~~moneys-~~ funds that have not been used within three  
47 years of being selected. These unused ~~moneys-~~ funds shall be credited to the  
48 Main Street ~~Financial Incentive~~ Solutions Fund. A city that fails to satisfy the  
49 conditions set forth in subdivisions (1) and (2) of this subsection may file a  
50 new application.

1 (4) Any ~~moneys~~funds repaid or credited to the Main Street ~~Financial~~  
2 ~~IncentiveSolutions~~Fund pursuant to subdivision (3) of this subsection shall  
3 be available to other applicants as long as the Main Street ~~Financial~~  
4 ~~IncentiveSolutions~~Fund is in effect.

5 (h) ~~Each city is authorized to agree to apply any available revenues of that city to the~~  
6 ~~repayment of a loan obligation to the extent the generation of these revenues is within the~~  
7 ~~power of that city to enter into covenants to take action in order to generate these revenues;~~  
8 ~~provided:~~

9 (1) ~~The agreement to use this source of funds to make repayment or the~~  
10 ~~covenant to generate these revenues does not constitute a pledge of the city's~~  
11 ~~taxing power; and~~

12 (2) ~~The repayment agreement specifically identifies the source of funds to be~~  
13 ~~pledged.~~

14 (i) After a project financed in whole or in part pursuant to this section has been  
15 completed, the city shall report the actual cost of the project to the Department of Commerce. If  
16 the actual cost of the project exceeds the projected cost upon which the grant ~~plus any loans~~  
17 ~~were was~~ based, the city may submit an application to the Department of Commerce for a grant  
18 ~~or loans~~ for the difference. If the actual cost of the project is less than the projected cost, the  
19 city shall arrange to pay the difference to the Main Street ~~Financial-IncentiveSolutions~~Fund  
20 according to terms set by the Department.

21 (j) Inspection of a project for which a grant ~~plus any loans have has~~ been awarded may  
22 be performed by personnel of the Department of Commerce. No person may be approved to  
23 perform inspections who is an officer or employee of the unit of local government to which the  
24 grant ~~plus any loans were was~~ made or who is an owner, officer, employee, or agent of a  
25 contractor or subcontractor engaged in the construction of any project for which the grant ~~plus~~  
26 ~~any loans were was~~ made.

27 (k) The Department of Commerce may adopt, modify, and repeal rules establishing the  
28 procedures to be followed in the administration of this section and regulations interpreting and  
29 applying the provisions of this section, as provided in the Administrative Procedure Act.

30 (l) The Department of Commerce and cities that have been selected to receive a grant  
31 ~~plus any loans~~ from the Main Street ~~Financial-IncentiveSolutions~~Fund shall prepare and file on  
32 or before ~~July 31~~September 1 of each year with the Joint Legislative Commission on  
33 Governmental Operations and the Fiscal Research Division a consolidated report for the  
34 preceding fiscal year concerning the allocation of grants ~~plus any loans~~ authorized by this  
35 section.

36 The portion of the annual report prepared by the Department of Commerce shall set forth  
37 for the preceding fiscal year itemized and total allocations from the Main Street ~~Financial~~  
38 ~~IncentiveSolutions~~Fund for ~~grants and loans~~grants. The Department of Commerce shall also  
39 prepare a summary report of all allocations made from the fund for each fiscal year; the total  
40 funds received and allocations ~~made; the total amount of loan moneys repaid to the Fund, made~~  
41 and the total unallocated funds in the Fund.

42 The portion of the report prepared by the city shall ~~include;~~include each of the following:

43 (1) The total amount of private funds that was committed and the amount that  
44 was invested in the designated downtown area during the preceding fiscal  
45 ~~year;~~year.

46 (2) The total amount of local public matching funds that was raised, if required  
47 by subdivision (g)(2) of this ~~section;~~section.

48 (3) The total amount of ~~grant plus any loans~~grants received from the Main  
49 Street ~~Financial-IncentiveSolutions~~Fund during the preceding fiscal  
50 ~~year;~~year.

- 1           (4) ~~The total amount of loan moneys repaid to the Main Street Financial~~  
2           ~~Incentive Fund during the preceding fiscal year;~~  
3           (5) A description of how the grant ~~and loan moneys~~ funds and funds from private  
4           investors were used during the preceding fiscal ~~year;~~ year.  
5           (6) Details regarding the types of private investment created or stimulated, the  
6           dates of this activity, the amount of public money involved, and any other  
7           pertinent information, including any jobs created, businesses started, and  
8           number of jobs retained due to the approved activities."

9           **SECTION 14.6.(b)** This act becomes effective July 1, 2009.

## 10 11 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

12           **SECTION 14.7.** The North Carolina Industrial Commission may retain the  
13 additional revenue generated as a result of an increase in the fee charged to parties for the filing  
14 of compromised settlements. These funds shall be used for the purpose of replacing existing  
15 computer hardware and software used for the operations of the Commission. These funds may  
16 also be used to prepare any assessment of hardware and software needs prior to purchase and to  
17 develop and administer the needed databases and new Electronic Case Management System,  
18 including the establishment of two time-limited positions for application development and  
19 support and mainframe migration. The Commission may not retain any fees under this section  
20 unless they are in excess of the former two-hundred-dollar (\$200.00) fee charged by the  
21 Commission for filing a compromised settlement.

## 22 23 **INDUSTRIAL COMMISSION/SAFETY EDUCATION SECTION**

24           **SECTION 14.8.** G.S. 97-73 reads as rewritten:

25           "**§ 97-73. Fees.**

26           (a) Claims. – The Industrial Commission may establish by rule a schedule of fees for  
27 examinations conducted, reports made, documents filed, and agreements reviewed under this  
28 Article. The fees shall be collected in accordance with rules adopted by the Industrial  
29 Commission.

30           (b), (c) Repealed by Session Laws 2003-284, s. 10.33(d), effective July 1, 2003.

31           (d) Safety. – A fee in the amount set by the Industrial Commission is imposed on an  
32 employer for whom the Industrial Commission provides an educational training program on  
33 how to prevent or reduce accidents or injuries that result in workers' compensation claims or a  
34 person for whom the Industrial Commission provides other educational services. The fees are  
35 departmental receipts.

## 36 37 **EMPLOYMENT SECURITY COMMISSION FUNDS**

38           **SECTION 14.9.(a)** Funds from the Employment Security Commission Reserve  
39 Fund shall be available to the Employment Security Commission of North Carolina to use as  
40 collateral to secure federal funds and to pay the administrative costs associated with the  
41 collection of the Employment Security Commission Reserve Fund surcharge. The total  
42 administrative costs paid with funds from the Reserve in the 2009-2010 fiscal year shall not  
43 exceed two million five hundred thousand dollars (\$2,500,000).

44           **SECTION 14.9.(b)** There is appropriated from the Employment Security  
45 Commission Reserve Fund to the Employment Security Commission of North Carolina the sum  
46 of twenty million dollars (\$20,000,000) for the 2009-2010 fiscal year to be used for the  
47 following purposes:

- 48           (1) Nineteen million seven hundred thousand dollars (\$19,700,000) for the  
49 operation and support of local Employment Security Commission offices.

- 1 (2) Two hundred thousand dollars (\$200,000) for the State Occupational  
2 Information Coordinating Committee to develop and operate an interagency  
3 system to track former participants in State education and training programs.  
4 (3) One hundred thousand dollars (\$100,000) to maintain compliance with  
5 Chapter 96 of the General Statutes, which directs the Commission to employ  
6 the Common Follow-Up Management Information System to evaluate the  
7 effectiveness of the State's job training, education, and placement programs.

8 **SECTION 14.9.(c)** There is appropriated from the Employment Security  
9 Commission Reserve Fund to the Employment Security Commission of North Carolina an  
10 amount not to exceed one million dollars (\$1,000,000) for the 2009-2010 fiscal year to fund  
11 State initiatives not currently funded through federal grants.  
12

### 13 **EMPLOYMENT SECURITY COMMISSION/USE OF FEDERAL UNEMPLOYMENT** 14 **TRUST FUNDS**

15 **SECTION 14.10.** Of the funds credited to and held in the State of North Carolina's  
16 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States  
17 pursuant to and in accordance with section 903 of the Social Security Act, the Employment  
18 Security Commission of North Carolina may expend the sum of fourteen million dollars  
19 (\$14,000,000) for the 2009-2011 biennium for the following purposes:

- 20 (1) Implementing and administering the provisions of State law that qualify the  
21 State for the incentive payments.  
22 (2) Improved outreach to individuals who might be eligible by virtue of these  
23 provisions.  
24 (3) The improvement of unemployment benefits and tax operations, including  
25 responding to increased demand for unemployment benefits.  
26 (4) Staff-assisted reemployment services for unemployment claimants.  
27

### 28 **COUNCIL OF GOVERNMENT FUNDS**

29 **SECTION 14.11.(a)** Of the funds appropriated in this act to the Department of  
30 Commerce, eight hundred seven thousand three hundred fifty-one dollars (\$807,351) for the  
31 2009-2010 fiscal year and eight hundred seven thousand three hundred fifty-one dollars  
32 (\$807,351) for the 2010-2011 fiscal year shall only be used as provided by this section. Each  
33 regional council of government or lead regional organization is allocated up to forty-seven  
34 thousand four hundred ninety-two dollars (\$47,492) for the 2009-2010 and the 2010-2011  
35 fiscal years.

36 **SECTION 14.11.(b)** A regional council of government may use funds allocated to  
37 it by this section only to assist local governments in grant applications, economic development,  
38 community development, support of local industrial development activities, and other activities  
39 as deemed appropriate by the member governments.

40 **SECTION 14.11.(c)** Funds allocated by this section shall be paid by electronic  
41 transfer in two equal installments. Upon receipt of the report required by subsection (e) of this  
42 section, the first installment shall be paid no later than September 15, 2009.

43 **SECTION 14.11.(d)** Funds allocated by this section shall not be used for payment  
44 of dues or assessments by the member governments and shall not supplant funds appropriated  
45 by the member governments.

46 **SECTION 14.11.(e)** By September 1 of each year, and more frequently as  
47 requested, each council of government or lead regional organization shall report to the Joint  
48 Legislative Commission on Governmental Operations and the Fiscal Research Division of the  
49 General Assembly on prior State fiscal year program activities, objectives, and  
50 accomplishments, and prior State fiscal year itemized expenditures and fund sources. Each  
51 council of government or lead regional organization shall provide to the Fiscal Research

1 Division of the General Assembly a copy of the organization's annual audited financial  
2 statement within 30 days of issuance of the statement.

#### 4 **NONPROFIT REPORTING REQUIREMENTS**

5 **SECTION 14.12.(a)** The North Carolina Institute of Minority Economic  
6 Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center,  
7 North Carolina Community Development Initiative, Inc., North Carolina Association of  
8 Community Development Corporations, Inc., North Carolina Biotechnology Center, and  
9 Partnership for the Sounds, Inc., shall do the following:

- 10 (1) By September 1 of each year, and more frequently as requested, report to the  
11 Joint Legislative Commission on Governmental Operations and the Fiscal  
12 Research Division on prior State fiscal year program activities, objectives,  
13 and accomplishments, and prior State fiscal year itemized expenditures and  
14 fund sources.
- 15 (2) Provide to the Fiscal Research Division a copy of the organization's annual  
16 audited financial statement within 30 days of issuance of the statement.

17 **SECTION 14.12.(b)** Remaining allotments after September 1 shall not be released  
18 to any nonprofit organization that does not satisfy the reporting requirements provided in  
19 subsection (a) of this section.

#### 21 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

22 **SECTION 14.13.(a)** Funds appropriated in this act to the Department of  
23 Commerce for regional economic development commissions shall be allocated to the following  
24 commissions in accordance with subsection (b) of this section: Western North Carolina  
25 Regional Economic Development Commission, Research Triangle Regional Partnership,  
26 Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad  
27 Partnership, Northeastern North Carolina Regional Economic Development Commission,  
28 North Carolina's Eastern Region Economic Development Partnership, and Carolinas  
29 Partnership, Inc.

30 **SECTION 14.13.(b)** Funds appropriated pursuant to subsection (a) of this section  
31 shall be allocated to each regional economic development commission as follows:

- 32 (1) First, the Department shall establish each commission's allocation by  
33 determining the sum of allocations to each county that is a member of that  
34 commission. Each county's allocation shall be determined by dividing the  
35 county's development factor by the sum of the development factors for  
36 eligible counties and multiplying the resulting percentage by the amount of  
37 the appropriation. As used in this subdivision, the term "development factor"  
38 means a county's development factor as calculated under G.S. 143B-437.08;  
39 and
- 40 (2) Next, the Department shall subtract from funds allocated to the North  
41 Carolina's Eastern Region Economic Development Partnership the sum of  
42 three hundred eight thousand six hundred sixty-six dollars (\$308,666) in the  
43 2009-2010 fiscal year, which sum represents: (i) the total interest earnings in  
44 the prior fiscal year on the estimated balance of seven million five hundred  
45 thousand dollars (\$7,500,000) appropriated to the Global TransPark  
46 Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws;  
47 and (ii) the total interest earnings in the prior fiscal year on loans made from  
48 the seven million five hundred thousand dollars (\$7,500,000) appropriated to  
49 the Global TransPark Development Zone in Section 6 of Chapter 561 of the  
50 1993 Session Laws; and



(3) Next, the Department shall redistribute the sum of three hundred eight thousand six hundred sixty-six dollars (\$308,666) in the 2009-2010 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

**SECTION 14.13.(c)** Of the funds appropriated for the Southeastern North Carolina Regional Economic Development Commission, the sum of two hundred fifty-four thousand dollars (\$254,000) for the 2009-2010 fiscal year and the sum of two hundred fifty-four thousand dollars (\$254,000) for the 2010-2011 fiscal year shall be transferred to BRAC Regional Task Force, Inc., for economic development including defense procurement capabilities in the 11-county region it serves.

**SECTION 14.13.(d)** No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

**SECTION 14.13.(e)** The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

**SET REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 14.14.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2009.

**SECTION 14.14.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2009-2010 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 14.14.(c)** This section becomes effective July 1, 2009.

**RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 14.15.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million three hundred sixty-four thousand seven hundred eighty-five dollars (\$4,364,785) for the 2009-2010 fiscal year and the sum of four million three hundred sixty-four thousand seven hundred eighty-five dollars (\$4,364,785) for the 2010-2011 fiscal year shall be allocated as follows:

	2009-2010	2010-2011
Technical Assistance and Center Administration of Research and Demonstration Grants	\$431,156	\$431,156
Center Administration, Oversight, and Other Programs	\$586,290	\$586,290
Water/Wastewater Administration and Technical Assistance	\$449,203	\$449,203
Research and Demonstration Grants	\$366,300	\$366,300
Institute for Rural Entrepreneurship	\$142,560	\$142,560
Community Development Grants	\$987,436	\$987,436
Community Development Grants		

1	Administration	\$ 48,510	\$ 48,510
2	Microenterprise Loan Program	\$193,050	\$193,050
3	Water/Sewer/Business Development		
4	Matching Grants	\$874,170	\$874,170
5	Statewide Water/Sewer Database	\$ 99,000	\$ 99,000
6	Agricultural Advancement Consortium	\$114,345	\$114,345
7	Agricultural Advancement Consortium		
8	Operating	\$ 72,765	\$ 72,765

9       **SECTION 14.15.(b)** Funds allocated in subsection (a) of this section for  
10 community development grants shall support development projects and activities within the  
11 State's minority communities. Any new or previously funded community development  
12 corporation, as that term is defined in subsection (c) of this section, is eligible to apply for  
13 community development grant funds. However, no community development grant funds shall  
14 be released to a community development corporation unless the corporation can demonstrate  
15 that there are no outstanding or proposed assessments or other collection actions against the  
16 corporation for any State or federal taxes, including related penalties, interest, and fees.

17       **SECTION 14.15.(c)** For purposes of this section, the term "community  
18 development corporation" means a nonprofit corporation:

- 19       (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 20       (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of  
21       1986;
- 22       (3) Whose primary mission is to develop and improve low-income communities  
23       and neighborhoods through economic and related development;
- 24       (4) Whose activities and decisions are initiated, managed, and controlled by the  
25       constituents of those local communities; and
- 26       (5) Whose primary function is to act as deal maker and packager of projects and  
27       activities that will increase their constituencies' opportunities to become  
28       owners, managers, and producers of small businesses, affordable housing,  
29       and jobs designed to produce positive cash flow and curb blight in the  
30       targeted community.

31       **SECTION 14.15.(d)** The Rural Center shall provide a report containing detailed  
32 budget, personnel, and salary information to the Office of State Budget and Management in the  
33 same manner as State departments and agencies in preparation for biennium budget requests.

34       **SECTION 14.15.(e)** By September 1 of each year, and more frequently as  
35 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
36 Operations and the Fiscal Research Division on prior State fiscal year program activities,  
37 objectives, and accomplishments and prior State fiscal year itemized expenditures and fund  
38 sources.

## 39       **RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

40       **SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina  
41 Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million two  
42 hundred ninety-seven thousand two hundred and seventy-eight dollars (\$19,297,278) for the  
43 2009-2010 fiscal year and the sum of nineteen million two hundred ninety-seven thousand two  
44 hundred and seventy-eight dollars (\$19,297,278) for the 2010-2011 fiscal year shall be  
45 allocated as follows:

- 46       (1) To continue the North Carolina Infrastructure Program. The purpose of the  
47       Program is to provide grants to local governments to construct critical water  
48       and wastewater facilities and to provide other infrastructure needs, including  
49       technology needs, to sites where these facilities will generate private  
50       job-creating investment. At least fourteen million eight hundred and fifty  
51

1 thousand dollars (\$14,850,000) of the funds appropriated in this act for each  
2 year of the biennium must be used to provide grants under this Program.

3 (2) To provide matching grants to local governments in distressed areas and  
4 equity investments in public-private ventures that will productively reuse  
5 vacant buildings and properties, with priority given to towns or communities  
6 with populations of less than 5,000.

7 (3) To provide economic development research and demonstration grants.

8 **SECTION 14.16.(b)** The Rural Center may contract with other State agencies,  
9 constituent institutions of The University of North Carolina, and colleges within the North  
10 Carolina Community College System for certain aspects of the North Carolina Infrastructure  
11 Program, including design of Program guidelines and evaluation of Program results.

12 **SECTION 14.16.(c)** During each year of the 2009-2011 biennium, the Rural  
13 Center may use up to three hundred seventy-eight thousand three hundred seventy-eight dollars  
14 (\$378,378) of the funds appropriated in this act to cover its expenses in administering the North  
15 Carolina Economic Infrastructure Program.

16 **SECTION 14.16.(d)** By September 1 of each year, and more frequently as  
17 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
18 Operations and the Fiscal Research Division concerning the progress of the North Carolina  
19 Economic Infrastructure Program in the prior State fiscal year.

## 20 21 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

22 **SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina  
23 Rural Economic Development Center, Inc. (Rural Center), the sum of three hundred fifty-seven  
24 thousand three hundred ninety dollars (\$357,390) for the 2009-2010 fiscal year and the sum of  
25 three hundred fifty-seven thousand three hundred ninety dollars (\$357,390) for the 2010-2011  
26 fiscal year shall be equally distributed among the certified Opportunities Industrialization  
27 Centers (OI Centers).

28 **SECTION 14.17.(b)** By September 1 of each year, and more frequently as  
29 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
30 Operations and the Fiscal Research Division on prior fiscal year program activities, objectives,  
31 and accomplishments for each of the OI Centers receiving funds pursuant to subsection (a) of  
32 this section. This report shall include data for each OI Center on itemized expenditures and  
33 fund sources for the prior State fiscal year.

34 **SECTION 14.17.(c)** The Rural Center shall ensure that each OI Center files  
35 annually with the State Auditor a financial statement in the form and on the schedule prescribed  
36 by the State Auditor. The financial statements must be audited in accordance with standards  
37 prescribed by the State Auditor to assure that State funds are used for the purposes provided by  
38 law.

39 **SECTION 14.17.(d)** No funds appropriated under this act shall be released to an  
40 OI Center listed in subsection (a) of this section if the OI Center has any overdue tax debts, as  
41 that term is defined in G.S. 105-243.1, at the federal or State level.

## 42 43 **RURAL ECONOMIC DEVELOPMENT CENTER/CLEAN WATER PARTNERS** 44 **FUNDING**

45 **SECTION 14.18.** By September 1 of each year, and more frequently as requested,  
46 the North Carolina Rural Economic Development Center, Inc., shall report to the Joint  
47 Legislative Commission on Governmental Operations and the Fiscal Research Division  
48 concerning the progress of the water/sewer improvement grants (commonly referred to as  
49 funding for Clean Water Partners) as appropriated in Section 13.13A of S.L. 2007-323 and  
50 Section 13.8 of S.L. 2008-107. Each report shall include a list of grants made since the last  
51 report, the total amount contracted, and the amount of funds remaining. This reporting

1 requirement shall replace all previous reporting requirements and shall remain in effect until all  
2 funds from this program are expended.

3  
4 **RURAL ECONOMIC DEVELOPMENT CENTER/AMERICAN RECOVERY AND**  
5 **REINVESTMENT ACT FUNDS**

6 **SECTION 14.19.** If the North Carolina Rural Economic Development Center, Inc.,  
7 (Rural Center) finds that North Carolina will not maximize the amount of funding for water and  
8 wastewater projects the State could receive under the American Recovery and Reinvestment  
9 Act of 2009, the Rural Center shall use funds appropriated to the Rural Center in this act to  
10 maximize such funding.

11  
12 **PART XV. JUDICIAL DEPARTMENT**

13  
14 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

15 **SECTION 15.1.** Funds appropriated to the Judicial Department in the 2009-2011  
16 fiscal biennium for equipment and supplies shall be certified in a reserve account. The  
17 Administrative Office of the Courts may transfer these funds to the appropriate programs and  
18 between programs as the equipment priorities and supply consumptions occur during the  
19 operating year. These funds shall not be expended for any other purpose.

20  
21 **GRANT FUNDS**

22 **SECTION 15.2.** Notwithstanding G.S. 143C-6-9, the Administrative Office of the  
23 Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from  
24 funds available to the Department to provide the State match needed in order to receive grant  
25 funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the  
26 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
27 Safety and to the Joint Legislative Commission on Governmental Operations on the grants to  
28 be matched using these funds.

29  
30 **DEATH PENALTY LITIGATION FUNDS**

31 **SECTION 15.3.** Of the funds appropriated in this act to the Office of Indigent  
32 Defense Services for the 2009-2011 fiscal biennium, the Office may use up to the sum of five  
33 hundred thirty-one thousand dollars (\$531,000) for the 2009-2010 fiscal year and up to the sum  
34 of five hundred thirty-one thousand dollars (\$531,000) for the 2010-2011 fiscal year to contract  
35 with the Center for Death Penalty Litigation to provide training, consultation, brief banking,  
36 and other assistance to attorneys representing indigent capital defendants. The Office of  
37 Indigent Defense Services shall report by February 1, of each year in the biennium, to the  
38 Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice  
39 and Public Safety on the activities funded by this section.

40  
41 **REPORT ON BUSINESS COURTS**

42 **SECTION 15.4.** The Administrative Office of the Courts shall report to the Chairs  
43 of the House of Representatives and Senate Appropriations Committees and the Chairs of the  
44 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
45 Safety by March 1 of each year on the activities of each North Carolina Business Court site,  
46 including the number of new, closed, and pending cases, average age of pending cases, and  
47 annual expenditures for the prior fiscal year.

48  
49 **COLLECTION OF WORTHLESS CHECK FUNDS**

50 **SECTION 15.5.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial  
51 Department may use any balance remaining in the Collection of Worthless Checks Fund on

1 June 30, 2009, for the purchase or repair of office or information technology equipment during  
2 the 2009-2010 fiscal year. Prior to using any funds under this section, the Judicial Department  
3 shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of  
4 the House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
5 Safety on the equipment to be purchased or repaired and the reasons for the purchases.  
6

#### 7 **DISPUTE RESOLUTION FEES**

8 **SECTION 15.6.** Notwithstanding the provisions of G.S. 143C-1-2(b), certification  
9 and renewal fees collected by the Dispute Resolution Commission are nonreverting and are  
10 only to be used at the direction of the Commission.  
11

#### 12 **REIMBURSEMENT FOR USE OF PERSONAL VEHICLES**

13 **SECTION 15.7.** Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial  
14 Department, during the 2009-2011 fiscal biennium, may elect to establish a per-mile  
15 reimbursement rate for transportation by privately owned vehicles at a rate less than the  
16 business standard mileage rate set by the Internal Revenue Service.  
17

#### 18 **GUIDELINES FOR MAXIMIZING EFFICIENCY OF PROCEEDINGS**

19 **SECTION 15.9.** By December 1, 2009, the Administrative Office of the Courts  
20 shall develop guidelines to be applied to maximize efficient use of the time of probation  
21 officers and court personnel participating in probation revocation proceedings. The  
22 Administrative Office of the Courts may also adopt guidelines for maximizing the efficient use  
23 of the time of law enforcement personnel participating in the Criminal District Courts.  
24

#### 25 **ELIMINATE SPECIAL ALLOWANCE FOR SUPERIOR COURT JUDGES**

26 **SECTION 15.10.** G.S. 7A-44(a) reads as rewritten:

27 "(a) A judge of the superior court, regular or special, shall receive the annual salary set  
28 forth in the Current Operations Appropriations Act, and in addition shall be paid the same  
29 travel allowance as State employees generally by G.S. 138-6(a)(1) and (2), provided that no  
30 travel allowance be paid for travel within his county of residence. ~~In addition, a judge of the~~  
31 ~~superior court shall be allowed seven thousand dollars (\$7,000) per year, payable monthly, in~~  
32 ~~lieu of necessary subsistence expenses while attending court or transacting official business at a~~  
33 ~~place other than in the county of his residence and in lieu of other professional expenses~~  
34 ~~incurred in the discharge of his official duties.~~ The Administrative Officer of the Courts may  
35 also reimburse superior court judges, in addition to the above funds for ~~travel and subsistence,~~  
36 travel, for travel and subsistence expenses incurred for professional education."  
37

#### 38 **CLARIFY THAT DWI TREATMENT COURTS ARE A TYPE OF DRUG** 39 **TREATMENT COURT UNDER THE DRUG TREATMENT COURT ACT**

40 **SECTION 15.11.** G.S. 7A-791 reads as rewritten:

41 "**§ 7A-791. Purpose.**

42 The General Assembly recognizes that a critical need exists in this State for judicial  
43 programs that will reduce the incidence of alcohol and other drug abuse or dependence and  
44 crimes, including the offense of driving while impaired, delinquent acts, and child abuse and  
45 neglect committed as a result of alcohol and other drug abuse or dependence, and child abuse  
46 and neglect where alcohol and other drug abuse or dependence are significant factors in the  
47 child abuse and neglect. It is the intent of the General Assembly by this Article to create a  
48 program to facilitate the creation of local drug treatment court ~~programs.~~ programs and driving  
49 while impaired (DWI) treatment court programs.  
50

#### 51 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

1           **SECTION 15.12.** The Judicial Department, Office of Indigent Defense Services,  
2 may use up to the sum of two million five hundred one thousand one hundred fifty dollars  
3 (\$2,501,150) in appropriated funds during the 2009-2010 fiscal year and up to the sum of two  
4 million four hundred thirty-three thousand seven hundred dollars (\$2,433,700) in appropriated  
5 funds during the 2010-2011 fiscal year for the expansion of existing or new public defender  
6 offices currently providing legal services to the indigent population under the oversight of the  
7 Office of Indigent Defense Services by creating up to 20 new attorney positions and 10 new  
8 support staff positions. These funds may be used for salaries, benefits, equipment, and related  
9 expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall  
10 report to the Chairs of the House of Representatives and the Senate Appropriations  
11 Subcommittees on Justice and Public Safety on the proposed expansion.  
12

#### 13 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

14           **SECTION 15.13.(a)** The Office of Indigent Defense Services shall report to the  
15 Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs  
16 of the House of Representatives and Senate Appropriations Subcommittees on Justice and  
17 Public Safety by March 1 of each year on:

- 18           (1) The volume and cost of cases handled in each district by assigned counsel or  
19 public defenders;
- 20           (2) Actions taken by the Office to improve the cost-effectiveness and quality of  
21 indigent defense, including the capital case program;
- 22           (3) Plans for changes in rules, standards, or regulations in the upcoming year;  
23 and
- 24           (4) Any recommended changes in law or funding procedures that would assist  
25 the Office in improving the management of funds expended for indigent  
26 defense services, including any recommendations concerning the feasibility  
27 and desirability of establishing regional public defender offices.

28           **SECTION 15.13.(b)** In its March 1, 2010 report, the Office of Indigent Defense  
29 Services shall provide a progress report on the pilot program for alternative scheduling  
30 authorized by Section 14.1 of S.L. 2008-107. In its March 1, 2011 report, the Office of Indigent  
31 Defense Services shall provide a final report on that pilot program.

32           **SECTION 15.13.(c)** In its March 1, 2010 report, the Office of Indigent Defense  
33 Services shall provide a progress report on the feasibility study directed by Section 14.7 of S.L.  
34 2008-107 on developing a statewide system for obtaining indigent case information when  
35 counsel is first appointed. In its March 1, 2011 report, the Office of Indigent Defense Services  
36 shall provide a final report on that feasibility study.  
37

#### 38 **INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

39           **SECTION 15.14.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense  
40 Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to  
41 provide the State matching funds needed to receive grant funds. Prior to using funds for this  
42 purpose, the Office shall report to the Chairs of the House of Representatives and Senate  
43 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
44 Commission on Governmental Operations on the grants to be matched using these funds.  
45

#### 46 **OFFICE OF INDIGENT DEFENSE SERVICES FLEXIBILITY**

47           **SECTION 15.15.** Notwithstanding the provisions of G.S. 143C-6-9, in  
48 implementing reductions to the 2009-2011 budget for legal training and resources, the Office of  
49 Indigent Defense Services may use available funds as needed for registration fees, academic  
50 services, travel, and book purchases.  
51

**SENTENCING SERVICES FLEXIBILITY**

**SECTION 15.16.** In implementing the reduction to Sentencing Services' budget, the Director of the Office of Indigent Defense Services may close programs in certain districts in the State based on current and historical performance, local support and interest, the amount of funding to be saved, and other relevant factors. The Director may choose not to contract with certain nonprofit programs or to eliminate certain State-funded programs and associated positions.

**STUDY STRATEGIES TO REDUCE DEMAND FOR SERVICES OF OFFICE OF INDIGENT DEFENSE SERVICES**

**SECTION 15.17.** The Office of Indigent Defense Services shall consult with the Administrative Office of the Courts, the Conference of District Attorneys, the North Carolina Sentencing and Policy Advisory Commission, and other court system actors in formulating proposals aimed at reducing future costs, including the possibility of decriminalizing minor misdemeanor offenses for which jail sentences are rarely or never imposed and improving the manner in which potentially capital cases are screened and processed. The Office shall include any proposals in its reports during the 2009-2011 fiscal biennium.

**NEW FEE FOR COSTS OF SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION AND THE CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

**SECTION 15.18.** G.S. 7A-304 is amended by adding a new subsection to read:

"(3b) For the services, staffing, and operations of the Criminal Justice Education and Standards Commission and the Sheriffs' Education and Training Standards Commission, the sum of two dollars (\$2.00) to be remitted to the Department of Justice. One dollar and sixty-five cents (\$1.65) of this sum shall be used exclusively for the Criminal Justice Education and Standards Commission, and thirty-five cents (35¢) shall be used exclusively for the Sheriffs' Education and Training Standards Commission."

**INCREASE CONVICTED CRIMINAL LAB ANALYSIS FEE**

**SECTION 15.19.(a)** G.S. 7A-304(a)(7) reads as rewritten:

"(7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of ~~three hundred dollars (\$300.00)~~ six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

**SECTION 15.19.(b)** G.S. 7A-304(a)(8) reads as rewritten:

"(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of ~~three hundred dollars (\$300.00)~~ six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of

1 the defendant for the presence of alcohol or controlled substances, or  
2 analysis of any controlled substance possessed by the defendant or the  
3 defendant's agent. The costs shall be assessed only if the court finds that the  
4 work performed at the local government's laboratory is the equivalent of the  
5 same kind of work performed by the State Bureau of Investigation under  
6 subdivision (7) of this subsection. The court may waive or reduce the  
7 amount of the payment required by this subdivision upon a finding of just  
8 cause to grant such a waiver or reduction."  
9

## 10 INCREASE CERTAIN COURT FEES

11 SECTION 15.20.(a) G.S. 7A-304(a) reads as rewritten:

12 "(a) In every criminal case in the superior or district court, wherein the defendant is  
13 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
14 prosecuting witness, the following costs shall be assessed and collected, except that when the  
15 judgment imposes an active prison sentence, costs shall be assessed and collected only when  
16 the judgment specifically so provides, and that no costs may be assessed when a case is  
17 dismissed.

18 (1) For each arrest or personal service of criminal process, including citations  
19 and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county  
20 wherein the arrest was made or process was served, except that in those  
21 cases in which the arrest was made or process served by a law-enforcement  
22 officer employed by a municipality, the fee shall be paid to the municipality  
23 employing the officer.

24 (2) For the use of the courtroom and related judicial facilities, the sum of twelve  
25 dollars (\$12.00) in the district court, including cases before a magistrate, and  
26 the sum of thirty dollars (\$30.00) in superior court, to be remitted to the  
27 county in which the judgment is rendered. In all cases where the judgment is  
28 rendered in facilities provided by a municipality, the facilities fee shall be  
29 paid to the municipality. Funds derived from the facilities fees shall be used  
30 exclusively by the county or municipality for providing, maintaining, and  
31 constructing adequate courtroom and related judicial facilities, including:  
32 adequate space and furniture for judges, district attorneys, public defenders  
33 and other personnel of the Office of Indigent Defense Services, magistrates,  
34 juries, and other court related personnel; office space, furniture and vaults  
35 for the clerk; jail and juvenile detention facilities; free parking for jurors; and  
36 a law library (including books) if one has heretofore been established or if  
37 the governing body hereafter decides to establish one. In the event the funds  
38 derived from the facilities fees exceed what is needed for these purposes, the  
39 county or municipality may, with the approval of the Administrative Officer  
40 of the Courts as to the amount, use any or all of the excess to retire  
41 outstanding indebtedness incurred in the construction of the facilities, or to  
42 reimburse the county or municipality for funds expended in constructing or  
43 renovating the facilities (without incurring any indebtedness) within a period  
44 of two years before or after the date a district court is established in such  
45 county, or to supplement the operations of the General Court of Justice in the  
46 county.

47 (2a) For the upgrade, maintenance, and operation of the judicial and county  
48 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars  
49 (\$3.00), to be credited to the Court Information Technology Fund.

50 (3) For the retirement and insurance benefits of both State and local government  
51 law-enforcement officers, the sum of six dollars and twenty-five cents



- 1 (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum  
2 shall be administered as is provided in Article 12C of Chapter 143 of the  
3 General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum  
4 shall be administered as is provided in Article 12E of Chapter 143 of the  
5 General Statutes, with one dollar and twenty-five cents (\$1.25) being  
6 administered in accordance with the provisions of G.S. 143-166.50(e).
- 7 (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar  
8 twenty-five cents (\$1.25) to be remitted to the Department of Justice and  
9 administered under the provisions of Article 12G of Chapter 143 of the  
10 General Statutes.
- 11 (4) For support of the General Court of Justice, the sum of ~~ninety-five dollars~~  
12 ~~and fifty cents (\$95.50)~~ one hundred three dollars and fifty cents (\$103.50)  
13 in the district court, including cases before a magistrate, and the sum of ~~one~~  
14 ~~hundred two dollars and fifty cents (\$102.50)~~ one hundred fifteen dollars and  
15 fifty cents (\$115.50) in the superior court, to be remitted to the State  
16 Treasurer. For a person convicted of a felony in superior court who has made  
17 a first appearance in district court, both the district court and superior court  
18 fees shall be assessed. The State Treasurer shall remit the sum of two dollars  
19 and five cents (\$2.05) of each fee collected under this subdivision to the  
20 North Carolina State Bar for the provision of services described in  
21 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this  
22 subdivision to the North Carolina State Bar for the provision of services  
23 described in G.S. 7A-474.19.
- 24 (4a) For support of the General Court of Justice, the sum of five dollars (\$5.00)  
25 for all offenses arising under Chapter 20 of the General Statutes, to be  
26 remitted to the State Treasurer.
- 27 (5) For using pretrial release services, the district or superior court judge shall,  
28 upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to  
29 the county providing the pretrial release services. This cost shall be assessed  
30 and collected only if the defendant had been accepted and released to the  
31 supervision of the agency providing the pretrial release services.
- 32 (6) For support of the General Court of Justice, the sum of ~~one hundred dollars~~  
33 ~~(\$100.00)~~ two hundred dollars (\$200.00) is payable by a defendant who fails  
34 to appear to answer the charge as scheduled, unless within 20 days after the  
35 scheduled appearance, the person either appears in court to answer the  
36 charge or disposes of the charge pursuant to G.S. 7A-146. Upon a showing  
37 to the court that the defendant failed to appear because of an error or  
38 omission of a judicial official, a prosecutor, or a law-enforcement officer, the  
39 court shall waive this fee. This fee shall be remitted to the State Treasurer.
- 40 (7) For the services of the State Bureau of Investigation laboratory facilities, the  
41 district or superior court judge shall, upon conviction, order payment of the  
42 sum of three hundred dollars (\$300.00) to be remitted to the Department of  
43 Justice for support of the State Bureau of Investigation. This cost shall be  
44 assessed only in cases in which, as part of the investigation leading to the  
45 defendant's conviction, the laboratories have performed DNA analysis of the  
46 crime, tests of bodily fluids of the defendant for the presence of alcohol or  
47 controlled substances, or analysis of any controlled substance possessed by  
48 the defendant or the defendant's agent. The court may waive or reduce the  
49 amount of the payment required by this subdivision upon a finding of just  
50 cause to grant such a waiver or reduction.

- 1 (8) For the services of any crime laboratory facility operated by a local  
2 government or group of local governments, the district or superior court  
3 judge shall, upon conviction, order payment of the sum of three hundred  
4 dollars (\$300.00) to be remitted to the general fund of the local  
5 governmental unit that operates the laboratory to be used for law  
6 enforcement purposes. The cost shall be assessed only in cases in which, as  
7 part of the investigation leading to the defendant's conviction, the laboratory  
8 has performed DNA analysis of the crime, test of bodily fluids of the  
9 defendant for the presence of alcohol or controlled substances, or analysis of  
10 any controlled substance possessed by the defendant or the defendant's  
11 agent. The costs shall be assessed only if the court finds that the work  
12 performed at the local government's laboratory is the equivalent of the same  
13 kind of work performed by the State Bureau of Investigation under  
14 subdivision (7) of this subsection. The court may waive or reduce the  
15 amount of the payment required by this subdivision upon a finding of just  
16 cause to grant such a waiver or reduction."

17 **SECTION 15.20.(b)** Effective July 1, 2010, G.S. 7A-304(a), as rewritten by  
18 subsection (a) of this section, reads as rewritten:

19 "(a) In every criminal case in the superior or district court, wherein the defendant is  
20 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
21 prosecuting witness, the following costs shall be assessed and collected, except that when the  
22 judgment imposes an active prison sentence, costs shall be assessed and collected only when  
23 the judgment specifically so provides, and that no costs may be assessed when a case is  
24 dismissed.

- 25 (1) For each arrest or personal service of criminal process, including citations  
26 and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county  
27 wherein the arrest was made or process was served, except that in those  
28 cases in which the arrest was made or process served by a law-enforcement  
29 officer employed by a municipality, the fee shall be paid to the municipality  
30 employing the officer.
- 31 (2) For the use of the courtroom and related judicial facilities, the sum of twelve  
32 dollars (\$12.00) in the district court, including cases before a magistrate, and  
33 the sum of thirty dollars (\$30.00) in superior court, to be remitted to the  
34 county in which the judgment is rendered. In all cases where the judgment is  
35 rendered in facilities provided by a municipality, the facilities fee shall be  
36 paid to the municipality. Funds derived from the facilities fees shall be used  
37 exclusively by the county or municipality for providing, maintaining, and  
38 constructing adequate courtroom and related judicial facilities, including:  
39 adequate space and furniture for judges, district attorneys, public defenders  
40 and other personnel of the Office of Indigent Defense Services, magistrates,  
41 juries, and other court related personnel; office space, furniture and vaults  
42 for the clerk; jail and juvenile detention facilities; free parking for jurors; and  
43 a law library (including books) if one has heretofore been established or if  
44 the governing body hereafter decides to establish one. In the event the funds  
45 derived from the facilities fees exceed what is needed for these purposes, the  
46 county or municipality may, with the approval of the Administrative Officer  
47 of the Courts as to the amount, use any or all of the excess to retire  
48 outstanding indebtedness incurred in the construction of the facilities, or to  
49 reimburse the county or municipality for funds expended in constructing or  
50 renovating the facilities (without incurring any indebtedness) within a period  
51 of two years before or after the date a district court is established in such

- 1 county, or to supplement the operations of the General Court of Justice in the  
2 county.
- 3 (2a) For the upgrade, maintenance, and operation of the judicial and county  
4 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars  
5 (\$4.00), to be credited to the Court Information Technology Fund.
- 6 (3) For the retirement and insurance benefits of both State and local government  
7 law-enforcement officers, the sum of six dollars and twenty-five cents  
8 (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum  
9 shall be administered as is provided in Article 12C of Chapter 143 of the  
10 General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum  
11 shall be administered as is provided in Article 12E of Chapter 143 of the  
12 General Statutes, with one dollar and twenty-five cents (\$1.25) being  
13 administered in accordance with the provisions of G.S. 143-166.50(e).
- 14 (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar  
15 twenty-five cents (\$1.25) to be remitted to the Department of Justice and  
16 administered under the provisions of Article 12G of Chapter 143 of the  
17 General Statutes.
- 18 (4) For support of the General Court of Justice, the sum of ~~one hundred three~~  
19 ~~dollars and fifty cents (\$103.50)~~ one hundred five dollars and fifty cents  
20 (\$105.50) in the district court, including cases before a magistrate, and the  
21 sum of ~~one hundred fifteen dollars and fifty cents (\$115.50)~~ one hundred  
22 thirty-five dollars and fifty cents (\$135.50) in the superior court, to be  
23 remitted to the State Treasurer. For a person convicted of a felony in  
24 superior court who has made a first appearance in district court, both the  
25 district court and superior court fees shall be assessed. The State Treasurer  
26 shall remit the sum of two dollars and five cents (\$2.05) of each fee  
27 collected under this subdivision to the North Carolina State Bar for the  
28 provision of services described in G.S. 7A-474.4, and ninety-five cents  
29 (\$.95) of each fee collected under this subdivision to the North Carolina  
30 State Bar for the provision of services described in G.S. 7A-474.19.
- 31 (4a) For support of the General Court of Justice, the sum of ~~five dollars (\$5.00)~~  
32 ten dollars (\$10.00) for all offenses arising under Chapter 20 of the General  
33 Statutes, to be remitted to the State Treasurer.
- 34 (5) For using pretrial release services, the district or superior court judge shall,  
35 upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to  
36 the county providing the pretrial release services. This cost shall be assessed  
37 and collected only if the defendant had been accepted and released to the  
38 supervision of the agency providing the pretrial release services.
- 39 (6) For support of the General Court of Justice, the sum of two hundred dollars  
40 (\$200.00) is payable by a defendant who fails to appear to answer the charge  
41 as scheduled, unless within 20 days after the scheduled appearance, the  
42 person either appears in court to answer the charge or disposes of the charge  
43 pursuant to G.S. 7A-146. Upon a showing to the court that the defendant  
44 failed to appear because of an error or omission of a judicial official, a  
45 prosecutor, or a law-enforcement officer, the court shall waive this fee. This  
46 fee shall be remitted to the State Treasurer.
- 47 (7) For the services of the State Bureau of Investigation laboratory facilities, the  
48 district or superior court judge shall, upon conviction, order payment of the  
49 sum of three hundred dollars (\$300.00) to be remitted to the Department of  
50 Justice for support of the State Bureau of Investigation. This cost shall be  
51 assessed only in cases in which, as part of the investigation leading to the

1 defendant's conviction, the laboratories have performed DNA analysis of the  
2 crime, tests of bodily fluids of the defendant for the presence of alcohol or  
3 controlled substances, or analysis of any controlled substance possessed by  
4 the defendant or the defendant's agent. The court may waive or reduce the  
5 amount of the payment required by this subdivision upon a finding of just  
6 cause to grant such a waiver or reduction.

- 7 (8) For the services of any crime laboratory facility operated by a local  
8 government or group of local governments, the district or superior court  
9 judge shall, upon conviction, order payment of the sum of three hundred  
10 dollars (\$300.00) to be remitted to the general fund of the local  
11 governmental unit that operates the laboratory to be used for law  
12 enforcement purposes. The cost shall be assessed only in cases in which, as  
13 part of the investigation leading to the defendant's conviction, the laboratory  
14 has performed DNA analysis of the crime, test of bodily fluids of the  
15 defendant for the presence of alcohol or controlled substances, or analysis of  
16 any controlled substance possessed by the defendant or the defendant's  
17 agent. The costs shall be assessed only if the court finds that the work  
18 performed at the local government's laboratory is the equivalent of the same  
19 kind of work performed by the State Bureau of Investigation under  
20 subdivision (7) of this subsection. The court may waive or reduce the  
21 amount of the payment required by this subdivision upon a finding of just  
22 cause to grant such a waiver or reduction."

23 **SECTION 15.20.(c)** G.S. 7A-304 is amended by adding a new subsection to read:

24 "(f) Defendants owing costs under this section may either make payment in full when  
25 costs are assessed or may make payment on an installment plan arranged with the court.  
26 Defendants making use of an installment plan shall pay a onetime setup fee of twenty dollars  
27 (\$20.00) to cover the additional costs to the court of receiving and disbursing installment  
28 payments. Notwithstanding the provisions of G.S. 7A-304(d)(1), the setup fee authorized by  
29 this subsection shall be paid prior to the disbursement of funds for any other purpose. Fees  
30 collected under this section shall be remitted to the State Treasurer for support of the General  
31 Court of Justice."

32 **SECTION 15.20.(d)** G.S. 7A-305(a) reads as rewritten:

33 "(a) In every civil action in the superior or district court, except for actions brought  
34 under Chapter 50B of the General Statutes, shall be assessed:

- 35 (1) For the use of the courtroom and related judicial facilities, the sum of twelve  
36 dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen  
37 dollars (\$16.00) in district and superior court, to be remitted to the county in  
38 which the judgment is rendered, except that in all cases in which the  
39 judgment is rendered in facilities provided by a municipality, the facilities  
40 fee shall be paid to the municipality. Funds derived from the facilities fees  
41 shall be used in the same manner, for the same purposes, and subject to the  
42 same restrictions, as facilities fees assessed in criminal actions.

- 43 (1a) For the upgrade, maintenance, and operation of the judicial and county  
44 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars  
45 (\$3.00), to be credited to the Court Information Technology Fund.

- 46 (2) For support of the General Court of Justice, the sum of ~~ninety-three dollars~~  
47 ~~(\$93.00)~~ one hundred thirty dollars (\$130.00) in the superior court, except  
48 that if a case is assigned to a special superior court judge as a complex  
49 business case under G.S. 7A-45.3, an additional two hundred dollars  
50 (\$200.00) shall be paid upon its assignment, and the sum of ~~seventy-three~~  
51 ~~dollars (\$73.00)~~ seventy-eight dollars (\$78.00) in the district court except

1 that if the case is assigned to a magistrate the sum shall be ~~sixty-three dollars~~  
2 ~~(\$63.00)~~; fifty-five dollars (\$55.00). Sums collected under this subdivision  
3 shall be remitted to the State Treasurer. The State Treasurer shall remit the  
4 sum of two dollars and five cents (\$2.05) of each fee collected under this  
5 subdivision to the North Carolina State Bar for the provision of services  
6 described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee  
7 collected under this subdivision to the North Carolina State Bar for the  
8 provision of services described in G.S. 7A-474.19."

9 **SECTION 15.20.(e)** Effective July 1, 2010, G.S. 7A-305(a), as rewritten by  
10 subsection (d) of this section, reads as rewritten:

11 "(a) In every civil action in the superior or district court, except for actions brought  
12 under Chapter 50B of the General Statutes, shall be assessed:

13 (1) For the use of the courtroom and related judicial facilities, the sum of twelve  
14 dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen  
15 dollars (\$16.00) in district and superior court, to be remitted to the county in  
16 which the judgment is rendered, except that in all cases in which the  
17 judgment is rendered in facilities provided by a municipality, the facilities  
18 fee shall be paid to the municipality. Funds derived from the facilities fees  
19 shall be used in the same manner, for the same purposes, and subject to the  
20 same restrictions, as facilities fees assessed in criminal actions.

21 (1a) For the upgrade, maintenance, and operation of the judicial and county  
22 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~; four dollars  
23 (\$4.00), to be credited to the Court Information Technology Fund.

24 (2) For support of the General Court of Justice, the sum of ~~one hundred thirty~~  
25 ~~dollars (\$130.00)~~ one hundred forty dollars (\$140.00) in the superior court,  
26 except that if a case is assigned to a special superior court judge as a  
27 complex business case under G.S. 7A-45.3, an additional two hundred  
28 dollars (\$200.00) shall be paid upon its assignment, and the sum of  
29 ~~seventy-eight dollars (\$78.00)~~ eighty dollars (\$80.00) in the district court  
30 except that if the case is assigned to a magistrate the sum shall be fifty-five  
31 dollars (\$55.00). Sums collected under this subdivision shall be remitted to  
32 the State Treasurer. The State Treasurer shall remit the sum of two dollars  
33 and five cents (\$2.05) of each fee collected under this subdivision to the  
34 North Carolina State Bar for the provision of services described in  
35 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this  
36 subdivision to the North Carolina State Bar for the provision of services  
37 described in G.S. 7A-474.19."

38 **SECTION 15.20.(f)** G.S. 7A-306(a)(1a) reads as rewritten:

39 "(1a) For the upgrade, maintenance, and operation of the judicial and county  
40 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~; three dollars  
41 (\$3.00), to be credited to the Court Information Technology Fund."

42 **SECTION 15.20.(g)** Effective July 1, 2010, G.S. 7A-306(a)(1a), as amended by  
43 subsection (f) of this section, reads as rewritten:

44 "(1a) For the upgrade, maintenance, and operation of the judicial and county  
45 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~; four dollars  
46 (\$4.00), to be credited to the Court Information Technology Fund."

47 **SECTION 15.20.(h)** G.S. 7A-307(a)(1a) reads as rewritten:

48 "(1a) For the upgrade, maintenance, and operation of the judicial and county  
49 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~; three dollars  
50 (\$3.00), to be credited to the Court Information Technology Fund."

1           **SECTION 15.20.(i)** Effective July 1, 2010, G.S. 7A-307(a)(1a), as amended by  
2 subsection (h) of this section, reads as rewritten:

3           "(1a) For the upgrade, maintenance, and operation of the judicial and county  
4 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars  
5 (\$4.00), to be credited to the Court Information Technology Fund."

6           **SECTION 15.20.(j)** G.S. 20-135.2A(e) reads as rewritten:

7           "(e) Any driver or front seat passenger who fails to wear a seat belt as required by this  
8 section shall have committed an infraction and shall pay a penalty of twenty-five dollars  
9 (\$25.00) plus the following court costs in the sum of seventy five dollars (\$75.00): costs: the  
10 General Court of Justice fee provided for in G.S. 7A-304(a)(4), the telephone facilities fee  
11 provided for in G.S. 7A-304(a)(2a), and the law enforcement training and certification fee  
12 provided for in G.S. 7A-304(a)(3b). Any rear seat occupant of a vehicle who fails to wear a seat  
13 belt as required by this section shall have committed an infraction and shall pay a penalty of ten  
14 dollars (\$10.00) and no court costs. Court costs assessed under this section are for the support  
15 of the General Court of Justice and shall be remitted to the State Treasurer. Conviction of an  
16 infraction under this section has no other consequence."

17           **SECTION 15.20.(k)** G.S. 20-140.4 reads as rewritten:

18 **"§ 20-140.4. Special provisions for motorcycles and mopeds.**

19           (a) No person shall operate a motorcycle or moped upon a highway or public vehicular  
20 area:

21           (1) When the number of persons upon such motorcycle or moped, including the  
22 operator, shall exceed the number of persons which it was designed to carry.

23           (2) Unless the operator and all passengers thereon wear on their heads, with a  
24 retention strap properly secured, safety helmets of a type that complies with  
25 Federal Motor Vehicle Safety Standard (FMVSS) 218.

26           (b) Violation of any provision of this section shall not be considered negligence per se  
27 or contributory negligence per se in any civil action.

28           (c) Any person convicted of violating this section shall have committed an infraction  
29 and shall ~~be fined according to G.S. 20-135.2A(e) and (f):~~ pay a penalty of twenty-five dollars  
30 (\$25.00) plus the following court costs: the General Court of Justice fee provided for in G.S.  
31 7A-304(a)(4), the telephone facilities fee provided for in G.S. 7A-304(a)(2a), and the law  
32 enforcement training and certification fee provided for in G.S. 7A-304(a)(3b). Conviction of an  
33 infraction under this section has no other consequence.

34           (d) No drivers license points or insurance surcharge shall be assessed on account of  
35 violation of this section."

36           **SECTION 15.20.(l)** Subsections (a), (j), and (k) of this section become effective  
37 July 1, 2009, and apply to all costs assessed or collected on or after that date, except that in  
38 misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver  
39 of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4)  
40 or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date,  
41 the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a)  
42 of this section, or those specified in the notice portion of the defendant's or respondent's copy of  
43 the citation or other criminal process, if any costs are specified in that notice.

44           Subsection (b) of this section becomes effective July 1, 2010, and applies to all costs  
45 assessed or collected on or after that date, except that in misdemeanor or infraction cases  
46 disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of  
47 guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the  
48 citation or other criminal process was issued before that date, the cost shall be the lesser of  
49 those specified in G.S. 7A-304(a), as amended by subsection (b) of this section, or those  
50 specified in the notice portion of the defendant's or respondent's copy of the citation or other  
51 criminal process, if any costs are specified in that notice.

1 Subsections (e), (g), and (i) of this section become effective July 1, 2010, and apply  
2 to fees assessed or collected on or after that date. The remainder of this section becomes  
3 effective July 1, 2009, and applies to fees assessed or collected on or after that date.  
4

## 5 **PART XVI. DEPARTMENT OF JUSTICE**

### 6 7 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS** 8 **PAY FOR USE OF STATE FACILITIES AND SERVICES**

9 **SECTION 16.1.** The Private Protective Services and Alarm Systems Licensing  
10 Boards shall pay the appropriate State agency for the use of physical facilities and services  
11 provided to those Boards by the State.  
12

### 13 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW** 14 **ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

15 **SECTION 16.2.(a)** Assets transferred to the Departments of Justice, Correction,  
16 and Crime Control and Public Safety during the 2009-2011 fiscal biennium pursuant to  
17 applicable federal law shall be credited to the budgets of the respective departments and shall  
18 result in an increase of law enforcement resources for those departments. The Departments of  
19 Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative  
20 Commission on Governmental Operations upon receipt of the assets and, before using the  
21 assets, shall report on the intended use of the assets and the departmental priorities on which  
22 the assets may be expended.

23 **SECTION 16.2.(b)** The General Assembly finds that the use of assets transferred  
24 pursuant to federal law for new personnel positions, new projects, acquisition of real property,  
25 repair of buildings where the repair includes structural change, and construction of or additions  
26 to buildings may result in additional expenses for the State in future fiscal periods. Therefore,  
27 the Department of Justice, the Department of Correction, and the Department of Crime Control  
28 and Public Safety are prohibited from using these assets for such purposes without the prior  
29 approval of the General Assembly.

30 **SECTION 16.2.(c)** Nothing in this section prohibits North Carolina law  
31 enforcement agencies from receiving funds from the United States Department of Justice, the  
32 United States Department of the Treasury, and the United States Department of Health and  
33 Human Services.  
34

### 35 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

36 **SECTION 16.3.** Client departments, agencies, and boards shall reimburse the  
37 Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other  
38 costs directly related to litigation in which the Department of Justice is representing the  
39 department, agency, or board.  
40

### 41 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS** 42 **DISBURSED**

43 **SECTION 16.4.** The North Carolina Legal Education Assistance Foundation shall  
44 report by March 1 of each year to the Joint Legislative Commission on Governmental  
45 Operations and the Chairs of the House of Representatives and Senate Appropriations  
46 Subcommittees on Justice and Public Safety on the expenditure of State funds, the purpose of  
47 the expenditures, the number of attorneys receiving funds, the average award amount, the  
48 average student loan amount, the number of attorneys on the waiting list, and the average  
49 number of years for which attorneys receive loan assistance.  
50

1 **HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF**  
2 **INVESTIGATION**

3 **SECTION 16.5.** The Department of Justice may hire sworn personnel to fill vacant  
4 positions in the State Bureau of Investigation only in the following circumstances: (i) the  
5 position's regular responsibilities involve warrant executions, property searches, criminal  
6 investigations, or arrest activities that are consistent in frequency with the responsibilities of  
7 other sworn agents; (ii) the position is a promotion for a sworn agent who was employed at the  
8 State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist  
9 position which requires "responding to clandestine methamphetamine laboratories" as a  
10 primary duty; (iv) the position is a forensic impressions analyst position which requires  
11 "responding to clandestine methamphetamine laboratories" as a primary duty; or (v) the  
12 position primarily involves supervising sworn personnel.  
13

14 **REDUCE DEPARTMENT SHARE OF PAYMENT FOR JUDGMENTS AGAINST**  
15 **COUNTY AND CITY BOARDS OF EDUCATION**

16 **SECTION 16.6.(a)** G.S. 143-300.1(c) reads as rewritten:

17 "(c) In the event ~~that~~ of settlement pursuant to G.S. 143-295 or in the event the Industrial  
18 Commission awards damages against any county or city board of education under this section,  
19 the Attorney General shall draw a voucher for the amount required to pay the award. The funds  
20 necessary to cover ~~the first one hundred fifty thousand dollars (\$150,000) of liability per claim~~  
21 ~~the liability~~ for claims against county and city boards of education for accidents involving  
22 school buses and school transportation service vehicles shall be made available from funds  
23 appropriated to the State Board of Education. ~~The balance of any liability owed shall be paid in~~  
24 accordance with G.S. 143-299.4. Education for that purpose. On January 1 and June 1 of each  
25 year, each county and city board of education shall pay the State Board of Education an amount  
26 equal to fifty percent (50%) of the damages paid by the State Board of Education pursuant to  
27 this subsection during the preceding six months. These receipts shall be used to offset fifty  
28 percent (50%) of the costs incurred by the State Board of Education pursuant to this subsection.  
29 Neither the county or city boards of education, or the county or city administrative unit shall be  
30 liable for the payment of any award made pursuant to the provisions of this section in excess of  
31 the amount paid upon a voucher by the Attorney General. Settlement and payment may be  
32 made by the Attorney General as provided in G.S. 143-295."

33 **SECTION 16.6.(b)** G.S. 143-300.1(d) reads as rewritten:

34 "(d) Except as otherwise provided in this subsection, the Attorney General may, upon the  
35 request of an employee or former employee, defend any civil action brought against the driver,  
36 transportation safety assistant, or monitor of a public school bus or school transportation  
37 service vehicle or school bus maintenance mechanic when the driver or mechanic is employed  
38 and paid by the local school administrative unit, when the monitor is acting in accordance with  
39 G.S. 115C-245(d), when the transportation safety assistant is acting in accordance with  
40 G.S. 115C-245(e), or when the driver is an unpaid school bus driver trainee under the  
41 supervision of an authorized employee of the Department of Transportation, Division of Motor  
42 Vehicles, or an authorized employee of a county or city board of education or administrative  
43 unit. The Attorney General may afford this defense through the use of a member of his staff or,  
44 in his discretion, employ private counsel. The Attorney General is authorized to pay any  
45 judgment rendered in the civil action not to exceed the limit provided under the Tort Claims  
46 Act. The funds necessary to cover ~~the first one hundred fifty thousand dollars (\$150,000) of~~  
47 liability per claim ~~the liability~~ shall be made available from funds appropriated to the State  
48 Board of Education. ~~The balance of any liability owed shall be paid in accordance with~~  
49 G.S. 143-299.4. Education for that purpose. On January 1 and June 1 of each year, each county  
50 and city board of education shall pay the State Board of Education an amount equal to fifty  
51 percent (50%) of the damages paid by the State Board of Education pursuant to this subsection



1 during the preceding six months. These receipts shall be used to offset fifty percent (50%) of  
2 the costs incurred by the State Board of Education pursuant to this subsection. The Attorney  
3 General may compromise and settle any claim covered by this section to the extent that he finds  
4 the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority  
5 granted in this subsection shall be limited to only those claims that would be within the  
6 jurisdiction of the Industrial Commission under the Tort Claims Act.

7 The Attorney General shall refuse to provide for the defense of a civil action or proceeding  
8 brought against an employee or former employee if the Attorney General determines that:

- 9 (1) The act or omission was not within the scope and course of his employment  
10 as a State employee; or
- 11 (2) The employee or former employee acted or failed to act because of actual  
12 fraud, corruption, or actual malice on his part; or
- 13 (3) Defense of the action or proceeding by the State would create a conflict of  
14 interest between the State and the employee or former employee; or
- 15 (4) Defense of the action or proceeding would not be in the best interests of the  
16 State."

17 **SECTION 16.6.(c)** This section becomes effective July 1, 2010.

## 18 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

### 19 **REPORT ON THE USE OF ILLEGAL IMMIGRATION PROJECT FUNDS**

20 **SECTION 17.1.** No later than March 1, 2010, the North Carolina Sheriffs'  
21 Association, Inc., shall submit a report to the Chairs of the House and Senate Appropriations  
22 Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice  
23 and Public Safety on the operations and effectiveness of the Illegal Immigration Project. The  
24 report shall include all of the following:  
25

- 26 (1) An overview of the program.
- 27 (2) The program budget.
- 28 (3) A summary of work done with funds received, which shall include the  
29 following information:
  - 30 a. The total number of law enforcement agencies that received funding  
31 from the program for officer training.
  - 32 b. The total number of officers trained.
  - 33 c. The total number of training sessions administered.
  - 34 d. Copies of educational/informational materials distributed.
- 35 (4) Recommendations on ways that federal, State, and local resources can be  
36 used to further improve the effectiveness of the Illegal Immigration Project  
37 and other immigration enforcement initiatives.  
38

### 39 **ABOLISH BUTNER PUBLIC SAFETY DIVISION**

40 **SECTION 17.2.(a)** G.S. 122C-408 is repealed.

41 **SECTION 17.2.(b)** Beginning on the effective date of this act, the Town of Butner  
42 shall provide fire and police protection within its incorporated limits. The service required by  
43 this section shall be at least the same level of service that the Town of Butner was previously  
44 provided pursuant to contract with the Department of Crime Control and Public Safety.

45 **SECTION 17.2.(c)** The Charter of the Town of Butner, as enacted by Section 1 of  
46 S.L. 2007-269, is amended by adding a new Article to read:

47 "ARTICLE IX. POLICE DEPARTMENT.

48 "Section 9.1. **Appointment; Powers; and Duties of Chief of Police and Police Officers.**  
49

1 (a) Chief. The Mayor shall appoint the Chief of Police. The Chief of Police shall have  
2 immediate direction and control of the Police Department, subject to the supervision of the  
3 Mayor, and to such rules, regulations, and orders as the Mayor may prescribe.

4 (b) General Powers. The Chief of Police and each member of the police force shall  
5 have, for the purpose of enforcing Town ordinances and regulations, or preserving the peace of  
6 the Town, and of suppressing disturbances, and apprehending offenders, the powers of peace  
7 officers vested in sheriffs and constables.

8 (c) Public Peace. The Chief of Police and other police officers of the Town shall have  
9 the power, and it shall be their duty, to suppress all breaches of the public peace, and all  
10 disturbances of the quiet and good order of the Town, and they may, with or without warrant,  
11 arrest, anywhere within the corporate limits of the Town, or within one mile thereof, any person  
12 charged with the violation of any ordinance of the Town, or with any other offense whatsoever  
13 against the public peace, and the quiet and good order of the community.

14 (d) Other Duties. In addition to the foregoing, the Chief of Police and other police  
15 officers shall perform such other duties as may from time to time be prescribed by the Mayor  
16 not inconsistent with the Constitution and laws of the State of North Carolina and the  
17 provisions of this Charter.

18 "Section 9.2. **Police Emergency Lines.** The Chief of Police or other police officer in  
19 charge at the scene of a parade, accident, disturbance, crime scene, natural or artificial disaster,  
20 or emergency, or any large gathering of people shall have authority to provide barricades,  
21 ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law  
22 enforcement officer, firefighter, or other person having official business at the scene to cross  
23 such a line without express permission of the police officer at the scene."

24 **SECTION 17.2.(d)** The Charter of the Town of Butner, as enacted by Section 1 of  
25 S.L. 2007-269, is amended by adding a new Article to read:

26 "ARTICLE X. FIRE DEPARTMENT.

27 "Section 10.1. **Appointment; Powers; and Duties of Fire Chief.**

28 (a) Appointment; General Authority. The Mayor shall appoint a Fire Chief. The Fire  
29 Chief shall have immediate direction and control of the Fire Department, subject to the  
30 supervision of the Mayor and to such rules, regulations, and orders as the Mayor may prescribe.

31 (b) Destroying Property at Fires. The Fire Chief, and in the Fire Chief's absence, any  
32 assistant, may order the blowing up, tearing down, or other destruction of any building when it  
33 is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or  
34 criminally, for acting in obedience to their orders, nor shall the Fire Chief or any assistant, the  
35 Town, the Mayor, or the Town Council be held liable, civilly or criminally, for the giving of  
36 such orders or for damages to property ordered destroyed.

37 (c) Fire, etc., Emergency Lines. The Chief of Police or other police officer, or the Fire  
38 Chief or any assistant, in charge at the scene of a fire, accident, disturbance, natural or artificial  
39 disaster or emergency, or any large gathering of people shall have authority to provide  
40 barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person  
41 other than a law enforcement officer, firefighter, or other person having official business at the  
42 scene to cross such a line without express permission of the person in charge at the scene.

43 (d) Other Duties. The Fire Chief and other firefighters shall perform such other duties in  
44 addition to those provided in this Charter as may be prescribed by law or Town ordinances, or  
45 that may from time to time be prescribed by the Mayor."

46 **SECTION 17.2.(e)** G.S. 122C-414 is repealed.

47 **SECTION 17.2.(f)** G.S. 143-341(8)i.3. reads as rewritten:

48 "3. To require on a schedule determined by the Department all  
49 State agencies to transfer ownership, custody or control of  
50 any or all passenger motor vehicles within the ownership,  
51 custody or control of that agency to the Department, except

those motor vehicles under the ownership, custody or control of the Highway Patrol or the State Bureau of Investigation which are used primarily for law-enforcement purposes, and except those motor vehicles under the ownership, custody or control of the Department of Crime Control and Public Safety for Butner Public Safety which are used primarily for law enforcement, fire, or emergency purposes."

**SECTION 17.2.(g)** G.S. 160A-288(d)(4) is repealed.

**SECTION 17.2.(h)** G.S. 160A-288.2(d)(3) is repealed.

**SECTION 17.2.(i)** Subsections 1(a) and 1(b) of Chapter 830 of the 1983 Session Laws, as amended by Section 43.3 of S.L. 2005-276 and Section 14 of S.L. 2007-269, are repealed.

**SECTION 17.2.(j)** Subsection (i) of this section shall have no effect upon the validity of any liens of the State, Durham County, Granville County, or the Butner Police and Fire Protection District for ad valorem taxes outstanding before the effective date of subsection (i) of this section. Such liens may be collected or foreclosed upon after the effective date of subsection (i) of this section as though the property were still within the corporate limits of the District.

## **TRANSFER OF STATE CAPITOL POLICE TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

**SECTION 17.3.(a)** The State Capitol Police is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, from the Department of Administration to the Department of Crime Control and Public Safety.

**SECTION 17.3.(b)** G.S. 143-340(21) and (22) are repealed.

**SECTION 17.3.(c)** G.S. 143-341.1 is repealed.

**SECTION 17.3.(d)** G.S. 143B-475(a) reads as rewritten:

"(a) All functions, powers, duties and obligations heretofore vested in the following subunits of the following departments are hereby transferred to and vested in the Department of Crime Control and Public Safety:

- (1) The National Guard, Department of Military and Veterans ~~Affairs;~~Affairs.
- (2) Civil Preparedness, Department of Military and Veterans ~~Affairs;~~Affairs.
- (3) State Civil Air Patrol, Department of Military and Veterans ~~Affairs;~~Affairs.
- (4) State Highway Patrol, Department of ~~Transportation;~~Transportation.
- (5) State Board of Alcoholic Control Enforcement Division, Department of ~~Commerce;~~Commerce.
- (6) Governor's Crime Commission, Department of Natural and Economic ~~Resources;~~Resources.
- (7) Crime Control Division, Department of Natural and Economic ~~Resources;~~Resources.
- (8) Criminal Justice Information System Board, Department of Natural and Economic ~~Resources;~~ and Resources.
- (9) Criminal Justice Information System Security and Privacy Board, Department of Natural and Economic Resources.
- (10) The Commercial Vehicle, Oversize/Overweight, Motor Carrier Safety Regulation and Mobile Home and Manufactured Housing regulatory and enforcement functions of the Department of Transportation, Division of Motor Vehicles Enforcement Section.

(11) State Capitol Police, Department of Administration."

**SECTION 17.3.(e)** G.S. 143B-476(a) reads as rewritten:

"(a) The head of the Department of Crime Control and Public Safety is the Secretary of Crime Control and Public Safety, who shall be known as the Secretary. The Secretary shall have such powers and duties as are conferred on him by this Chapter, delegated to him by the Governor, and conferred on him by the Constitution and laws of this State. These powers and duties include:

- (1) Accepting gifts, bequests, devises, grants, matching funds and other considerations from private or governmental sources for use in promoting the work of the Governor's Crime ~~Commission~~; Commission.
- (2) Making grants for use in pursuing the objectives of the Governor's Crime ~~Commission~~; Commission.
- (3) Adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice purposes and to implement and carry out the regulatory and enforcement duties assigned to the Department of Crime Control and Public Safety as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes.
- (4) Ascertaining the State's duties concerning grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice, and developing and administering a plan to ensure that the State fulfills its ~~duties~~; and duties.
- (5) Administering the Assistance Program for Victims of Rape and Sex Offenses.
- (6) Appointing, with the Governor's approval, a special police officer to serve as Director of the State Capitol Police Division."

**SECTION 17.3.(f)** Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 7. State Capitol Police Division.

**"§ 143B-508. State Capitol Police Division – powers and duties.**

(a) Division Established. – There is hereby established, within the Department of Crime Control and Public Safety, the State Capitol Police Division, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) Purpose. – The State Capitol Police Division shall serve as a special police agency of the Department of Crime Control and Public Safety. The Director of the State Capitol Police, appointed by the Secretary pursuant to G.S. 143B-476(6), with the approval of the Governor, may appoint as special police officers such reliable persons as he may deem necessary.

(c) Appointment of Officers. – Special police officers appointed pursuant to this section may not exercise the power of arrest until they shall take an oath, to be administered by any person authorized to administer oaths, as required by law.

(d) Jurisdiction of Officers. – Each special police officer of the State Capitol Police shall have the same power of arrest as the police officers of the City of Raleigh. Such authority may be exercised within the same territorial jurisdiction as exercised by the police officers of the City of Raleigh, and in addition thereto the authority of a deputy sheriff may be exercised on property owned, leased, or maintained by the State located in the County of Wake.

(f) Public Safety. – The Director of the State Capitol Police, or the Director's designee, shall exercise at all times those means that, in the opinion of the Director or the designee, may be effective in protecting all State buildings and grounds, except for the State legislative buildings and grounds as defined in G.S. 120-32.1(d), and the persons within those buildings and grounds from fire, bombs, bomb threats, or any other emergency or potentially hazardous conditions, including both the ordering and control of the evacuation of those buildings and grounds. The Director, or the Director's designee, may employ the assistance of other available

1 law enforcement agencies and emergency agencies to aid and assist in evacuations of those  
 2 buildings and grounds."

### 4 **STUDY CONSOLIDATION OF LAW ENFORCEMENT AGENCIES**

5 **SECTION 17.4.** The Office of State Budget and Management shall study the  
 6 feasibility of consolidating the law enforcement agencies in the executive branch of State  
 7 government for the purpose of coordinating the activities of these agencies, and reducing  
 8 duplication and overlapping of law enforcement responsibilities, training, and technical  
 9 assistance among State law enforcement agencies. The Office of State Budget and  
 10 Management shall report its findings and recommendations by February 1, 2010, to the Joint  
 11 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

### 13 **LAW ENFORCEMENT SUPPORT SERVICES FEES**

14 **SECTION 17.5.** Article 11 of Chapter 143B of the General Statutes is amended by  
 15 adding a new section to read:

#### 16 **"§ 143B-475.2. Fees for services.**

17 A fee in the amount set by the Department is imposed on the entities listed in this section.  
 18 The fees are departmental receipts and are applied to the Department's costs in providing  
 19 services to these entities. The fees apply to the following:

- 20 (1) A local law enforcement agency that receives equipment from the  
 21 Department, whether by transfer, loan, or procurement under an agreement  
 22 with the United States Department of Defense.  
 23 (2) A person for whom the Department stores evidence."

### 25 **INCREASE CHARITABLE BINGO LICENSING FEE**

26 **SECTION 17.6.** G.S. 14-309.7(a) reads as rewritten:

27 "(a) An exempt organization may not operate a bingo game at a location without a  
 28 license. Application for a bingo license shall be made to the Department of Crime Control and  
 29 Public Safety on a form prescribed by the Department. The Department shall charge an annual  
 30 application fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) to defray the  
 31 cost of issuing bingo licenses and handling bingo audit reports. The fees collected shall be  
 32 deposited in the General Fund of the State. This license shall expire one year after the granting  
 33 of the license. This license may be renewed yearly, if the applicant pays the application fee and  
 34 files an audit with the Department pursuant to G.S. 14-309.11. A copy of the application and  
 35 license shall be furnished to the local law-enforcement agency in the county or municipality in  
 36 which the licensee intends to operate before bingo is conducted by the licensee."

### 38 **INCREASE FEES FOR LICENSING BOXERS AND FOR TICKETS SOLD AT** 39 **BOXING EVENTS**

40 **SECTION 17.7.(a)** G.S. 143-655(a) reads as rewritten:

41 "(a) License Fees. – The Division shall collect the following license fees:

42	Announcer	\$75.00
43	Contestant	<del>\$37.50</del> <u>\$50.00</u>
44	Judge	\$75.00
45	Manager	\$150.00
46	Matchmaker	\$300.00
47	Promoter	\$450.00
48	Referee	\$75.00
49	Timekeeper	\$75.00
50	Second	<del>\$37.50</del> <u>\$50.00."</u>

51 **SECTION 17.7.(b)** G.S. 143-655(b1) reads as rewritten:

1 "(b1) Admission Fees. – The Division shall collect a fee in the amount of ~~one dollar and~~  
2 ~~fifty cents (\$1.50)~~ two dollars (\$2.00) per each ticket sold to attend events regulated in this  
3 Article."  
4

## 5 **PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY** 6 **PREVENTION**

### 7 8 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

9 **SECTION 18.1.** The Department of Juvenile Justice and Delinquency Prevention  
10 shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs and  
11 of multipurpose group homes.

12 In conducting the evaluation of each of these programs, the Department shall  
13 consider whether participation in each program results in a reduction of court involvement  
14 among juveniles. The Department also shall identify whether the programs are achieving the  
15 goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall  
16 report the results of the evaluation to the Joint Legislative Corrections, Crime Control, and  
17 Juvenile Justice Oversight Committee, the chairs of the Senate and House of Representatives  
18 Appropriations Committees and the chairs of the Subcommittees on Justice and Public Safety  
19 of the Senate and House of Representatives Appropriations Committees by March 1 of each  
20 year.  
21

### 22 **REPORTS ON CERTAIN PROGRAMS**

23 **SECTION 18.2.(a)** Project Challenge North Carolina, Inc., shall report to the  
24 Department of Juvenile Justice and Delinquency Prevention and the Chairs of the Senate and  
25 House of Representatives Appropriations Subcommittees on Justice and Public Safety by April  
26 1 each year on the operation and the effectiveness of its program in providing alternative  
27 dispositions and services to juveniles who have been adjudicated delinquent or undisciplined.  
28 The report shall include information on:

- 29 (1) The source of referrals for juveniles.
- 30 (2) The types of offenses committed by juveniles participating in the program.
- 31 (3) The amount of time those juveniles spend in the program.
- 32 (4) The number of juveniles who successfully complete the program.
- 33 (5) The number of juveniles who commit additional offenses after completing  
34 the program.
- 35 (6) The program's budget and expenditures, including all funding sources.

36 **SECTION 18.2.(b)** The Juvenile Assessment Center shall report to the Chairs of  
37 the Senate and House of Representatives Appropriations Subcommittees on Justice and Public  
38 Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
39 Committee on the effectiveness of the Center by April 1 each year. The report shall include  
40 information on the number of juveniles served and an evaluation of the effectiveness of  
41 juvenile assessment plans and services provided as a result of these plans. In addition, the  
42 report shall include information on the Center's budget and expenditures, including all funding  
43 sources.  
44

### 45 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

46 **SECTION 18.3.** Funds appropriated in this act to the Department of Juvenile  
47 Justice and Delinquency Prevention for the 2009-2010 fiscal year may be used as matching  
48 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives  
49 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office  
50 of State Budget and Management and the Governor's Crime Commission shall consult with the  
51 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding

1 federal funds. The Office of State Budget and Management, the Governor's Crime  
2 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report  
3 to the Appropriations Committees of the Senate and House of Representatives and the Joint  
4 Legislative Commission on Governmental Operations prior to allocation of the federal funds.  
5 The report shall identify the amount of funds to be received for the 2009-2010 fiscal year, the  
6 amount of funds anticipated for the 2009-2010 fiscal year, and the allocation of funds by  
7 program and purpose.

#### 9 **TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS**

10 **SECTION 18.4.** The Department shall implement the staffing treatment model  
11 presented to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
12 Committee as part of the Department's November 14, 2006, report regarding the joint use with  
13 the Department of Correction of the Swannanoa Youth Development Center campus.

14 The staffing levels of the new youth development centers shall be capped at 66 staff  
15 for a 32-bed facility and 198 staff for the 96-bed facility for the 2009-2011 fiscal biennium.  
16 Staffing ratios shall be no more than 2.1 staff per every juvenile committed at every other  
17 existing youth development center.

#### 18 **ESTABLISHMENT OF A GANG PREVENTION AND INTERVENTION PILOT** 19 **PROGRAM**

20 **SECTION 18.5.(a)** As part of the Governor's Comprehensive Gang Initiative, the  
21 Department of Juvenile Justice and Delinquency Prevention shall establish a two-year Gang  
22 Prevention and Intervention Pilot Program that will focus on youth at risk for gang involvement  
23 and those who are already associated with gangs and gang activity. The Department of  
24 Juvenile Justice and Delinquency Prevention shall:

- 25 (1) Ensure that measurable performance indicators and systems are put in place  
26 to evaluate the effectiveness of the pilot program, and
- 27 (2) Conduct both process- and outcome-focused evaluations of the pilot  
28 program to determine community and institutional impacts of the pilot  
29 program pertaining to gang behavior, desistance, and activities. These  
30 evaluations may consider the degree of successful implementation of the  
31 program and measurable changes in gang-related and gang-affiliated  
32 behaviors noted in institutional, court system, communities, and related  
33 programs.

34 **SECTION 18.5.(b)** The Department of Juvenile  
35 Justice and Delinquency Prevention shall report to the Chairs of the Senate and  
36 House of Representatives Appropriations Subcommittees on Justice and Public Safety and the  
37 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the  
38 implementation and continuing operation of the pilot program by April 1 each year. The report  
39 shall include information on the number of juveniles served and an evaluation of the  
40 effectiveness of the pilot program. In addition, the report shall include the information set out  
41 in subsection (a) of this section.

#### 42 **ELIMINATE SUPPORT OUR STUDENTS PROGRAM**

43 **SECTION 18.6.** Part 5A of Article 3 of Chapter 143B of the General Statutes is  
44 repealed.

#### 45 **JUVENILE CRIME PREVENTION COUNCIL (JCPC) GRANT REPORTING AND** 46 **CERTIFICATION**

47 **SECTION 18.7.** On or before October 1 of each year, the Department of Juvenile  
48 Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on  
49

1 Governmental Operations and the Appropriations Committees of the Senate and House of  
2 Representatives a list of the recipients of the grants awarded, or preapproved for award, from  
3 funds appropriated to the Department for local Juvenile Crime Prevention Council grants,  
4 including:

- 5 (1) The amount of the grant awarded.
- 6 (2) The membership of the local committee or council administering the award  
7 funds on the local level.
- 8 (3) The type of program funded.
- 9 (4) A short description of the local services, programs, or projects that will  
10 receive funds.
- 11 (5) Identification of any programs that received grant funds at one time but for  
12 which funding has been eliminated by the Department.
- 13 (6) The number of at-risk, diverted, and adjudicated juveniles served by each  
14 county.
- 15 (7) The Department's actions to ensure that county JCPCs prioritize funding for  
16 dispositions of intermediate and community-level sanctions for  
17 court-adjudicated juveniles under minimum standards adopted by the  
18 Department.
- 19 (8) The total cost for each funded program, including the cost per juvenile and  
20 the essential elements of the program.

21 A written copy of the list and other information regarding the projects shall also be  
22 sent to the Fiscal Research Division of the General Assembly.

## 23 24 **PART XIX. DEPARTMENT OF CORRECTION**

### 25 26 **INMATE ROAD SQUADS AND LITTER CREWS**

27 **SECTION 19.1.** Of the funds appropriated to the Department of Transportation in  
28 this act, the sum of eleven million three hundred thousand dollars (\$11,300,000) per year shall  
29 be transferred by the Department to the Department of Correction during the 2009-2010 and  
30 2010-2011 fiscal years for the cost of operating medium custody inmate road squads, as  
31 authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be  
32 made quarterly in the amount of two million eight hundred twenty-five thousand dollars  
33 (\$2,825,000). The Department of Transportation may use funds appropriated in this act to pay  
34 an additional amount exceeding the eleven million three hundred thousand dollars  
35 (\$11,300,000), but those payments shall be subject to negotiations among the Department of  
36 Transportation, the Department of Correction, and the Office of State Budget and Management  
37 prior to payment by the Department of Transportation.

38 The Office of State Budget and Management shall conduct a study, in consultation  
39 with the Department of Correction and the Department of Transportation, to determine the  
40 actual cost and cost/benefit of operating medium custody road squads and minimum custody  
41 litter crews. The Office of State Budget and Management shall report the results of this study to  
42 the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee  
43 and to the Joint Legislative Transportation Oversight Committee by March 1, 2010. The study  
44 shall include a recommendation on whether or not the amount transferred from the Department  
45 of Transportation to the Department of Correction for this work is adequate.

### 46 47 **FEDERAL GRANT REPORTING**

48 **SECTION 19.2.** The Department of Correction, the Department of Justice, the  
49 Department of Crime Control and Public Safety, the Judicial Department, and the Department  
50 of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint  
51 Legislative Commission on Governmental Operations, the Chairs of the House of



1 Representatives and Senate Appropriations Committees, and the Chairs of the House of  
2 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on  
3 federal grant funds received or preapproved for receipt by those departments. The report shall  
4 include information on the amount of grant funds received or preapproved for receipt by each  
5 department, the use of the funds, the State match expended to receive the funds, and the period  
6 to be covered by each grant. If the department intends to continue the program beyond the end  
7 of the grant period, the department shall report on the proposed method for continuing the  
8 funding of the program at the end of the grant period. Each department shall also report on any  
9 information it may have indicating that the State will be requested to provide future funding for  
10 a program presently supported by a local grant.

11  
12 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**  
13 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**  
14 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

15 **SECTION 19.3.** Notwithstanding G.S. 143C-6-9, the Department of Correction  
16 may use funds available to the Department for the 2009-2011 biennium to pay the sum of forty  
17 dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted  
18 inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as  
19 provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative  
20 Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control,  
21 and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and  
22 Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate  
23 Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to  
24 reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail  
25 backlog.

26  
27 **USE OF CLOSED PRISON FACILITIES**

28 **SECTION 19.4.(a)** In conjunction with the closing of prison facilities, including  
29 small expensive prison units recommended for consolidation by the Government Performance  
30 Audit Committee, the Department of Correction shall consult with the county or municipality  
31 in which the unit is located, with the elected State and local officials, and with State and federal  
32 agencies about the possibility of converting that unit to other use. The Department may also  
33 consult with any private for-profit or nonprofit firm about the possibility of converting the unit  
34 to other use. In developing a proposal for future use of each unit, the Department shall give  
35 priority to converting the unit to other criminal justice use. Consistent with existing law and the  
36 future needs of the Department of Correction, the State may provide for the transfer or the lease  
37 of any of these units to counties, municipalities, State agencies, or private firms wishing to  
38 convert them to other use. The Department of Correction may also consider converting some of  
39 the units recommended for closing from one security custody level to another, where that  
40 conversion would be cost-effective. A prison unit under lease to a county pursuant to the  
41 provisions of this section for use as a jail is exempt for the period of the lease from any of the  
42 minimum standards adopted by the Secretary of Health and Human Services pursuant to  
43 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater  
44 standards than those required of a unit of the State prison system.

45 Prior to any transfer or lease of these units, the Department of Correction shall  
46 report on the terms of the proposed transfer or lease to the Joint Legislative Commission on  
47 Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile  
48 Justice Oversight Committee. The Department of Correction also shall provide annual  
49 summary reports to the Joint Legislative Commission on Governmental Operations and the  
50 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the

1 conversion of these units to other use and on all leases or transfers entered into pursuant to this  
2 section.

3 **SECTION 19.4.(b)** The Department of Correction shall study the feasibility of  
4 establishing probation revocation centers at closed prison facilities. The Department shall  
5 consult with counties to explore cost-sharing of these facilities. The Department shall report its  
6 findings to the Chairs of the Appropriations Subcommittees on Justice and Public Safety by  
7 February 1, 2010.

#### 9 **LIMIT USE OF OPERATIONAL FUNDS**

10 **SECTION 19.5.** Funds appropriated in this act to the Department of Correction for  
11 operational costs for additional facilities shall be used for personnel and operating expenses set  
12 forth in the budget approved by the General Assembly in this act. These funds shall not be  
13 expended for any other purpose, except as provided for in this act, and shall not be expended  
14 for additional prison personnel positions until the new facilities are within 120 days of  
15 projected completion, except that the Department may establish critical positions prior to 120  
16 days of completion representing no more than twenty percent (20%) of the total estimated  
17 number of positions.

#### 18 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

19 **SECTION 19.6.** The Department of Correction may continue to contract with The  
20 Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison  
21 beds for minimum security female inmates during the 2009-2011 biennium. The Center for  
22 Community Transitions, Inc., shall report by February 1 of each year to the Joint Legislative  
23 Commission on Governmental Operations on the annual cost per inmate and the average daily  
24 inmate population compared to bed capacity using the same methodology as that used by the  
25 Department of Correction.

#### 26 **INMATE MEDICAL COSTS**

27 **SECTION 19.7.** Notwithstanding the provisions of G.S. 143C-6-9, the Department  
28 of Correction may use funds available during the 2009-2011 biennium for the inmate medical  
29 program if expenditures are projected to exceed the Department's inmate medical continuation  
30 budget. The Department shall consult with the Joint Legislative Commission on Governmental  
31 Operations prior to exceeding the continuation budget amount.

#### 32 **PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE** 33 **PROGRAM/MEDICAL RELEASE PROGRAM**

34 **SECTION 19.8.(a)** The Post-Release Supervision and Parole Commission shall,  
35 with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the  
36 Department of Correction, analyze the amount of time each inmate who is eligible for parole on  
37 or before July 1, 2010, has served compared to the time served by offenders under Structured  
38 Sentencing for comparable crimes. The Commission shall determine if the person has served  
39 more time in custody than the person would have served if sentenced to the maximum sentence  
40 under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum  
41 sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of  
42 this section.

43 **SECTION 19.8.(b)** For the purposes of this section, the following rules apply for  
44 the calculation of the maximum sentence:

- 45 (1) The offense upon which the person was convicted shall be classified as the  
46 same felony class as the offense would have been classified if committed  
47 after the effective date of Article 81B of Chapter 15A of the General  
48 Statutes.

1 (2) The minimum sentence shall be the maximum number of months in the  
2 presumptive range of minimum durations in Prior Record Level VI of  
3 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)  
4 of this subsection. The maximum sentence shall be calculated using  
5 G.S. 15A-1340.17(d), (e), or (e1).

6 (3) If a person is serving sentences for two or more offenses that are concurrent  
7 in any respect, then the offense with the greater classification shall be used  
8 to determine a single maximum sentence for the concurrent offenses. The  
9 fact that the person has been convicted of multiple offenses may be  
10 considered by the Commission in making its determinations under  
11 subsection (a) of this section.

12 **SECTION 19.8.(c)** The Post-Release Supervision and Parole Commission shall  
13 report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
14 Committee and to the Chairs of the House of Representatives and Senate Appropriations  
15 Committees, and the Chairs of the House of Representatives and Senate Appropriations  
16 Subcommittees on Justice and Public Safety by April 1, 2010. The report shall include the  
17 following: the class of the offense for which each parole-eligible inmate was convicted and  
18 whether an inmate had multiple criminal convictions. The Commission shall reinstate the  
19 parole review process for each offender who has served more time than that person would have  
20 under Structured Sentencing as provided by subsections (a) and (b) of this section.

21 The Commission shall also report on the number of parole-eligible inmates  
22 reconsidered in compliance with this section and the number who were actually paroled.

23 **SECTION 19.8.(d)** The Department of Correction and the Post-Release  
24 Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the  
25 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
26 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
27 Committee on the number of inmates enrolled in the mutual agreement parole program, the  
28 number completing the program and being paroled, and the number who enrolled but were  
29 terminated from the program. The information should be based on the previous calendar year.

30 **SECTION 19.8.(e)** The Department of Correction and the Post-Release  
31 Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the  
32 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
33 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
34 Committee on the number of inmates proposed for release, considered for release, and granted  
35 release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical  
36 release of inmates who are either permanently and totally disabled, terminally ill, or geriatric.

## 37 38 **FEDERAL GRANT MATCHING FUNDS**

39 **SECTION 19.9.** Notwithstanding the provisions of G.S. 143C-6-9, the Department  
40 of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000)  
41 during the 2009-2010 fiscal year from funds available to the Department to provide the State  
42 match needed in order to receive federal grant funds. Prior to using funds for this purpose, the  
43 Department shall report to the Chairs of the House of Representatives and Senate  
44 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
45 Commission on Governmental Operations on the grants to be matched using these funds.

## 46 47 **REPORTS ON NONPROFIT PROGRAMS**

48 **SECTION 19.10.(a)** Funds appropriated in this act to the Department of Correction  
49 to support the programs of Harriet's House may be used for program operating costs, the  
50 purchase of equipment, and the rental of real property to serve women released from prison  
51 with children in their custody. Harriet's House shall report by February 1 of each year to the

1 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and  
2 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
3 Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of  
4 the program, including information on the number of clients served, the number of clients who  
5 successfully complete the Harriet's House program, and the number of clients who have been  
6 rearrested within three years of successfully completing the program. The report shall provide  
7 financial and program data for the complete fiscal year prior to the year in which the report is  
8 submitted. The financial report shall identify all funding sources and amounts.

9 **SECTION 19.10.(b)** Summit House shall report by February 1 of each year to the  
10 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and  
11 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
12 Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of  
13 the program, including information on the number of clients served, the number of clients who  
14 have had their probation revoked, the number of clients who successfully complete the program  
15 while housed at Summit House, Inc., and the number of clients who have been rearrested  
16 within three years of successfully completing the program. The report shall provide financial  
17 and program data for the complete fiscal year prior to the year in which the report is submitted.  
18 The financial report shall identify all funding sources and amounts.

19 **SECTION 19.10.(c)** Women at Risk shall report by February 1 of each year to the  
20 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and  
21 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
22 Justice and Public Safety on the expenditure of State funds and on the effectiveness of the  
23 program, including information on the number of clients served, the number of clients who  
24 have had their probation revoked, the number of clients who have successfully completed the  
25 program, and the number of clients who have been rearrested within three years of successfully  
26 completing the program. The report shall provide financial and program data for the complete  
27 fiscal year prior to the year in which the report is submitted. The financial report shall identify  
28 all funding sources and amounts.

29 **SECTION 19.10.(d)** Our Children's Place shall report by February 1 of each year  
30 to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee  
31 and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
32 Justice and Public Safety on the status of the planning, design, and construction of Our  
33 Children's Place, the proposed program components and evaluation measures, and on the  
34 projected number of inmates and their children to be served. The report shall also provide  
35 financial data, including the expenditure of State funds and all funding sources and amounts.

## 36 37 **CRIMINAL JUSTICE PARTNERSHIP**

38 **SECTION 19.11.(a)** G.S. 143B-273.4 reads as rewritten:

### 39 **"§ 143B-273.4. Eligible population.**

40 (a) An eligible offender is an adult offender who ~~was convicted of a misdemeanor or a~~  
41 ~~felony offense~~ either is in confinement awaiting trial or was convicted of a misdemeanor or a  
42 felony offense and received a nonincarcerative sentence of an intermediate punishment or is  
43 serving a term of parole or post-release supervision after serving an active sentence of  
44 imprisonment.

45 (b) The priority populations for programs funded under this Article shall ~~be offenders~~  
46 be:

47 (1) Offenders sentenced to intermediate ~~punishments.~~ punishments; and

48 (2) Offenders who are appropriate for release from jail prior to trial under the  
49 supervision of a pretrial monitoring program."

1           **SECTION 19.11.(b)** Notwithstanding any other provision of law, a county may  
2 use funds appropriated pursuant to the Criminal Justice Partnership Act, Article 6A of Chapter  
3 143B of the General Statutes, to provide more than one community-based corrections program.

4           **SECTION 19.11.(c)** Effective July 1, 2009, the Department of Correction shall  
5 recalculate the county allocation funding formula mandated under G.S. 143B-273.15 using  
6 updated data.

7           **SECTION 19.11.(d)** Notwithstanding the provisions of G.S. 143B-273.15  
8 specifying that grants to participating counties are for the full fiscal year and that unobligated  
9 funds are returned to the State-County Criminal Justice Partnership Account at the end of the  
10 grant period, the Department of Correction may reallocate unspent or unclaimed funds  
11 distributed to counties participating in the State-County Criminal Justice Partnership Program  
12 in an effort to maintain the level of services realized in previous fiscal years.

13           **SECTION 19.11.(e)** The Department of Correction may not deny funds to a county  
14 to support both a residential program and a day reporting center if the Department of  
15 Correction determines that the county has a demonstrated need and a fully developed plan for  
16 each type of sanction.

17           **SECTION 19.11.(f)** The Department of Correction shall report by March 1 of each  
18 year to the Chairs of the House of Representatives and Senate Appropriations Committees, the  
19 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
20 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
21 Committee on the status of the State-County Criminal Justice Partnership Program. The report  
22 shall include the following information:

- 23           (1) The amount of funds carried over from the prior fiscal year;
  - 24           (2) The dollar amount and purpose of grants awarded to counties as  
25 discretionary grants for the current fiscal year;
  - 26           (3) Any counties the Department anticipates will submit requests for new  
27 implementation grants;
  - 28           (4) An update on efforts to ensure that all counties make use of the electronic  
29 reporting system, including the number of counties submitting offender  
30 participation data via the system;
  - 31           (5) An analysis of offender participation data received, including data on each  
32 program's utilization and capacity;
  - 33           (6) An analysis of comparable programs prepared by the Division of Research  
34 and Planning, Department of Correction, including a comparison of  
35 programs in each program type on selected outcome measures developed by  
36 the Division of Community Corrections in consultation with the Fiscal  
37 Research Division and the Division of Research and Planning, and a  
38 summary of the reports prepared by county Criminal Justice Partnerships  
39 Advisory Boards;
  - 40           (7) A review of whether each sentenced offender program is meeting established  
41 program goals developed by the Division of Community Corrections in  
42 consultation with the Division of Research and Planning and the State  
43 Criminal Justice Partnership Advisory Board;
  - 44           (8) The number of community offenders and intermediate offenders served by  
45 each county program;
  - 46           (9) The amount of Criminal Justice Partnership funds spent on community  
47 offenders and intermediate offenders; and
  - 48           (10) A short description of the services and programs provided by each  
49 partnership, including who the service providers are and the amount of funds  
50 each service provider receives.
- 51

**REPORT ON PROBATION AND PAROLE CASELOADS**

**SECTION 19.12.(a)** The Department of Correction shall report by March 1 of each year to the chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages and district averages for probation/parole officer positions;
- (2) Data on current span of control for chief probation officers;
- (3) An analysis of the optimal caseloads for these officer classifications;
- (4) An assessment of the role of surveillance officers;
- (5) The number and role of paraprofessionals in supervising low-risk caseloads;
- (6) An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004 and 2008;
- (7) The process of assigning offenders to an appropriate supervision level based on a risk assessment and an examination of other existing resources for assessment and case planning, including the Sentencing Services Program in the Office of Indigent Defense Services and the range of screening and assessment services provided by the Division of Mental Health, Developmental Disability, and Substance Abuse Services in the Department of Health and Human Services; and
- (8) Data on cases supervised solely for the collection of court-ordered payments.

**SECTION 19.12.(b)** The Department of Correction shall conduct a study of probation/parole officer workload. The study shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

**SECTION 19.12.(c)** The Department of Correction shall report the results of the study and recommendations for any adjustments to caseload goals to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2011.

**SECTION 19.12.(d)** The Department of Correction shall report by March 1 of each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

- (1) The number of sex offenders enrolled on active and passive GPS monitoring.
- (2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
- (3) The number of violations.
- (4) The number of absconders.
- (5) The projected number of offenders to be enrolled by the end of the 2009-2010 fiscal year and the end of the 2010-2011 fiscal year.
- (6) The total cost of the program, including a per-offender cost.

**REPORT ON INMATE WELFARE AND CORRECTION ENTERPRISES**

**SECTION 19.13.** The Department of Correction, in consultation with the Office of State Budget and Management, shall study the feasibility of budgeting positions currently

1 funded from the Inmate Welfare Fund and the Correction Enterprise Fund from the General  
2 Fund instead. The Department shall report its findings by April 1, 2010, to the chairs of the  
3 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
4 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
5 Committee.

#### 6 7 **PRE-SENTENCE INVESTIGATIONS FEASIBILITY STUDY**

8 **SECTION 19.14.** The Office of Research and Planning of the Department of  
9 Correction shall conduct a feasibility study of conducting pre-sentence investigations on all  
10 offenders convicted of felonies for which the sentencing judge has the option of intermediate or  
11 active punishments. This feasibility study shall be conducted as a pilot implementation,  
12 incorporating a variety of districts across the State reflecting both rural and urban settings, as  
13 well as diversity of programming available within the district.

14 The Office of Research and Planning shall report the results of its study by May 1,  
15 2010, to the Chairs of the House of Representatives and Senate Appropriations Committees, the  
16 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
17 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
18 Committee.

#### 19 20 **STUDY INCARCERATED MOTHERS PROGRAM**

21 **SECTION 19.15.(a)** Our Children's Place, Inc., a nonprofit corporation, shall  
22 submit to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
23 Committee by October 1, 2009, a comprehensive plan for the implementation of a contractual  
24 program to house incarcerated women with their children. This plan shall include criteria for  
25 placement, minimum standards for custody and security, and projections of costs for  
26 implementation, including presumptive funding sources and memoranda of intent from affected  
27 agencies.

28 **SECTION 19.15.(b)** The Joint Legislative Corrections, Crime Control, and  
29 Juvenile Justice Oversight Committee shall make recommendations to the 2010 Session of the  
30 2009 General Assembly concerning the establishment of a program to house incarcerated  
31 women with their children. These recommendations shall address legal issues related to the  
32 custody of the children while in the program.

#### 33 34 **PART XX. GENERAL GOVERNMENT**

#### 35 36 **GENERAL GOVERNMENT AGENCIES REPORT ALLOCATION OF** 37 **DEPARTMENTWIDE REDUCTIONS**

38 **SECTION 20.1.** No later than September 1, 2009, the following State agencies  
39 shall identify the allocation of departmentwide expenditure reductions for the 2009-2011 fiscal  
40 biennium and shall report the allocation of reductions to the Joint Legislative Commission on  
41 Governmental Operations, the Appropriations Subcommittees on General Government of the  
42 Senate and the House of Representatives, and the Fiscal Research Division:

- 43 (1) Administration.
- 44 (2) Auditor.
- 45 (3) Cultural Resources, including the allocation of 6.4% reduction to historic  
46 sites, maritime museums, and history museums.
- 47 (4) Cultural Resources – Roanoke Island Commission.
- 48 (5) General Assembly.
- 49 (6) Governor.
- 50 (7) Insurance.
- 51 (8) Lieutenant Governor.

- 1 (9) Administrative Hearings.
- 2 (10) Revenue.
- 3 (11) State Board of Elections.
- 4 (12) State Budget and Management.
- 5 (13) State Controller.
- 6 (14) Treasurer.

## 7 8 **PART XXA. DEPARTMENT OF ADMINISTRATION**

### 9 10 **NC GREEN BUSINESS FUND/FUNDS**

11 **SECTION 20A.1.** Of the funds received by the State under the American Recovery  
12 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,  
13 Department of Administration, for the 2009-2010 fiscal year, the sum of five million dollars  
14 (\$5,000,000) in nonrecurring funds shall be allocated to the North Carolina Green Business  
15 Fund in the Department of Commerce.

### 16 17 **BIOFUELS CENTER OF NORTH CAROLINA**

18 **SECTION 20A.2.** Of the funds received by the State under the American Recovery  
19 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,  
20 Department of Administration, for the 2009-2010 fiscal year, the sum of three million dollars  
21 (\$3,000,000) in nonrecurring funds shall be allocated to the Biofuels Center of North Carolina.  
22 These funds shall be used for costs related to implementing the North Carolina Strategic Plan  
23 for Biofuels Leadership developed under S.L. 2006-206.

### 24 25 **COASTAL SOUNDS WIND STUDY**

26 **SECTION 20A.3.** Of the funds received by the State under the American Recovery  
27 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,  
28 Department of Administration, for the 2009-2010 fiscal year, the sum of three hundred  
29 thousand dollars (\$300,000) in nonrecurring funds shall be allocated to The University of North  
30 Carolina. These funds shall be used for costs related to implementing the pilot project described  
31 in Section 9.14 of this act.

## 32 33 **PART XXI. DEPARTMENT OF INSURANCE**

### 34 35 **SET INSURANCE REGULATORY CHARGE**

36 **SECTION 21.1.(a)** The percentage rate to be used in calculating the insurance  
37 regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2009 calendar  
38 year.

39 **SECTION 21.1.(b)** This section is effective when it becomes law.

## 40 41 **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

### 42 43 **STUDY OSBM, OSC, AND TREASURER CONSOLIDATION**

44 **SECTION 22.1.** The Office of State Budget and Management, after reviewing the  
45 constitutional duties of the Governor in preparing and executing the budget and the  
46 constitutional status of the duties of the office of State Treasurer, shall study the feasibility of  
47 consolidating the Office of State Controller, the Office of State Budget and Management, and  
48 some of the functions of the State Treasurer, or reallocating functions of those state agencies,  
49 all with the goal of achieving economies or improving management.

50 The Office of State Budget and Management, no later than April 1, 2010, shall  
51 report to the full chairs of the Senate and House Appropriations Committees and to the Fiscal



1 Research Division its findings and recommendations from the study required by the previous  
2 paragraph.

### 4 **PART XXIII. OFFICE OF THE STATE CONTROLLER**

#### 6 **OVERPAYMENTS AUDIT**

7 **SECTION 23.1.(a)** During the 2009-2011 biennium, receipts generated by the  
8 collection of inadvertent overpayments by State agencies to vendors as a result of pricing  
9 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,  
10 erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be  
11 deposited in the Special Reserve Account 24172.

12 **SECTION 23.1.(b)** For each year of the 2009-2011 biennium, five hundred  
13 thousand dollars (\$500,000) of the funds transferred from the Special Reserve Account 24172  
14 shall be used by the Office of the State Controller for data processing, debt collection, or  
15 e-commerce costs.

16 **SECTION 23.1.(c)** All funds available in the Special Reserve Account 24172 on  
17 July 1 of each year of the 2009-2011 biennium are transferred to the General Fund on that date.

18 **SECTION 23.1.(d)** Any unobligated funds in the Special Reserve Account 24172  
19 that are realized above the allowance in subsection (b) of this section are subject to  
20 appropriation by the General Assembly.

21 **SECTION 23.1.(e)** The State Controller shall report quarterly to the Joint  
22 Legislative Commission on Governmental Operations and the Fiscal Research Division on the  
23 revenue deposited into the Special Reserve Account 24172 and the disbursement of that  
24 revenue.

#### 26 **BEACON STAFF TO SUPPORT STATEWIDE ENTERPRISE TRAINING PROGRAM**

27 **SECTION 23.2.** For the 2009-2011 fiscal biennium, the Office of the State  
28 Controller shall use three hundred sixty-four thousand four hundred thirty-eight dollars  
29 (\$364,438) of existing BEACON funds to continue the following six full-time, time-limited  
30 training positions that are effective July 1, 2009, and that support the statewide enterprise  
31 training program established by Section 20.1 of S.L. 2008-107:

- 32 (1) Two Staff Development Specialists II (\$112,525).
- 33 (2) One BEACON University Trainer (\$70,928).
- 34 (3) One Technical Support Technician (\$64,708).
- 35 (4) One Administrative Support Specialist (\$45,347).
- 36 (5) One Business and Technology Application Technician (\$70,928).

### 38 **PART XXIV. DEPARTMENT OF THE SECRETARY OF STATE**

#### 40 **INCREASE REGISTRATION FEE RENEWAL FOR SECURITIES SALESMEN**

41 **SECTION 24.1.** G.S. 78A-37(b) reads as rewritten:

42 "(b) Every applicant for initial or renewal registration shall pay a filing fee of three  
43 hundred dollars (\$300.00) in the case of a dealer and ~~seventy five dollars (\$75.00)~~ one hundred  
44 dollars (\$100.00) in the case of a salesman. The Administrator may by rule reduce the  
45 registration fee proportionately when the registration will be in effect for less than a full year."  
46

#### 47 **CREATE SPECIAL FUND FOR AUCTION RATE SECURITIES INVESTIGATIONS** 48 **COSTS**

49 **SECTION 24.2.(a)** There is established the Auction Rate Securities Investigation  
50 Special Fund, which is a special fund created with the unexpended funds from the existing  
51 Auction Rate Securities (ARS) fund from fiscal year 2008-2009 for reimbursement of the costs

1 of investigations arising from the Department of the Secretary of State's administration of  
 2 Chapters 78A, 78C, and 78D of the General Statutes. The Auction Rate Securities Investigation  
 3 Special Fund shall be used to continue the Department's active participation in the North  
 4 American Securities Administrators Association (NASAA) ARS Task Force investigation into  
 5 the marketing of Auction Rate Securities by the regulated community to investors as well as the  
 6 remedies for harm arising from such marketing. Reimbursements paid by investment banks and  
 7 firms to the Department as part of the Department's involvement in the NASAA ARS Task  
 8 Force shall be deposited into the Auction Rate Securities Investigation Special Fund.

9 **SECTION 24.2.(b)** The maximum balance of the Auction Rate Securities  
 10 Investigation Special Fund shall be limited to three million two hundred thousand dollars  
 11 (\$3,200,000). If deposits from investment banks and firms paid as reimbursements for  
 12 investigation costs cause the fund to exceed three million two hundred thousand dollars  
 13 (\$3,200,000), then the amount exceeding three million two hundred thousand dollars  
 14 (\$3,200,000) shall immediately be transferred to the General Fund.

15 **SECTION 24.2.(c)** In the event that the Department of the Secretary of State  
 16 receives other monies as reimbursement for the costs of investigations into activities which are  
 17 not a part of the NASAA ARS Task Force, these monies shall also be deposited into the  
 18 Auction Rate Securities Special Fund and shall remain available to the Department for the  
 19 administration of Chapters 78A, 78C, and 78D of the General Statutes, subject to the  
 20 limitations on the Auction Rate Securities Investigation Special Fund's maximum balance in  
 21 subsection (b) of this section.

## 22

## 23 **PART XXV. DEPARTMENT OF TRANSPORTATION**

### 24

### 25 **CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND**

### 26 **APPROPRIATIONS**

27 **SECTION 25.1.(a)** The General Assembly authorizes and certifies anticipated  
 28 revenues of the Highway Fund as follows:

29	For Fiscal Year 2011-2012	\$1,736.5 million
30	For Fiscal Year 2012-2013	\$1,835.2 million
31	For Fiscal Year 2013-2014	\$1,945.3 million
32	For Fiscal Year 2014-2015	\$2,008.7 million

33 **SECTION 25.1.(b)** The General Assembly authorizes and certifies anticipated  
 34 revenues of the Highway Trust Fund as follows:

35	For Fiscal Year 2011-2012	\$ 950.4 million
36	For Fiscal Year 2012-2013	\$1,006.9 million
37	For Fiscal Year 2013-2014	\$1,066.4 million
38	For Fiscal Year 2014-2015	\$1,108.3 million

### 39

### 40 **MODIFY GLOBAL TRANSPARK DEBT**

41 **SECTION 25.2.** G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144,  
 42 Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, and Section 27.7 of S.L. 2007-323  
 43 reads as rewritten:

44 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated  
 45 in subsection (a) of this section in excess of the amount required to meet the current needs and  
 46 demands on such funds, selecting from among the following:

47 ...

- 48 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina  
 49 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed  
 50 twenty-five million dollars (\$25,000,000), that have a final maturity not later  
 51 than October 1, ~~2009~~ 2011. The obligations shall bear interest at the rate set

1 by the State Treasurer. No commitment to purchase obligations may be  
2 made pursuant to this subdivision after September 1, 1993, and no  
3 obligations may be purchased after September 1, 1994. In the event of a loss  
4 to the Escheat Fund by reason of an investment made pursuant to this  
5 subdivision, it is the intention of the General Assembly to hold the Escheat  
6 Fund harmless from the loss by appropriating to the Escheat Fund funds  
7 equivalent to the loss.

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

12 ...."

### 13 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

14 **SECTION 25.3.** Of the funds appropriated in this act to the Department of  
15 Transportation:

- 16  
17 (1) Fourteen million dollars (\$14,000,000) shall be allocated in each fiscal year  
18 for small construction projects recommended by the member of the Board of  
19 Transportation representing the Division in which the project is to be  
20 constructed in consultation with the Division Engineer and approved by the  
21 Board of Transportation. These funds shall be allocated equally in each  
22 fiscal year of the biennium among the 14 Highway Divisions for small  
23 construction projects.
- 24 (2) Thirteen million nine hundred fifty thousand dollars (\$13,950,000) in fiscal  
25 year 2009-2010 and thirteen million nine hundred fifty thousand dollars  
26 (\$13,950,000) in fiscal year 2010-2011 shall be used statewide for rural or  
27 small urban highway improvements and related transportation enhancements  
28 to public roads and public facilities, industrial access roads, and spot safety  
29 projects, including pedestrian walkways that enhance highway safety.  
30 Projects funded pursuant to this subdivision shall be approved by the  
31 Secretary of Transportation.

32 None of these funds used for rural secondary road construction are subject to the  
33 county allocation formulas in G.S. 136-44.5(b) and (c).

34 These funds are not subject to G.S. 136-44.7.

35 The Department of Transportation shall report to the members of the General  
36 Assembly on projects funded pursuant to this section in each member's district prior to the  
37 Board of Transportation's action. The Department shall make a quarterly comprehensive report  
38 on the use of these funds to the Joint Legislative Transportation Oversight Committee and the  
39 Fiscal Research Division.

### 40 **USE SECONDARY ROAD IMPROVEMENT FUNDS FOR HIGHWAY** 41 **MAINTENANCE IN FISCAL YEAR 2009-2010**

42 **SECTION 25.4.** Notwithstanding the provisions of G.S. 136-44.2A regarding the  
43 annual allocation of funds from the Highway Fund to the Department of Transportation for  
44 secondary road improvement programs, the funds required to be allocated for the secondary  
45 road improvement programs, established pursuant to G.S. 136-44.7 and G.S. 136-44.8, for  
46 fiscal year 2009-2010, shall remain in the Highway Fund for highway maintenance.  
47

### 48 **NC TURNPIKE AUTHORITY TRANSFERRED TO THE DEPARTMENT OF** 49 **TRANSPORTATION**

50 **SECTION 25.5.(a)** G.S. 136-89.182 reads as rewritten:  
51

1 "§ 136-89.182. North Carolina Turnpike Authority.

2 ...  
 3 (b) Administrative Placement. – The Authority shall be located within the Department  
 4 of Transportation for administrative purposes but shall exercise all of its powers independently  
 5 of the Department of Transportation except as otherwise specified in this Article. and shall be  
 6 subject to and under the direct supervision of the Secretary of Transportation.

7 ...  
 8 (d) Board of Transportation Members. – ~~No more than two members~~ Members of the  
 9 North Carolina Board of Transportation may serve as members of the Authority Board.

10 ...."  
 11 **SECTION 25.5.(b)** The transfer of the North Carolina Turnpike Authority to the  
 12 Department of Transportation has all the elements of a Type I transfer under G.S. 143A-6.

13  
 14 **ALLOW THE DEPARTMENT OF TRANSPORTATION TO REQUIRE FACILITIES**  
 15 **CONSTRUCTED WITHIN RIGHTS-OF-WAY TO BE CONSTRUCTED FROM**  
 16 **PERMEABLE PAVEMENT**

17 **SECTION 25.6.(a)** G.S. 136-18 is amended by adding a new subdivision to read:  
 18 "(41) The Department shall, prior to the beginning of construction, determine  
 19 whether all sidewalks and other facilities primarily intended for the use of  
 20 pedestrians and bicycles that are to be constructed within the right-of-way of  
 21 a public street or highway that is a part of the State highway system or an  
 22 urban highway system must be constructed of permeable pavement.  
 23 "Permeable pavement" means paving material that absorbs water or allows  
 24 water to infiltrate through the paving material. Permeable pavement  
 25 materials include porous concrete, permeable interlocking concrete pavers,  
 26 concrete grid pavers, porous asphalt, and any other material with similar  
 27 characteristics. Compacted gravel shall not be considered permeable  
 28 pavement."

29 **SECTION 25.6.(b)** This section becomes effective October 1, 2009, and applies to  
 30 facilities constructed on or after that date.

31  
 32 **PART XXVI. SALARIES AND BENEFITS**

33  
 34 **GOVERNOR AND COUNCIL OF STATE/NO SALARY INCREASES**

35 **SECTION 26.1.(a)** For the 2009-2010 and 2010-2011 fiscal years, the salary of the  
 36 Governor shall remain the amount set by G.S. 147-11(a).

37 **SECTION 26.1.(b)** The annual salaries for the members of the Council of State,  
 38 payable monthly, for the 2009-2010 and 2010-2011 fiscal years are:

Council of State	Annual Salary
Lieutenant Governor	\$123,198
Attorney General	123,198
Secretary of State	123,198
State Treasurer	123,198
State Auditor	123,198
Superintendent of Public Instruction	123,198
Agriculture Commissioner	123,198
Insurance Commissioner	123,198
Labor Commissioner	123,198

50  
 51 **NONELECTED DEPARTMENT HEAD/NO SALARY INCREASES**

1           **SECTION 26.2.** In accordance with G.S. 143B-9, the maximum annual salaries,  
2 payable monthly, for the nonelected heads of the principal State departments for the 2009-2010  
3 and 2010-2011 fiscal years are:

	Annual Salary
4           Nonelected Department Heads	
5           Secretary of Administration	\$120,363
6           Secretary of Correction	120,363
7           Secretary of Crime Control and Public Safety	120,363
8           Secretary of Cultural Resources	120,363
9           Secretary of Commerce	120,363
10          Secretary of Environment and Natural Resources	120,363
11          Secretary of Health and Human Services	120,363
12          Secretary of Juvenile Justice and	
13            Delinquency Prevention	120,363
14          Secretary of Revenue	120,363
15          Secretary of Transportation	120,363
16	
17	

18           **CERTAIN EXECUTIVE BRANCH OFFICIALS/NO SALARY INCREASES**

19           **SECTION 26.3.** The annual salaries, payable monthly, for the 2009-2010 and  
20 2010-2011 fiscal years for the following executive branch officials are:

	Annual Salary
21          Executive Branch Officials	
22          Chairman, Alcoholic Beverage Control Commission	\$109,553
23          State Controller	153,319
24          Commissioner of Motor Vehicles	109,553
25          Commissioner of Banks	123,198
26          State Personnel Director	120,363
27          Chairman, Parole Commission	100,035
28          Members of the Parole Commission	46,178
29          Chairman, Utilities Commission	137,203
30          Members of the Utilities Commission	123,198
31          Executive Director, Agency for	
32            Public Telecommunications	92,356
33          Director, Museum of Art	112,256
34          Executive Director, North Carolina	
35            Agricultural Finance Authority	106,635
36          State Chief Information Officer	153,227
37	
38	

39           **JUDICIAL BRANCH OFFICIALS/NO SALARY INCREASES**

40           **SECTION 26.4.(a)** The annual salaries, payable monthly, for specified judicial  
41 branch officials for the 2009-2010 and 2010-2011 fiscal years are:

	Annual Salary
42          Judicial Branch Officials	
43          Chief Justice, Supreme Court	\$140,932
44          Associate Justice, Supreme Court	137,249
45          Chief Judge, Court of Appeals	135,061
46          Judge, Court of Appeals	131,531
47          Judge, Senior Regular Resident Superior Court	127,957
48          Judge, Superior Court	124,382
49          Chief Judge, District Court	112,946
50          Judge, District Court	109,372
51	

1	District Attorney	119,305
2	Administrative Officer of the Courts	126,738
3	Assistant Administrative Officer of the Courts	115,763
4	Public Defender	119,305
5	Director of Indigent Defense Services	123,022

6  
7       **SECTION 26.4.(b)** The district attorney or public defender of a judicial district,  
8 with the approval of the Administrative Officer of the Courts or the Commission on Indigent  
9 Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant  
10 public defenders, respectively, in that district such that the average salaries of assistant district  
11 attorneys or assistant public defenders in that district do not exceed seventy thousand nine  
12 hundred forty-six dollars (\$70,946), and the minimum salary of any assistant district attorney or  
13 assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars  
14 (\$37,182). The annual salaries in effect on June 30, 2009, shall remain at the same amount for  
15 the 2009-2010 and 2010-2011 fiscal years.

16       **SECTION 26.4.(c)** The annual salaries in effect on June 30, 2009, for permanent,  
17 full-time employees of the Judicial Department whose salaries are not itemized in this act shall  
18 remain in effect for the 2009-2010 and 2010-2011 fiscal years.

19       **SECTION 26.4.(d)** The annual salaries in effect on June 30, 2009, for permanent,  
20 part-time employees of the Judicial Department whose salaries are not itemized in this act, shall  
21 remain in effect for the 2009-2010 and 2010-2011 fiscal years.

#### 22 23 **CLERK OF SUPERIOR COURT/NO SALARY INCREASES**

24       **SECTION 26.5.** The annual salaries of the clerks of superior court provided by  
25 G.S. 7A-101(a) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

#### 26 27 **ASSISTANT AND DEPUTY CLERKS OF COURT/NO SALARY INCREASES**

28       **SECTION 26.6.** The annual salaries of the assistant and deputy clerks of superior  
29 court provided by G.S. 7A-102(c1) shall remain in effect for the 2009-2010 and 2010-2011  
30 fiscal years, and there shall not be a step increase.

#### 31 32 **MAGISTRATES/ NO SALARY INCREASES**

33       **SECTION 26.7.** The annual salaries of magistrates provided by G.S. 7A-171.1(a)  
34 shall remain in effect for the 2009-2010 and 2010-2011 fiscal years, and there shall not be a  
35 step increase.

#### 36 37 **GENERAL ASSEMBLY PRINCIPAL CLERKS/NO SALARY INCREASES**

38       **SECTION 26.8.** The annual salaries of the General Assembly principal clerks  
39 provided by G.S. 120-37(c) shall remain in effect for the 2009-2010 and 2010-2011 fiscal  
40 years.

#### 41 42 **SERGEANT-AT-ARMS AND READING CLERKS/NO SALARY INCREASES**

43       **SECTION 26.9.** The annual salaries of the General Assembly sergeants-at-arms  
44 and reading clerks provided by G.S. 120-37(b) shall remain in effect for the 2009-2010 and  
45 2010-2011 fiscal years.

#### 46 47 **LEGISLATIVE EMPLOYEES/NO SALARY INCREASES**

48       **SECTION 26.10.** The Legislative Services Officer shall not increase the salaries of  
49 nonelected employees of the General Assembly in effect on June 30, 2009. Except as  
50 specifically provided in this section, nothing in this act limits any of the provisions of  
51 G.S. 120-32.

**COMMUNITY COLLEGES PERSONNEL/NO SALARY INCREASES**

**SECTION 26.11.(a)** The annual salaries in effect on June 30, 2009, for faculty, except as otherwise provided by Section 8.1 of this act, and for all permanent, full-time community college institutional personnel supported by State funds, shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

**SECTION 26.11.(b)** The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.
- (3) Bachelor's Degree.
- (4) Master's Degree or Education Specialist.
- (5) Doctoral Degree.

**SECTION 26.11.(c)** For the 2009-2010 and 2010-2011 school years, the minimum salaries for nine-month, full-time curriculum community college faculty shall not be increased and shall remain as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	\$34,819
Bachelor's Degree	\$37,009
Master's Degree or Education Specialist	\$38,952
Doctoral Degree	\$41,753

No full-time faculty member shall earn less than the minimum salary for his or her education level. The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

**UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA NO SALARY INCREASES**

**SECTION 26.12(a)** Of funds appropriated to the Faculty Recruiting and Retention Fund under the Office of the President of the University of North Carolina, allocations from the fund shall be made for salary increases at the discretion of the President of the University of North Carolina only for the purpose of recruiting and retaining faculty members as necessary at constituent institutions.

**SECTION 26.12.(b)** The annual salaries in effect on June 30, 2009, for all employees of The University of North Carolina supported by State funds, and for employees of the North Carolina School of Science and Mathematics shall remain in effect for the 2009-2010 and 2010-2011 fiscal years except for faculty as otherwise provided by the Faculty Recruiting and Retention Fund or the Distinguished Professors Endowment Fund.

**MOST STATE EMPLOYEES/NO SALARY INCREASES**

**SECTION 26.13.(a)** The salaries in effect June 30, 2009, of all permanent, full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund, shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

**SECTION 26.13.(b)** Except as otherwise provided in this act, the salaries in effect on June 30, 2009, for permanent, full-time State officials and persons in exempt positions that are recommended by the Governor and set by the General Assembly shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.





1	19	\$4,403	\$4,931
2	20	\$4,461	\$4,996
3	21	\$4,523	\$5,066
4	22	\$4,584	\$5,134
5	23	\$4,650	\$5,208
6	24	\$4,714	\$5,280
7	25	\$4,779	\$5,352
8	26	\$4,845	\$5,426
9	27	\$4,913	\$5,503
10	28	\$4,984	\$5,582
11	29	\$5,055	\$5,662
12	30	\$5,153	\$5,771
13	31+	\$5,255	\$5,886

2009-2010 Monthly Salary Schedule

"M" Teachers

17	Years of Experience	"M" Teachers	NBPTS Certification
18	0	\$3,347	N/A
19	1	\$3,394	N/A
20	2	\$3,442	N/A
21	3	\$3,590	\$4,021
22	4	\$3,744	\$4,193
23	5	\$3,892	\$4,359
24	6	\$4,034	\$4,518
25	7	\$4,148	\$4,646
26	8	\$4,201	\$4,705
27	9	\$4,255	\$4,766
28	10	\$4,310	\$4,827
29	11	\$4,364	\$4,888
30	12	\$4,420	\$4,950
31	13	\$4,476	\$5,013
32	14	\$4,534	\$5,078
33	15	\$4,594	\$5,145
34	16	\$4,654	\$5,212
35	17	\$4,715	\$5,281
36	18	\$4,780	\$5,354
37	19	\$4,843	\$5,424
38	20	\$4,907	\$5,496
39	21	\$4,975	\$5,572
40	22	\$5,042	\$5,647
41	23	\$5,115	\$5,729
42	24	\$5,185	\$5,807
43	25	\$5,257	\$5,888
44	26	\$5,330	\$5,970
45	27	\$5,404	\$6,052
46	28	\$5,482	\$6,140
47	29	\$5,561	\$6,228
48	30	\$5,668	\$6,348
49	31+	\$5,781	\$6,475

**SECTION 26.15.(b)** Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

**SECTION 26.15.(c)** Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

**SECTION 26.15.(d)** The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

**SECTION 26.15.(e)** Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

**SECTION 26.15.(f)** Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

**SECTION 26.15.(g)** As used in this section, the term "teacher" shall also include instructional support personnel.

**SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE**

**SECTION 26.16.(a)** The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2009-2010 fiscal year, commencing July 1, 2009, is as follows:

2009-2010 Principal and Assistant Principal Salary Schedules

Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
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1	0-4	\$3,781	-	-	-	-
2	5	\$3,931	-	-	-	-
3	6	\$4,074	-	-	-	-
4	7	\$4,189	-	-	-	-
5	8	\$4,243	\$4,243	-	-	-
6	9	\$4,298	\$4,298	-	-	-
7	10	\$4,353	\$4,353	\$4,408	-	-
8	11	\$4,408	\$4,408	\$4,464	-	-
9	12	\$4,464	\$4,464	\$4,521	\$4,579	-
10	13	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
11	14	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
12	15	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
13	16	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
14	17	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
15	18	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
16	19	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
17	20	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
18	21	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
19	22	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
20	23	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
21	24	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
22	25	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
23	26	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
24	27	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
25	28	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
26	29	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
27	30	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
28	31	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
29	32	-	\$5,956	\$6,075	\$6,197	\$6,321
30	33	-	-	\$6,197	\$6,321	\$6,447
31	34	-	-	\$6,321	\$6,447	\$6,576
32	35	-	-	-	\$6,576	\$6,708
33	36	-	-	-	\$6,708	\$6,842
34	37	-	-	-	-	\$6,979

2009-2010 Principal and Assistant Principal Salary Schedules

Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	\$4,828	-	-	-
15	\$4,891	-	-	-
16	\$4,956	\$5,025	-	-
17	\$5,025	\$5,092	\$5,237	-
18	\$5,092	\$5,166	\$5,310	\$5,383
19	\$5,166	\$5,237	\$5,383	\$5,458
20	\$5,237	\$5,310	\$5,458	\$5,537
21	\$5,310	\$5,383	\$5,537	\$5,617
22	\$5,383	\$5,458	\$5,617	\$5,725
23	\$5,458	\$5,537	\$5,725	\$5,839
24	\$5,537	\$5,617	\$5,839	\$5,956
25	\$5,617	\$5,725	\$5,956	\$6,075

1	26	\$5,725	\$5,839	\$6,075	\$6,197
2	27	\$5,839	\$5,956	\$6,197	\$6,321
3	28	\$5,956	\$6,075	\$6,321	\$6,447
4	29	\$6,075	\$6,197	\$6,447	\$6,576
5	30	\$6,197	\$6,321	\$6,576	\$6,708
6	31	\$6,321	\$6,447	\$6,708	\$6,842
7	32	\$6,447	\$6,576	\$6,842	\$6,979
8	33	\$6,576	\$6,708	\$6,979	\$7,119
9	34	\$6,708	\$6,842	\$7,119	\$7,261
10	35	\$6,842	\$6,979	\$7,261	\$7,406
11	36	\$6,979	\$7,119	\$7,406	\$7,554
12	37	\$7,119	\$7,261	\$7,554	\$7,705
13	38	\$7,261	\$7,406	\$7,705	\$7,859
14	39	-	\$7,554	\$7,859	\$8,016
15	40	-	\$7,705	\$8,016	\$8,176
16	41	-	-	\$8,176	\$8,340

**SECTION 26.16.(b)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

**SECTION 26.16.(c)** A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

**SECTION 26.16.(d)** Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

1           **SECTION 26.16.(e)** Longevity pay for principals and assistant principals shall be  
2 as provided for State employees under the State Personnel Act.

3           **SECTION 26.16.(f)** If a principal is reassigned to a higher job classification  
4 because the principal is transferred to a school within a local school administrative unit with a  
5 larger number of State-allotted teachers, the principal shall be placed on the salary schedule as  
6 if the principal had served the principal's entire career as a principal at the higher job  
7 classification.

8           If a principal is reassigned to a lower job classification because the principal is  
9 transferred to a school within a local school administrative unit with a smaller number of  
10 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal  
11 had served the principal's entire career as a principal at the lower job classification.

12           This subsection applies to all transfers on or after the effective date of this section,  
13 except transfers in school systems that have been created, or will be created, by merging two or  
14 more school systems. Transfers in these merged systems are exempt from the provisions of this  
15 subsection for one calendar year following the date of the merger.

16           **SECTION 26.16.(g)** Participants in an approved full-time master's in school  
17 administration program shall receive up to a 10-month stipend at the beginning salary of an  
18 assistant principal during the internship period of the master's program. For the 2006-2007  
19 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the  
20 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any  
21 fellowship funds received by the intern as a full-time student, including awards of the Principal  
22 Fellows Program. The Principal Fellows Program or the school of education where the intern  
23 participates in a full-time master's in school administration program shall supply the  
24 Department of Public Instruction with certification of eligible full-time interns.

25           **SECTION 26.16.(h)** During the 2009-2010 fiscal year, the placement on the salary  
26 schedule of an administrator with a one-year provisional assistant principal's certificate shall be  
27 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary  
28 schedule, whichever is higher.

## 30   **CENTRAL OFFICE SALARIES**

31           **SECTION 26.17.(a)** The monthly salary ranges that follow apply to assistant  
32 superintendents, associate superintendents, directors/coordinators, supervisors, and finance  
33 officers for the 2009-2010 fiscal year, beginning July 1, 2009.

34	School Administrator I	\$3,309	\$6,207
35	School Administrator II	\$3,508	\$6,583
36	School Administrator III	\$3,724	\$6,984
37	School Administrator IV	\$3,874	\$7,262
38	School Administrator V	\$4,030	\$7,556
39	School Administrator VI	\$4,275	\$8,013
40	School Administrator VII	\$4,447	\$8,336

41           The local board of education shall determine the appropriate category and  
42 placement for each assistant superintendent, associate superintendent, director/coordinator,  
43 supervisor, or finance officer within the salary ranges and within funds appropriated by the  
44 General Assembly for central office administrators and superintendents. The category in which  
45 an employee is placed shall be included in the contract of any employee.

46           **SECTION 26.17.(b)** The monthly salary ranges that follow apply to public school  
47 superintendents for the 2009-2010 fiscal year, beginning July 1, 2009.

48	Superintendent I	\$4,720	\$8,843
49	Superintendent II	\$5,011	\$9,377
50	Superintendent III	\$5,316	\$9,948
51	Superintendent IV	\$5,642	\$10,552

1 Superintendent V \$5,988 \$11,196

2 The local board of education shall determine the appropriate category and  
3 placement for the superintendent based on the average daily membership of the local school  
4 administrative unit and within funds appropriated by the General Assembly for central office  
5 administrators and superintendents.

6 **SECTION 26.17.(c)** Longevity pay for superintendents, assistant superintendents,  
7 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as  
8 provided for State employees under the State Personnel Act.

9 **SECTION 26.17.(d)** Superintendents, assistant superintendents, associate  
10 superintendents, directors/coordinators, supervisors, and finance officers with certification  
11 based on academic preparation at the six-year degree level shall receive a salary supplement of  
12 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided  
13 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,  
14 directors/coordinators, supervisors, and finance officers with certification based on academic  
15 preparation at the doctoral degree level shall receive a salary supplement of two hundred  
16 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this  
17 section.

18 **SECTION 26.17.(e)** The State Board of Education shall not permit local school  
19 administrative units to transfer State funds from other funding categories for salaries for public  
20 school central office administrators.

21 **SECTION 26.17.(f)** The salaries in effect June 30, 2009, for all permanent  
22 full-time personnel paid from the Central Office Allotment, shall remain in effect for the  
23 2009-2010 and 2010-2011 fiscal years.

#### 24 25 **NONCERTIFIED SCHOOL PERSONNEL SALARIES**

26 **SECTION 26.18.(a)** The salaries in effect June 30, 2009, of permanent, full-time  
27 noncertified public school employees whose salaries are supported from the State's General  
28 Fund shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

29 **SECTION 26.18.(b)** The salaries in effect on June 30, 2009, for all permanent  
30 part-time noncertified public school employees whose salaries are supported from the State's  
31 General Fund shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

32 **SECTION 26.18.(c)** The Director of the Budget may allocate out of special  
33 operating funds or from other sources of the employing agency, except tax revenues, sufficient  
34 funds to maintain salaries in accordance with subsection (a) or (b) of this section including  
35 funds for the employer's retirement and social security contributions for the permanent full-time  
36 and part-time employees of the agency, provided the employing agency elects to make  
37 available the necessary funds.

#### 38 39 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY** 40 **SCHEDULES**

41 **SECTION 26.19.** Effective July 1, 2009, any permanent certified personnel  
42 employed on July 1, 2009, and paid on the teacher salary schedule with 31+ years of experience  
43 shall receive a one-time bonus equivalent to one and eight-tenths percent (1.8%). Effective  
44 July 1, 2009, any permanent personnel employed on July 1, 2009, and paid at the top of the  
45 principal and assistant principal salary schedule shall receive a one-time bonus equivalent to  
46 two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro  
47 rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

#### 48 49 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

50 **SECTION 26.20.(a)** Required employer salary-related contributions for employees  
51 whose salaries are paid from department, office, institution, or agency receipts shall be paid

1 from the same source as the source of the employee's salary. If an employee's salary is paid in  
2 part from the General Fund or Highway Fund and in part from department, office, institution,  
3 or agency receipts, required employer salary-related contributions may be paid from the  
4 General Fund or Highway Fund only to the extent of the proportionate part paid from the  
5 General Fund or Highway Fund in support of the salary of the employee, and the remainder of  
6 the employer's requirements shall be paid from the source that supplies the remainder of the  
7 employee's salary. The requirements of this section as to source of payment are also applicable  
8 to payments on behalf of the employee for hospital-medical benefits, longevity pay,  
9 unemployment compensation, accumulated leave, workers' compensation, severance pay,  
10 separation allowances, and applicable disability income benefits.

11 Notwithstanding any other provision of law, an employer who hires or has hired a  
12 retiree as an employee shall enroll the retiree in the active group and pay the cost for the  
13 hospital-medical benefits if that retiree is employed in a position that would require the  
14 employer to pay hospital-medical benefits if the individual had not been retired.

15 **SECTION 26.20.(b)** Effective July 1, 2009, the State's employer contribution rates  
16 budgeted for retirement and related benefits as percentage of covered salaries for the 2009-2010  
17 fiscal year are: (i) eight and sixty-five hundredths percent (8.65%) – Teachers and State  
18 Employees; (ii) thirteen and sixty-five hundredths percent (13.65%) – State Law Enforcement  
19 Officers; (iii) eleven and seventy-six hundredths percent (11.76%) – University Employees'  
20 Optional Retirement System; (iv) eleven and seventy-six hundredths percent (11.76%) –  
21 Community College Optional Retirement Program; (v) nineteen and fifty-one hundredths  
22 percent (19.51%) – Consolidated Judicial Retirement System; and (vi) four and forty  
23 hundredths percent (4.40%) – Legislative Retirement System. Each of the foregoing  
24 contribution rates includes four and forty hundredths percent (4.40%) for hospital and medical  
25 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,  
26 Community College Optional Retirement Program, and for the University Employees' Optional  
27 Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income  
28 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include  
29 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
30 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

31 **SECTION 26.20.(c)** Effective July 1, 2010, the State's employer contribution rates  
32 budgeted for retirement and related benefits as percentage of covered salaries for the 2010-2011  
33 fiscal year are: (i) nine and five hundredths percent (9.05%) – Teachers and State Employees;  
34 (ii) fourteen and five hundredths percent (14.05%) – State Law Enforcement Officers; (iii)  
35 twelve and sixteen hundredths percent (12.16%) – University Employees' Optional Retirement  
36 System; (iv) twelve and sixteen hundredths percent (12.16%) – Community College Optional  
37 Retirement Program; (v) nineteen and ninety-one hundredths percent (19.91%) – Consolidated  
38 Judicial Retirement System; and (vi) four and eighty hundredths percent (4.80%) – Legislative  
39 Retirement System. Each of the foregoing contribution rates includes four and eighty  
40 hundredths percent (4.80%) for hospital and medical benefits. The rate for Teachers and State  
41 Employees, State Law Enforcement Officers, Community College Optional Retirement  
42 Program, and for the University Employees' Optional Retirement Program includes fifty-two  
43 hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State  
44 Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%)  
45 for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent  
46 (5%) for Supplemental Retirement Income.

#### 47 **NATIONAL GUARD PENSION FUND**

48 **SECTION 26.21.** G.S. 127A-40 reads as rewritten:

49 "(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of  
50 guard members for the benefits herein provided and shall certify those eligible to the State  
51

1 Treasurer. In addition, the Department of Crime Control and Public Safety shall, on and after  
 2 July 1, 1983, provide the Department of State Treasurer with an annual census population, by  
 3 age and the number of years of creditable service, for all former members of the National  
 4 Guard in receipt of a pension as well as for all active members of the National Guard who are  
 5 not in receipt of a pension and who have seven and more years of creditable service. The  
 6 Department of Crime Control and Public Safety shall also provide the State Treasurer a census  
 7 population of all former members of the National Guard who are not in receipt of a pension and  
 8 who have 15 and more years of creditable service. The Department of State Treasurer shall  
 9 make pension payments to those persons certified from the North Carolina National Guard  
 10 Pension Fund, which shall include general fund appropriations made to ~~and transferred from~~  
 11 ~~the Department of Crime Control and Public Safety.~~ the Department of State Treasurer. The  
 12 Department of State Treasurer shall have performed an annual actuarial valuation of the fund  
 13 and shall have the financial responsibility for maintaining the fund on a generally accepted  
 14 actuarial basis. The Department of Crime Control and Public Safety shall provide the  
 15 Department of State Treasurer with whatever assistance is required by the State Treasurer in  
 16 carrying out his financial responsibilities."  
 17

## 18 **EXTEND PHASED RETIREMENT PROGRAM EXEMPTION**

19 **SECTION 26.22.** Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21  
 20 of S.L. 2006-66, reads as rewritten:

21 "**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1,  
 22 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to  
 23 participants in The University of North Carolina Phased Retirement Program until the earlier of  
 24 ~~June 30, 2010,~~ August 31, 2013, or 12 months after the issuance of final phased retirement  
 25 regulations by the Internal Revenue Service. The remainder of this section becomes effective  
 26 June 30, 2005."  
 27

## 28 **PART XXVII. CAPITAL APPROPRIATIONS.**

### 29 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

30 **SECTION 27.1.** The appropriations made by the 2009 General Assembly for  
 31 capital improvements are for constructing, repairing, or renovating State buildings, utilities, and  
 32 other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings  
 33 and land for State government purposes.  
 34  
 35

### 36 **CAPITAL APPROPRIATIONS/GENERAL FUND**

37 **SECTION 27.2.** There is appropriated from the General Fund for the 2009-2010  
 38 fiscal year the following amounts for capital improvements:  
 39

40 <b>Capital Improvements – General Fund</b>	<b>2009-2010</b>
41 Department of Environment and Natural Resources	
42 Water Resources Development Projects	\$ 17,600,000
43	
44 <b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$17,600,000</b>

### 46 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

47 **SECTION 27.3.(a)** The Department of Environment and Natural Resources shall  
 48 allocate the funds appropriated in this act for water resources development projects to the  
 49 following projects with costs as indicated:  
 50  
 51



1	Name of Project	2009-2010
2		
3	(1) Wilmington Harbor Deepening	\$ 1,300,000
4	(2) B. Everett Jordan Lake Water Supply Storage	200,000
5	(3) Carolina Beach Renourishment	738,000
6	(4) Carolina Beach South (Kure Beach) Renourishment	842,000
7	(5) Wrightsville Beach Renourishment	2,059,000
8	(6) Ocean Isle Beach Renourishment	1,211,000
9	(7) Nags Head Beach Renourishment	2,000,000
10	(8) Bald Head Island Beach Renourishment	5,000,000
11	(9) State/Local WRD Grants	1,000,000
12	(10) Emerald Isle Boat Launch	1,000,000
13	(11) Beaufort Harbor Maintenance	50,000
14	(12) Princeville Flood Control	100,000
15	(13) Currituck Sound Environmental Restoration	100,000
16	(14) West Onslow Beach (Topsail Beach, Pender County)	75,000
17	(15) Aquatic Obstruction Removal – Statewide	300,000
18	(16) Aquatic Plant Control (State, L. Gaston & Roanoke Rapids L.)	300,000
19	(17) Mountain to the Sea Trail – Water Based Recreation	250,000
20	(18) Little Fork Creek (Rendezvous State Park)	400,000
21	(19) Planning Assistance to Communities	75,000
22	(20) Concord Stream Restoration (Cabarrus County) (Sec. 206)	350,000
23	(21) Wilson Bay Restoration (Sec. 206), Onslow County	250,000
24		
25	<b>TOTALS</b>	<b>\$17,600,000</b>
26		

**SECTION 27.3.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2009-2010 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2009-2010.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2010-2011 fiscal year.

**SECTION 27.3.(c)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

1  
2 **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

3 **SECTION 27.4.(a)** The General Assembly authorizes the following capital  
4 projects to be funded with receipts or from other non-General Fund sources:  
5

6 <b>Name of Project</b>	7	8 <b>Amount of Non-General Fund</b>
		9 <b>Funding Authorized for 2009-2010</b>
10 Department of Crime Control and Public Safety		
11     Additions and Renovations to Armories		\$ 9,303,442
12     Camp Butner Cantonment – Phase 1 Design		1,367,000
13     Family Assistance Centers		2,000,000
14 Department of Cultural Resources		
15     Aycock Birthplace Picnic Shelter		86,100
16     Maritime Museum – Floating Dock		130,000
17     Museum of History Chronology Exhibit – Phase 2B (1900-1960)		1,200,000
18 Department of Environment and Natural Resources		
19     Jennette's Pier Reconstruction		24,446,400
20     Zoo – Elephant Exhibit New Restrooms		300,000
21 Wildlife Resources Commission		
22     Armstrong Hatchery Lower Raceway Replacement		1,725,000
23     Centennial Campus Education Center Exhibit Completion		180,000
24     Chinquapin Equipment Storage Pole Shed		60,000
25     Chowan Bridge Fishing Pier and Edenton Boating Access		450,000
26     Emerald Isle New Boating Access Area		600,000
27     Falls Lake Office Building		550,000
28     Hampstead Land Acquisition		10,000,000
29     Land Acquisitions – State Gamelands		59,135,000
30     Lewelyn Branch New Boating Access Area		150,000
31     Manns Harbor Bridge Marina Acquisition		5,750,000
32     Marion Depot Drainage Repairs		200,000
33     McKinney Lake Hatchery Kettles Replacement		1,700,000
34     Minor Boating Access Area Renovations – Various Locations		150,000
35     New Coldwater Fish Hatchery Construction		7,900,000
36     Ocean Isle Boating Access Area Renovations		150,000
37     Outer Banks Education Center Teaching Facility Repairs		245,000
38     Pechmann Fishing Education Center Pond Restoration		160,000
39     Pechmann Fishing Education Center Storage Building		220,000
40     Pisgah Education Center Gift Shop Renovation and Expansion		200,000
41     Pisgah Education Center Outdoor Exhibit Renovation		450,000
42     Pisgah Education Center Repairs		155,000
43     Pisgah Hatchery Water System Renovation		100,000
44     Rhodes Pond Dam Repairs		500,000
45     Sneads Ferry Land Acquisition		6,500,000
46     Sunset Harbor Land Acquisition		925,000
47     Swan Quarter Land Acquisition		1,700,000
48     Sykes Depot Pond, Office, Storage Construction		350,000
49     Table Rock Hatchery Office and Workshop Replacement		345,000

1  
2 **TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**  
3 **PROJECTS AUTHORIZED**

\$139,382,942

4  
5 **SECTION 27.4.(b)** From funds deposited with the State Treasurer in a capital  
6 improvement account to the credit of the Department of Agriculture and Consumer Services  
7 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2009-2010 fiscal  
8 year shall be transferred to the Department of Agriculture and Consumer Services to be used,  
9 notwithstanding G.S. 146-30, by the Department for its plant conservation program under  
10 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of  
11 land, such as land appraisals, land surveys, title searches, environmental studies, and for the  
12 management of the plant conservation program preserves owned by the Department.

13 **SECTION 27.4.(c)** Notwithstanding G.S. 143C-8-7, and subject to approval by the  
14 Director of the Budget, during the 2009-2011 fiscal biennium, the Aquariums Division of the  
15 Department of Environment and Natural Resources may expend funds from the North Carolina  
16 Aquariums Fund for capital improvement projects.

17  
18 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

19 **SECTION 27.5.(a)** Of the funds in the Reserve for Repairs and Renovations for  
20 the 2009-2010 fiscal year, fifty-four percent (54%) shall be allocated to the Board of Governors  
21 of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in  
22 accordance with guidelines developed in The University of North Carolina Funding Allocation  
23 Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The  
24 University of North Carolina, and forty-six percent (46%) shall be allocated to the Office of  
25 State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

26 Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the  
27 repair and renovation of facilities not supported from the General Fund if the Board determines  
28 that sufficient funds are not available from other sources and that conditions warrant General  
29 Fund assistance. Any such finding shall be included in the Board's submission to the Joint  
30 Legislative Commission on Governmental Operations on the proposed allocation of funds.

31 The Board of Governors and the Office of State Budget and Management shall  
32 consult with the Joint Legislative Commission on Governmental Operations prior to the  
33 allocation or reallocation of these funds.

34 **SECTION 27.5.(b)** In addition to any other funds in the Reserve for Repairs and  
35 Renovations for the 2009-2010 fiscal year, the following funds are transferred to that Reserve:

- 36 (1) Proceeds of bonds and notes issued pursuant to Section 27.10(f)(2) of this  
37 act for the repair and renovation of State facilities and related infrastructure.  
38 (2) The Energy Efficiency and Conservation Block Grant funds appropriated in  
39 this act.

40 **SECTION 27.5.(c)** Notwithstanding G.S. 143C-4-3(b), Energy Efficiency and  
41 Conservation Block Grant funds shall be used for repairs and renovations to State and  
42 university facilities that will make those facilities more energy efficient. Eligible projects under  
43 this subsection include:

- 44 (1) Replacement of incandescent light bulbs with compact fluorescent light  
45 bulbs, installation of exit signs that employ light-emitting diode (LED)  
46 technology, the installation of occupancy sensors or optical sensors, and  
47 other lighting efficiency improvements.  
48 (2) For windows that need replacement, installation of more energy-efficient  
49 windows.  
50 (3) Insulation improvements when practicable.

- 1 (4) Replacement of inefficient or oversized heating, ventilation, and  
2 air-conditioning (HVAC) systems when those systems are subject to  
3 replacement and installation of programmable automation systems.
- 4 (5) Installation of aerators in sink faucets that reduce the flow rate and other  
5 water system projects that reduce water consumption.
- 6 (6) Any other retrofit or replacement projects that make State or university  
7 facilities more energy efficient for which the incremental cost of the project  
8 will be equal to or less than the energy or water savings that result over a  
9 period of three years after completion.

10 **SECTION 27.5.(d)** Of the funds allocated to the Board of Governors of The  
11 University of North Carolina in subsection (a) of this section, a portion shall be used by the  
12 Board of Governors for the installation of fire sprinklers in university residence halls. This  
13 portion shall be in addition to funds otherwise appropriated in this act for the same purpose.  
14 Such funds shall be allocated among the University's constituent institutions by the President of  
15 The University of North Carolina, who shall consider the following factors when allocating  
16 those funds:

- 17 (1) The safety and well-being of the residents of campus housing programs.
- 18 (2) The current level of housing rents charged to students and how that  
19 compares to an institution's public peers and other UNC institutions.
- 20 (3) The level of previous authorizations to constituent institutions for the  
21 construction or renovation of residence halls funded from the General Fund,  
22 or from bonds or certificates of participation supported by the General Fund,  
23 since 1996.
- 24 (4) The financial status of each constituent institution's housing system,  
25 including debt capacity, debt coverage ratios, credit rankings, required  
26 reserves, the planned use of cash balances for other housing system  
27 improvements, and the constituent institution's ability to pay for the  
28 installation of fire sprinklers in all residence halls.
- 29 (5) The total cost of each proposed project, including the cost of installing fire  
30 sprinklers and the cost of other construction, such as asbestos removal and  
31 additional water supply needs.

32 The Board of Governors shall submit progress reports to the Joint Legislative  
33 Commission on Governmental Operations. Reports shall include the status of completed,  
34 current, and planned projects. Reports shall also include information on the financial status of  
35 each constituent institution's housing system, the constituent institution's ability to pay for fire  
36 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be  
37 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

38 **SECTION 27.5.(e)** Of the funds allocated to the Board of Governors of The  
39 University of North Carolina in subsection (a) of this section, a portion shall be used by the  
40 Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

## 41 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

42 **SECTION 27.6.** The appropriations made by the 2009 General Assembly for  
43 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of  
44 funds shall not be made by any State department, institution, or agency until an allotment has  
45 been approved by the Governor as Director of the Budget. The allotment shall be approved  
46 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.  
47 Prior to the award of construction contracts for projects to be financed in whole or in part with  
48 self-liquidating appropriations, the Director of the Budget shall approve the elements of the  
49 method of financing of those projects including the source of funds, interest rate, and  
50 liquidation period. Provided, however, that if the Director of the Budget approves the method  
51

1 of financing a project, the Director shall report that action to the Joint Legislative Commission  
 2 on Governmental Operations at its next meeting.

3 Where direct capital improvement appropriations include the purpose of furnishing  
 4 fixed and movable equipment for any project, those funds for equipment shall not be subject to  
 5 transfer into construction accounts except as authorized by the Director of the Budget. The  
 6 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and  
 7 approved by the Director of the Budget prior to commitment of funds.

8 Capital improvement projects authorized by the 2009 General Assembly shall be  
 9 completed, including fixed and movable equipment and furnishings, within the limits of the  
 10 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided  
 11 in this act. Capital improvement projects authorized by the 2009 General Assembly for the  
 12 design phase only shall be designed within the scope of the project as defined by the approved  
 13 cost estimate filed with the Director of the Budget, including costs associated with site  
 14 preparation, demolition, and movable and fixed equipment.

15  
 16 **CENTER FOR DESIGN AND WINSTON-SALEM STATE AMENDMENTS**

17 **SECTION 27.7.(a)** Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of  
 18 S.L. 2005-276, Section 2.1 of S.L. 2006-146, and Section 27.8 of S.L. 2008-107, is amended by  
 19 deleting the language:

20	"11,500,000	10,000,000	Land acquisition, site preparation, engineering,
21			architectural, and other consulting services, and
22			construction of a Center for Design Innovation in
23			the Piedmont Triad Research Park to be operated
24			jointly by Winston-Salem State University and the
25			North Carolina School of the Arts."

26 and substituting the language:

27	"11,500,000	10,000,000	Land acquisition, site preparation, engineering,
28			architectural, and other consulting services,
29			acquisition of an existing building, construction,
30			or renovation of a Center for Design Innovation to
31			be operated jointly by Winston-Salem State
32			University and the North Carolina School of the
33			Arts."

34 **SECTION 27.7.(b)** G.S. 142-94 reads as rewritten:

35 **"§ 142-94. Procurement of capital facilities.**

36 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and  
 37 any other laws or rules of the State that relate to the acquisition and construction of State  
 38 property apply to the financing of capital facilities through the use of special indebtedness  
 39 pursuant to this Article. This section does not apply to the construction and lease-purchase,  
 40 including leases with an option to purchase at the end of the lease term for a nominal sum, of  
 41 State office buildings pursuant to proposals submitted before the effective date of this Article in  
 42 response to requests for proposals, to the extent any of those proposals, as they may be  
 43 supplemented or amended, are approved by the Department of Administration and any of these  
 44 leases or lease-purchase agreements are approved by the Council of State in accordance with  
 45 G.S. 143-341(4)d2. With the exception of Article 8 of Chapter 143 of the General Statutes, this  
 46 section does not apply to any special indebtedness issued pursuant to this Article for the  
 47 purchase, construction, or operation of capital facilities by Gateway University Research Park,  
 48 Inc., a joint Millennial Campus in Greensboro. This section does not apply to facilities for the  
 49 Center for Design Innovation to be operated jointly by Winston-Salem State University and the  
 50 University of North Carolina School of the Arts, as authorized in Section 1.1 of S.L. 2004-179,  
 51 as amended."

1           **SECTION 27.7.(c)** Notwithstanding the Joint Conference Committee Report dated  
2 July 17, 2004, for S.L. 2004-124, the two million dollars (\$2,000,000) appropriated for  
3 Winston-Salem State University shall be used to provide funds to acquire land and renovate  
4 space for Winston-Salem State University.

5  
6           **DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING CONSTRUCTION**

7           **SECTION 27.8.** Notwithstanding Item 61, Page M-11, of the Joint Conference  
8 Committee Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the  
9 General Fund shall service the debt for the Green Square Complex parking deck during the  
10 2009-2011 fiscal biennium.

11  
12           **ADJUSTMENTS TO COPS FOR REDUCED CONSTRUCTION INFLATION**

13           **SECTION 27.9.(a)** Section 27.8(a) of S.L. 2008-107 reads as rewritten:

14           **"SECTION 27.8.(a)** The State, with the prior approval of the State Treasurer and the  
15 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized  
16 to issue or incur special indebtedness in order to provide funds to the State to be used, together  
17 with other available funds, to pay the capital facility costs of the projects described in this  
18 subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or  
19 incurrence of special indebtedness:

- 20           (1) In the maximum aggregate principal amount of ~~sixty-nine million dollars~~  
21 ~~(\$69,000,000)~~sixty-three million eight hundred nineteen thousand five  
22 hundred fifty-eight dollars (\$63,819,558) to finance the capital facility costs  
23 of completing a School of Dentistry building at East Carolina University and  
24 no more than 10 satellite dental clinics across the State. No more than a  
25 maximum aggregate amount of twenty-one million dollars (\$21,000,000) of  
26 special indebtedness may be issued or incurred under this subdivision prior  
27 to July 1, 2009. No more than a maximum aggregate amount of sixty million  
28 dollars (\$60,000,000) of special indebtedness may be issued or incurred  
29 under this subdivision prior to July 1, 2010.
- 30           (2) In the maximum aggregate principal amount of ~~thirty-six million eight~~  
31 ~~hundred thousand dollars (\$36,800,000)~~ thirty-five million six hundred  
32 seventy-eight thousand nine hundred seventy-six dollars (\$35,678,976) to  
33 finance the capital facility costs of completing a family medicine building at  
34 East Carolina University. No more than a maximum aggregate amount of  
35 sixteen million six hundred thousand dollars (\$16,600,000) of special  
36 indebtedness may be issued or incurred under this subdivision prior to July  
37 1, 2009.
- 38           (3) In the maximum aggregate principal amount of ~~eighteen million dollars~~  
39 ~~(\$18,000,000)~~seventeen million eighty-two thousand six hundred fifty-five  
40 dollars (\$17,082,655) to finance the capital facility costs of completing a  
41 School of Education building at Elizabeth City State University. No more  
42 than a maximum aggregate amount of seven million dollars (\$7,000,000) of  
43 special indebtedness may be issued or incurred under this subdivision prior  
44 to July 1, 2009. No more than a maximum aggregate amount of fifteen  
45 million dollars (\$15,000,000) of special indebtedness may be issued or  
46 incurred under this subdivision prior to July 1, 2010.
- 47           (4) In the maximum aggregate principal amount of two million four hundred  
48 thirty-eight thousand dollars (\$2,438,000) to finance the capital  
49 improvement costs of acquiring land and constructing capital facilities for a  
50 horse park in Rockingham County for North Carolina Agricultural and  
51 Technical State University.

- 1 (5) In the maximum aggregate principal amount of ~~twenty million four hundred~~  
2 ~~ninety thousand dollars (\$20,490,000)~~ nineteen million four hundred  
3 eighty-one thousand seven hundred thirty-nine dollars (\$19,481,739) to  
4 finance the capital facility costs of completing a general classroom building  
5 at North Carolina Agricultural and Technical State University. No more than  
6 a maximum aggregate amount of seven million dollars (\$7,000,000) of  
7 special indebtedness may be issued or incurred under this subdivision prior  
8 to July 1, 2009.
- 9 (6) In the maximum aggregate principal amount of ~~twenty four million five~~  
10 ~~hundred thousand dollars (\$24,500,000)~~ twenty-three million one hundred  
11 twenty-five thousand two hundred twenty-seven dollars (\$23,125,227) to  
12 finance the capital facility costs of completing a nursing building at North  
13 Carolina Central University. No more than a maximum aggregate amount of  
14 six million dollars (\$6,000,000) of special indebtedness may be issued or  
15 incurred under this subdivision prior to July 1, 2009. No more than a  
16 maximum aggregate amount of seventeen million dollars (\$17,000,000) of  
17 special indebtedness may be issued or incurred under this subdivision prior  
18 to July 1, 2010.
- 19 (7) In the maximum aggregate principal amount of ~~eleven million one hundred~~  
20 ~~thousand dollars (\$11,100,000)~~ ten million four hundred ninety-five  
21 thousand nine hundred eighty-one dollars (\$10,495,981) to finance the  
22 capital facility costs of completing a central storage facility at the North  
23 Carolina School of the Arts.
- 24 (8) In the maximum aggregate principal amount of ~~twelve million nine hundred~~  
25 ~~thousand dollars (\$12,900,000)~~ eleven million nine hundred fifty thousand  
26 six hundred seventy-nine dollars (\$11,950,679) to finance the capital facility  
27 costs of completing a film school production facility at the North Carolina  
28 School of the Arts. No special indebtedness may be issued or incurred under  
29 this subdivision prior to July 1, 2009. No more than a maximum aggregate  
30 amount of two million dollars (\$2,000,000) of special indebtedness may be  
31 issued or incurred under this subdivision prior to July 1, 2010. No more than  
32 a maximum aggregate amount of seven million nine hundred thousand  
33 dollars (\$7,900,000) of special indebtedness may be issued or incurred under  
34 this subdivision prior to July 1, 2011.
- 35 (9) In the maximum aggregate principal amount of ~~one hundred nine million~~  
36 ~~one hundred thousand dollars (\$109,100,000)~~ one hundred one million five  
37 hundred sixty-eight thousand eight hundred thirty dollars (\$101,568,830) to  
38 finance the capital facility costs of completing the Centennial Campus  
39 library at North Carolina State University. No more than a maximum  
40 aggregate amount of forty-nine million dollars (\$49,000,000) of special  
41 indebtedness may be issued or incurred under this subdivision prior to July  
42 1, 2009. No more than a maximum aggregate amount of sixty-eight million  
43 one hundred thousand dollars (\$68,100,000) of special indebtedness may be  
44 issued or incurred under this subdivision prior to July 1, 2010. No more than  
45 a maximum aggregate amount of ~~one hundred million one hundred thousand~~  
46 ~~dollars (\$100,100,000)~~ ninety-two million five hundred sixty-eight thousand  
47 eight hundred thirty dollars (\$92,568,830) of special indebtedness may be  
48 issued or incurred under this subdivision prior to July 1, 2011.
- 49 (10) In the maximum aggregate principal amount of four million dollars  
50 (\$4,000,000) for the capital facility costs of completing the 4-H Campuses at  
51 North Carolina State University.

- 1 (11) In the maximum aggregate principal amount of ~~sixty-nine million dollars~~  
2 ~~(\$69,000,000)~~sixty-three million eight hundred nineteen thousand five  
3 hundred fifty-eight dollars (\$63,819,558) to finance the capital facility costs  
4 of completing a School of Dentistry expansion at the University of North  
5 Carolina at Chapel Hill. No special indebtedness may be issued or incurred  
6 under this subdivision prior to July 1, 2009. No more than a maximum  
7 aggregate amount of twenty-five million dollars (\$25,000,000) of special  
8 indebtedness may be issued or incurred under this subdivision prior to July  
9 1, 2010. No more than a maximum aggregate amount of ~~sixty-one million~~  
10 ~~dollars (\$61,000,000)~~fifty-five million eight hundred nineteen thousand five  
11 hundred fifty-eight dollars (\$55,819,558) of special indebtedness may be  
12 issued or incurred under this subdivision prior to July 1, 2011.
- 13 (12) In the maximum aggregate principal amount of ~~fifty-seven million two~~  
14 ~~hundred eighteen thousand dollars (\$57,218,000)~~ fifty-three million nine  
15 hundred eleven thousand three hundred five dollars (\$53,911,305) to finance  
16 the capital facility costs of completing the Energy Production Infrastructure  
17 Center at the University of North Carolina at Charlotte. No more than a  
18 maximum aggregate amount of ten million dollars (\$10,000,000) of special  
19 indebtedness may be issued or incurred under this subdivision prior to July  
20 1, 2009. No more than a maximum aggregate amount of thirty-two million  
21 two hundred eighteen thousand dollars (\$32,218,000) of special  
22 indebtedness may be issued or incurred under this subdivision prior to July  
23 1, 2010.
- 24 (13) In the maximum aggregate principal amount of forty-two million six  
25 hundred seventy thousand dollars (\$42,670,000) to finance the capital  
26 facility costs of completing an academic classroom and office building at the  
27 University of North Carolina at Greensboro. No more than a maximum  
28 aggregate amount of twenty-one million dollars (\$21,000,000) of special  
29 indebtedness may be issued or incurred under this subdivision prior to July  
30 1, 2009.
- 31 (14) In the maximum aggregate principal amount of ten million dollars  
32 (\$10,000,000) to finance the capital facility costs of installing fire sprinklers  
33 in The University of North Carolina System residence halls.
- 34 (15) In the maximum aggregate principal amount of twenty-five million dollars  
35 (\$25,000,000) to finance the capital improvement costs of acquiring State  
36 land throughout The University of North Carolina System.
- 37 (16) In the maximum aggregate principal amount of thirty-four million dollars  
38 (\$34,000,000) to finance the capital improvement costs of purchasing State  
39 judicial facilities located at 901 Corporate Drive, Raleigh, NC, and more  
40 particularly described as Phase Two, Tract A of Raleigh Corporate Center  
41 consisting of 17.28 acres and as shown on the map recorded in Map book  
42 1987, page 720, and Map book 1990, page 576, of the Wake County  
43 Register of Deeds.
- 44 (17) In the maximum aggregate principal amount of ~~forty-five million one~~  
45 ~~hundred seventy thousand dollars (\$45,170,000)~~forty-two million nine  
46 hundred forty-seven thousand three hundred dollars (\$42,947,300) to finance  
47 the capital facility costs of completing a health care and mental health  
48 facility at the North Carolina Correctional Institute for Women. No more  
49 than a maximum aggregate amount of twenty-seven million dollars  
50 (\$27,000,000) of special indebtedness may be issued or incurred under this  
51 subdivision prior to July 1, 2009.



- 1 (18) In the maximum aggregate principal amount of ~~thirteen million ten thousand~~  
2 ~~dollars (\$13,010,000)~~ twelve million three hundred sixty-nine thousand eight  
3 hundred eleven dollars (\$12,369,811) to finance the capital facility costs of  
4 completing a minimum security addition at Scotland Correctional Institution.  
5 No more than a maximum aggregate amount of six million dollars  
6 (\$6,000,000) of special indebtedness may be issued or incurred under this  
7 subdivision prior to July 1, 2009. No more than a maximum aggregate  
8 amount of ten million dollars (\$10,000,000) of special indebtedness may be  
9 issued or incurred under this subdivision prior to July 1, 2010.
- 10 (19) In the maximum aggregate principal amount of ~~eighteen million nine~~  
11 ~~hundred fifty thousand dollars (\$18,950,000)~~ eighteen million seventeen  
12 thousand five hundred nineteen dollars (\$18,017,519) to finance the capital  
13 facility costs of completing a medium security addition at Bertie  
14 Correctional Institution. No more than a maximum aggregate amount of  
15 seven million dollars (\$7,000,000) of special indebtedness may be issued or  
16 incurred under this subdivision prior to July 1, 2009. No more than a  
17 maximum aggregate amount of fourteen million dollars (\$14,000,000) of  
18 special indebtedness may be issued or incurred under this subdivision prior  
19 to July 1, 2010.
- 20 (20) In the maximum aggregate principal amount of ~~thirteen million ten thousand~~  
21 ~~dollars (\$13,010,000)~~ twelve million three hundred sixty-nine thousand eight  
22 hundred eleven dollars (\$12,369,811) to finance the capital facility costs of  
23 completing a minimum security addition at Tabor Correctional Institution.  
24 No more than a maximum aggregate amount of six million dollars  
25 (\$6,000,000) of special indebtedness may be issued or incurred under this  
26 subdivision prior to July 1, 2009. No more than a maximum aggregate  
27 amount of ten million dollars (\$10,000,000) of special indebtedness may be  
28 issued or incurred under this subdivision prior to July 1, 2010.
- 29 (21) In the maximum aggregate principal amount of ~~eighteen million nine~~  
30 ~~hundred fifty thousand dollars (\$18,950,000)~~ eighteen million seventeen  
31 thousand five hundred nineteen dollars (\$18,017,519) to finance the capital  
32 facility costs of completing a medium security addition at Lanesboro  
33 Correctional Institution. No more than a maximum aggregate amount of  
34 seven million dollars (\$7,000,000) of special indebtedness may be issued or  
35 incurred under this subdivision prior to July 1, 2009. No more than a  
36 maximum aggregate amount of fourteen million dollars (\$14,000,000) of  
37 special indebtedness may be issued or incurred under this subdivision prior  
38 to July 1, 2010.
- 39 (22) In the maximum aggregate principal amount of two million nine hundred  
40 twenty-five thousand dollars (\$2,925,000) to finance the capital facility costs  
41 of completing Phase I of the CSS Neuse State Historic Site.
- 42 (23) In the maximum aggregate principal amount of seven million dollars  
43 (\$7,000,000) to finance the capital facility costs of completing Port of  
44 Morehead City Berth Improvements and Phase I of Port of Wilmington  
45 Berth 8 Improvements.
- 46 (24) In the maximum aggregate principal amount of three million seven hundred  
47 thousand dollars (\$3,700,000) to finance the capital facility costs of  
48 completing a Southeastern North Carolina Agriculture Center Pavilion.
- 49 (25) In the maximum aggregate principal amount of ~~eight million one hundred~~  
50 ~~thousand dollars (\$8,100,000)~~ seven million six hundred twenty thousand  
51 eight hundred twenty-three dollars (\$7,620,823) to finance the capital

1 facility costs of Department of Agriculture and Consumer Services capital  
 2 improvements. Sales proceeds shall be allocated between the projects in the  
 3 following manner:

<b>Project</b>	<b>Allocation of Sales Proceeds</b>
4	
5 Bathroom and truckshed expansion at	
6 The Western North Carolina Farmers'	
7 Market	\$650,000
8	
9	
10 Davis Arena renovation and expansion at	
11 The Western North Carolina Agricultural	
12 Center	<del>\$7,450,000</del> <u>\$6,970,823</u>
13	

- 14 (26) In the maximum aggregate principal amount of four million three hundred  
 15 three thousand nine hundred forty-four dollars (\$4,303,944) to finance the  
 16 capital facility costs of completing an oyster hatchery.
- 17 (27) In the maximum aggregate principal amount of two million seven hundred  
 18 thousand dollars (\$2,700,000) to finance the capital improvement costs of  
 19 completing an expansion and renovation to the polar bear exhibit at the  
 20 North Carolina Zoo.
- 21 (28) In the maximum aggregate principal amount of ~~fifty million dollars~~  
 22 ~~(\$50,000,000)~~ ten million dollars (\$10,000,000) to finance the capital  
 23 improvement costs of acquiring State park lands and conservation areas for  
 24 the Land for Tomorrow initiative in the Department of Environment and  
 25 Natural Resources. Proceeds shall be allocated to support the conservation  
 26 priorities of the One North Carolina Naturally program."

27 **SECTION 27.9.(b)** Section 29.13(a) of S.L. 2007-323, as amended by Section  
 28 27.8(d) of S.L. 2008-107, reads as rewritten:

29 "SECTION 29.13.(a) The State, with the prior approval of the State Treasurer and the  
 30 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized  
 31 to issue or incur special indebtedness in order to provide funds to the State to be used, together  
 32 with other available funds, to pay the capital facility costs of the projects described in this  
 33 subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or  
 34 incurrence of special indebtedness:

- 35 (1) In the maximum aggregate principal amount of thirty-four million dollars  
 36 (\$34,000,000) to finance the capital facility costs of completing a new  
 37 educational building at Appalachian State University. No more than a  
 38 maximum aggregate amount of three million dollars (\$3,000,000) of special  
 39 indebtedness may be issued or incurred under this subdivision prior to July  
 40 1, 2008.
- 41 (2) In the maximum aggregate principal amount of ~~twenty two million five~~  
 42 ~~hundred eighty seven thousand dollars (\$22,587,000)~~ twenty one million  
 43 four hundred seventy-five thousand five hundred fifty-one dollars  
 44 (\$21,475,551) to finance the capital facility costs of completing a new  
 45 Science and Technology Complex at Fayetteville State University. No more  
 46 than a maximum aggregate amount of five million dollars (\$5,000,000) of  
 47 special indebtedness may be issued or incurred under this subdivision prior  
 48 to July 1, 2008.
- 49 (3) In the maximum aggregate principal amount of ~~twenty four million nine~~  
 50 ~~hundred twenty thousand dollars (\$24,920,000)~~ twenty three million six  
 51 hundred six thousand seven hundred twenty-three dollars (\$23,606,723) to

1 finance the capital facility costs of completing a new library at the North  
2 Carolina School of the Arts. No more than a maximum aggregate amount of  
3 one million seven hundred seventy-five thousand six hundred dollars  
4 (\$1,775,600) of special indebtedness may be issued or incurred under this  
5 subdivision prior to July 1, 2008. No more than a maximum aggregate  
6 amount of fourteen million three hundred seventy-three thousand six  
7 hundred dollars (\$14,373,600) of special indebtedness may be issued or  
8 incurred under this subdivision prior to July 1, 2009.

9 (4) In the maximum aggregate principal amount of thirty-eight million dollars  
10 (\$38,000,000) to finance the capital facility costs of completing the Randall  
11 B. Terry Companion Animal Hospital at North Carolina State University. No  
12 more than a maximum aggregate amount of twenty-eight million five  
13 hundred thousand dollars (\$28,500,000) of special indebtedness may be  
14 issued or incurred under this subdivision prior to July 1, 2008.

15 (5) In the maximum aggregate principal amount of ~~thirty-four million dollars~~  
16 ~~(\$34,000,000)~~ thirty-two million three hundred twenty-six thousand nine  
17 hundred forty-seven dollars (\$32,326,947) to finance the capital facility  
18 costs of completing an addition to Engineering Building III in the School of  
19 Engineering at North Carolina State University. No more than a maximum  
20 aggregate amount of eight million five hundred thousand dollars  
21 (\$8,500,000) of special indebtedness may be issued or incurred under this  
22 subdivision prior to July 1, 2008. No more than a maximum aggregate  
23 amount of twenty-five million five hundred thousand dollars (\$25,500,000)  
24 of special indebtedness may be issued or incurred under this subdivision  
25 prior to July 1, 2009.

26 (6) In the maximum aggregate principal amount of eight million six hundred  
27 eighty-seven thousand dollars (\$8,687,000) to finance the capital facility  
28 costs of renovating Rhoades Hall at the University of North Carolina at  
29 Asheville.

30 (7) In the maximum aggregate principal amount of one hundred nineteen million  
31 six hundred eight thousand two hundred twenty-five dollars (\$119,608,225)  
32 to finance the capital facility costs of a Genomics Science Building at the  
33 University of North Carolina at Chapel Hill. No more than a maximum  
34 aggregate amount of thirty-one million dollars (\$31,000,000) of special  
35 indebtedness may be issued or incurred under this subdivision prior to July  
36 1, 2008. No more than a maximum aggregate amount of eighty-six million  
37 dollars (\$86,000,000) of special indebtedness may be issued or incurred  
38 under this subdivision prior to July 1, 2009.

39 (8) In the maximum aggregate principal amount of nineteen million dollars  
40 (\$19,000,000) to finance the capital facility costs of completing a Nursing  
41 and Allied Health Building at the University of North Carolina at Pembroke.  
42 No more than a maximum aggregate amount of five million dollars  
43 (\$5,000,000) of special indebtedness may be issued or incurred under this  
44 subdivision prior to July 1, 2008.

45 (9) In the maximum aggregate principal amount of thirty-four million five  
46 hundred twenty-five thousand dollars (\$34,525,000) to finance the capital  
47 facility costs of completing a new teaching laboratory at the University of  
48 North Carolina at Wilmington. No more than a maximum aggregate amount  
49 of two million five hundred thousand dollars (\$2,500,000) of special  
50 indebtedness may be issued or incurred under this subdivision prior to July  
51 1, 2008. No more than a maximum aggregate amount of eight million six

- 1 hundred thirty-one thousand two hundred fifty dollars (\$8,631,250) of  
2 special indebtedness may be issued or incurred under this subdivision prior  
3 to July 1, 2009.
- 4 (10) In the maximum aggregate principal amount of ~~forty one million six~~  
5 ~~hundred five thousand dollars (\$41,605,000)~~thirty-eight million eight  
6 hundred sixty-two thousand nine hundred sixty dollars (\$38,862,960) to  
7 finance the capital facility costs of completing a new Health and  
8 Gerontological Building at Western Carolina University. No more than a  
9 maximum aggregate amount of eighteen million eight hundred two thousand  
10 five hundred dollars (\$18,802,500) of special indebtedness may be issued or  
11 incurred under this subdivision prior to July 1, 2009.
- 12 (11) In the maximum aggregate principal amount of twenty-eight million five  
13 hundred seven thousand dollars (\$28,507,000) to finance the capital facility  
14 costs of completing a new student activities center at Winston-Salem State  
15 University. No more than a maximum aggregate amount of two million  
16 dollars (\$2,000,000) of special indebtedness may be issued or incurred under  
17 this subdivision prior to July 1, 2008. No more than a maximum aggregate  
18 amount of fourteen million seven hundred ninety-nine thousand dollars  
19 (\$14,799,000) of special indebtedness may be issued or incurred under this  
20 subdivision prior to July 1, 2009.
- 21 (12) In the maximum aggregate principal amount of ~~fifty three million dollars~~  
22 ~~(\$53,000,000)~~fifty million three hundred ninety two thousand six dollars  
23 (\$50,392,006) to finance the capital facility costs of completing a  
24 Nanoscience Building to be used jointly by the University of North Carolina  
25 at Greensboro and North Carolina Agricultural and Technical State  
26 University. No more than a maximum aggregate amount of twenty-five  
27 million dollars (\$25,000,000) of special indebtedness may be issued or  
28 incurred under this subdivision prior to July 1, 2009.
- 29 (13) In the maximum aggregate principal amount of thirty-two million five  
30 hundred thousand dollars (\$32,500,000) to finance the capital facility costs  
31 for completing the Coastal Studies Institute. No more than a maximum  
32 aggregate amount of eight million dollars (\$8,000,000) of special  
33 indebtedness may be issued or incurred under this subdivision prior to July  
34 1, 2008. No more than a maximum aggregate amount of twenty-three  
35 million dollars (\$23,000,000) of special indebtedness may be issued or  
36 incurred under this subdivision prior to July 1, 2009.
- 37 (14) In the maximum aggregate principal amount of nineteen million eight  
38 hundred sixteen thousand five hundred dollars (\$19,816,500) to finance the  
39 capital facility costs of a medium security facility at the Scotland  
40 Correctional Institution. No more than a maximum aggregate amount of five  
41 million dollars (\$5,000,000) of special indebtedness may be issued or  
42 incurred under this subdivision prior to July 1, 2008.
- 43 (15) In the maximum aggregate principal amount of thirteen million one hundred  
44 ninety-one thousand three hundred dollars (\$13,191,300) to finance the  
45 capital facility costs of a minimum security facility at the Alexander  
46 Correctional Institution. No more than a maximum aggregate amount of six  
47 million five hundred ninety-five thousand six hundred fifty dollars  
48 (\$6,595,650) of special indebtedness may be issued or incurred under this  
49 subdivision prior to July 1, 2008.
- 50 (16) In the maximum aggregate principal amount of thirty-five million dollars  
51 (\$35,000,000) to finance the capital facility costs of a new education and

1 visitors center at Tryon Palace Historic Sites and Gardens. No more than a  
2 maximum aggregate amount of five million dollars (\$5,000,000) of special  
3 indebtedness may be issued or incurred under this subdivision prior to July  
4 1, 2008. No more than a maximum aggregate amount of twenty-five million  
5 dollars (\$25,000,000) of special indebtedness may be issued or incurred  
6 under this subdivision prior to July 1, 2009."

7 **SECTION 27.9.(c)** Section 23.12 of S.L. 2006-66, as amended by Section 27.8(c)  
8 of S.L. 2008-107, reads as rewritten:

9 **"SPECIAL INDEBTEDNESS PROJECTS**

10 **SECTION 23.12.(a)** In accordance with G.S. 142-83, this subsection authorizes the  
11 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
12 forty-five million one hundred thirty dollars (\$45,130,000) to finance the costs of constructing  
13 new buildings and pavilions and renovating existing buildings at the North Carolina Museum  
14 of Art. The State, with the prior approval of the State Treasurer and the Council of State, as  
15 provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur  
16 special indebtedness in order to provide funds to the State to be used, together with other  
17 available funds, to pay the costs of constructing and renovating the project described in this  
18 subsection.

19 **SECTION 23.12.(b)** In accordance with G.S. 142-83, this subsection authorizes the  
20 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
21 twenty million dollars (\$20,000,000) to finance the capital facility costs of completing the  
22 Central Regional Psychiatric Hospital for the Department of Health and Human Services. The  
23 State, with the prior approval of the State Treasurer and the Council of State, as provided in  
24 Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special  
25 indebtedness in order to provide funds to the State to be used, together with other available  
26 funds, to pay the capital facility costs of the project described in this subsection.

27 **SECTION 23.12.(c)** In accordance with G.S. 142-83, this subsection authorizes the  
28 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
29 ~~twenty four million eight hundred forty one thousand three hundred dollars (\$24,841,300)~~  
30 twenty-four million one hundred sixteen thousand four hundred thirty-three dollars  
31 (\$24,116,433) to finance the capital facility costs of a new Secondary State Data Center. The  
32 State, with the prior approval of the State Treasurer and the Council of State, as provided in  
33 Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special  
34 indebtedness in order to provide funds to the State to be used, together with other available  
35 funds, to pay the capital facility costs of the project described in this subsection.

36 **SECTION 23.12.(d)** In accordance with G.S. 142-83, this subsection authorizes the  
37 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
38 forty-five million eight hundred twenty-seven thousand four hundred dollars (\$45,827,400) to  
39 finance the capital facility costs of a new Center City Classroom Building at the University of  
40 North Carolina – Charlotte. The State, with the prior approval of the State Treasurer and the  
41 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized  
42 to issue or incur special indebtedness in order to provide funds to the State to be used, together  
43 with other available funds, to pay the capital facility costs of the project described in this  
44 subsection.

45 **SECTION 23.12.(e)** In accordance with G.S. 142-83, this subsection authorizes the  
46 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
47 one hundred one million dollars (\$101,000,000) to finance the capital facility costs of the  
48 Department of Health and Human Services Public Health Laboratory and Office of Chief  
49 Medical Examiner. The State, with the prior approval of the State Treasurer and the Council of  
50 State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or  
51 incur special indebtedness in order to provide funds to the State to be used, together with other

1 available funds, to pay the capital facility costs of the project described in this subsection. No  
2 more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000) of  
3 special indebtedness may be issued or incurred under this subsection prior to July 1, 2007.

4 **SECTION 23.12.(f)** In accordance with G.S. 142-83, this subsection authorizes the  
5 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
6 ~~one hundred forty five million five hundred thousand dollars (\$145,500,000)~~ one hundred forty  
7 million four hundred seventy eight thousand seventy dollars (\$140,478,070) to finance the  
8 capital facility costs of the Eastern Regional Psychiatric Hospital for the Department of Health  
9 and Human Services. The State, with the prior approval of the State Treasurer and the Council  
10 of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue  
11 or incur special indebtedness in order to provide funds to the State to be used, together with  
12 other available funds, to pay the capital facility costs of the project described in this subsection.  
13 No more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000)  
14 of special indebtedness may be issued or incurred under this subsection prior to July 1, 2007.  
15 No more than a maximum aggregate principal amount of one hundred million dollars  
16 (\$100,000,000) of special indebtedness may be issued or incurred under this subsection prior to  
17 July 1, 2008.

18 **SECTION 23.12.(g)** In accordance with G.S. 142-83, this subsection authorizes the  
19 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
20 one hundred thirty-two million two hundred thousand dollars (\$132,200,000) to finance the  
21 capital facility costs of the Regional Medical Center and Mental Health Center of the  
22 Department of Correction. The State, with the prior approval of the State Treasurer and the  
23 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized  
24 to issue or incur special indebtedness in order to provide funds to the State to be used, together  
25 with other available funds, to pay the capital facility costs of the project described in this  
26 subsection. No more than a maximum aggregate principal amount of eight million two hundred  
27 thousand dollars (\$8,200,000) of special indebtedness may be issued or incurred under this  
28 subsection prior to July 1, 2007. No more than a maximum aggregate principal amount of  
29 fifty-eight million two hundred thousand dollars (\$58,200,000) of special indebtedness may be  
30 issued or incurred under this subsection prior to July 1, 2008. No more than a maximum  
31 aggregate principal amount of ninety-eight million two hundred thousand dollars (\$98,200,000)  
32 of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

33 **SECTION 23.12.(h)** In accordance with G.S. 142-83, this subsection authorizes the  
34 issuance or incurrence of special indebtedness in the maximum aggregate principal amount of  
35 ~~one hundred sixty two million eight hundred thousand dollars (\$162,800,000)~~ one hundred  
36 fifty-seven million one hundred eighty thousand nine hundred sixty dollars (\$157,180,960) to  
37 finance the capital facility costs of the Western Regional Psychiatric Hospital for the  
38 Department of Health and Human Services. The State, with the prior approval of the State  
39 Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General  
40 Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the  
41 State to be used, together with other available funds, to pay the capital facility costs of the  
42 project described in this subsection. No special indebtedness may be issued or incurred under  
43 this subsection prior to July 1, 2008. No more than a maximum aggregate principal amount of  
44 twenty million dollars (\$20,000,000) of special indebtedness may be issued or incurred under  
45 this subsection prior to July 1, 2009.

46 **SECTION 23.12.(i)** This section is effective when it becomes law."

47 **SECTION 27.9.(d)** Section 1.2 of S.L. 2004-179, as amended by Section 1 of S.L.  
48 2006-231, reads as rewritten:

49 "SECTION 1.2. In accordance with G.S. 142-83, this section authorizes the issuance or  
50 incurrence of special indebtedness in the maximum aggregate principal amount of ~~forty-two~~  
51 ~~million dollars (\$42,000,000)~~ thirty-five million two hundred thousand dollars (\$35,200,000) to

1 finance the costs of constructing up to five youth development centers totaling up to 224 beds  
2 to be operated by the Department of Juvenile Justice and Delinquency Prevention and to be  
3 located as determined by that Department. The State, with the prior approval of the State  
4 Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General  
5 Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the  
6 State to be used, together with other available funds, to pay the cost of constructing the projects  
7 described by this section. Of the special indebtedness authorized by this section, no more than  
8 thirteen million dollars (\$13,000,000) may be issued or incurred before July 1, 2005."

9 **SECTION 27.9.(e)** Notwithstanding anything in Section 47.1 of S.L. 2003-284 to  
10 the contrary, the maximum amount of special indebtedness authorized by that section for the  
11 capital facilities cost of Columbus County Correctional Institution is one hundred one million  
12 fifty-six thousand four hundred ninety dollars (\$101,056,490).

## 13 **TWO-THIRDS BONDS ACT OF 2009**

14 **SECTION 27.10.(a)** Short Title. – This section may be cited as the "Two-Thirds  
15 Bonds Act of 2009."

16 **SECTION 27.10.(b)** Findings and Determinations. – It is the intent and purpose of  
17 the General Assembly by this section to provide for the issuance of general obligation bonds or  
18 notes of the State in order to provide funds for the cost of State capital facilities and for the cost  
19 of repairs and renovations of State capital facilities and related infrastructure.

20 **SECTION 27.10.(c)** Definitions. – The following definitions apply in this section  
21 unless the context otherwise requires:

22 (1) Bonds. – Bonds issued under this section.

23 (2) Cost. – The term includes all of the following:

- 24 a. The cost of constructing, reconstructing, renovating, repairing,  
25 enlarging, acquiring, and improving State capital facilities, including  
26 the acquisition of land, rights-of-way, easements, franchises,  
27 equipment, machinery, furnishings, and other interests in real or  
28 personal property acquired or used in connection with a State capital  
29 facility.
- 30 b. The cost of engineering, architectural, and other consulting services  
31 as may be required.
- 32 c. Administrative expenses and charges.
- 33 d. The cost of providing personnel to ensure effective project  
34 management.
- 35 e. The cost of bond insurance, investment contracts, credit enhancement  
36 and liquidity facilities, interest-rate swap agreements or other  
37 derivative products, financial and legal consultants, and related costs  
38 of bond and note issuance, to the extent and as determined by the  
39 State Treasurer.
- 40 f. Finance charges, reserves for debt service, and other types of  
41 reserves required pursuant to the terms of any bond or note or related  
42 documents, interest before and during construction or acquisition of a  
43 State capital facility and, if considered advisable by the State  
44 Treasurer, for a period not exceeding two years after the estimated  
45 date of completion of construction or acquisition.
- 46 g. The cost of reimbursing the State for any payments made for any cost  
47 described in this subdivision.
- 48 h. Any other costs and expenses necessary or incidental to the purposes  
49 of this section.
- 50

- 1           (3)    Credit facility. – An agreement entered into by the State Treasurer on behalf  
2           of the State with a bank, savings and loan association or other banking  
3           institution, an insurance company, reinsurance company, surety company or  
4           other insurance institution, a corporation, investment banking firm or other  
5           investment institution, or any financial institution or other similar provider  
6           of a credit facility, which provider may be located within or without the  
7           United States, such agreement providing for prompt payment of all or any  
8           part of the principal or purchase price (whether at maturity, presentment or  
9           tender for purchase, redemption or acceleration), redemption premium, if  
10          any, and interest on any bonds or notes payable on demand or tender by the  
11          owner, in consideration of the State agreeing to repay the provider of the  
12          credit facility in accordance with the terms and provisions of such  
13          agreement.
- 14          (4)    Notes. – Notes issued under this section.
- 15          (5)    Par formula. – A provision or formula adopted by the State to provide for the  
16          adjustment, from time to time, of the interest rate or rates borne by any  
17          bonds or notes, including:
- 18               a.     A provision providing for such adjustment so that the purchase price  
19               of such bonds or notes in the open market would be as close to par as  
20               possible.
- 21               b.     A provision providing for such adjustment based upon a percentage  
22               or percentages of a prime rate or base rate, which percentage or  
23               percentages may vary or be applied for different periods of time.
- 24               c.     Such other provision as the State Treasurer may determine to be  
25               consistent with this act and will not materially and adversely affect  
26               the financial position of the State and the marketing of bonds or notes  
27               at a reasonable interest cost to the State.
- 28          (6)    State. – The State of North Carolina, including any State agency.
- 29          (7)    State agency. – Any agency, institution, board, commission, bureau, council,  
30          department, division, officer, or employee of the State. The term does not  
31          include counties, municipal corporations, political subdivisions, local boards  
32          of education, or other local public bodies.

33           **SECTION 27.10.(d)** Authorization of Bonds and Notes. – The State Treasurer is  
34          authorized, by and with the consent of the Council of State, to issue and sell at one time or from  
35          time to time general obligation bonds or notes of the State to be designated 'State of North  
36          Carolina General Obligation Bonds,' with any additional designations as may be determined,  
37          with any other available funds, for the purposes authorized by this section. The aggregate  
38          principal amount of bonds authorized by this section for the fiscal years ending June 30, 2010,  
39          and June 30, 2011, may not exceed the lesser of (i) the amount authorized by this subsection for  
40          that fiscal year and (ii) an amount that, together with all other general obligation bonds issued  
41          by the State, excluding refunding bonds, during the biennium ending June 30, 2011, is greater  
42          than two-thirds of the net amount by which the State's outstanding general obligation bonds  
43          was reduced during the biennium ended June 30, 2009. The aggregate principal amount of  
44          bonds authorized by this section for the fiscal years ending June 30, 2012, and June 30, 2013,  
45          may not exceed the lesser of (i) the amount authorized by this subsection for that fiscal year  
46          and (ii) an amount that, together with all other general obligation bonds issued by the State,  
47          excluding refunding bonds, during the biennium ending June 30, 2013, is greater than  
48          two-thirds of the net amount by which the State's outstanding general obligation bonds was  
49          reduced during the biennium ended June 30, 2011. If the maximum principal amount of bonds  
50          and notes authorized for a fiscal year is in excess of the amount described above, then the  
51          maximum amount of bonds and notes authorized in this section for that fiscal year is reduced



1 by such excess. There is hereby authorized the following amount of bonds and notes authorized  
2 by this section in the following fiscal years:

- 3 (1) In the maximum aggregate principal amount of one hundred six million six  
4 hundred ten thousand dollars (\$106,610,000) for fiscal year 2009-2010.
- 5 (2) In the maximum aggregate principal amount of one hundred million dollars  
6 (\$100,000,000) for fiscal year 2010-2011.
- 7 (3) In the maximum aggregate principal amount of fifty million dollars  
8 (\$50,000,000) for fiscal year 2011-2012.
- 9 (4) In the maximum aggregate principal amount of fifty million dollars  
10 (\$50,000,000) for fiscal year 2012-2013.

11 **SECTION 27.10.(e)** Uses of Bond and Note Proceeds. – The proceeds of bonds  
12 and notes shall be used for financing the cost of State capital facilities and for repairing and  
13 renovating State capital facilities as provided in this section. Any additional moneys which  
14 may be received by grant from the United States of America or any agency or department  
15 thereof or from any other source to aid in financing the cost of any State capital facilities  
16 authorized by this section may be placed by the State Treasurer in a separate fund or funds and  
17 shall be disbursed, to the extent permitted by the terms of the grant, without regard to any  
18 limitations imposed by this section.

19 The proceeds of bonds and notes may be used with any other moneys made  
20 available by the General Assembly for the cost of State capital facilities, including the proceeds  
21 of any other State bond issues, whether heretofore made available or which may be made  
22 available at the session of the General Assembly at which this section is ratified or any  
23 subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under  
24 the direction and supervision of the Director of the Budget. The funds provided by this section  
25 shall be disbursed for the purposes provided in this section upon warrants drawn on the State  
26 Treasurer by the State Controller, which warrants shall not be drawn until requisition has been  
27 approved by the Director of the Budget and which requisition shall be approved only after full  
28 compliance with the State Budget Act, Chapter 143C of the General Statutes.

29 The Office of State Budget and Management and the Board of Governors of The  
30 University of North Carolina shall provide semiannual reports to the Joint Legislative  
31 Oversight Committee on Capital Improvements, the Chairs of the Senate and House of  
32 Representatives Appropriation Committees, and the Fiscal Research Division on the  
33 expenditure of moneys authorized by this section. The reports shall continue until the  
34 completion of the projects provided for in this section.

35 **SECTION 27.10.(f)** Allocation of Proceeds. – The proceeds of bonds and notes  
36 shall be allocated and expended as provided in this subsection:

- 37 (1) A maximum aggregate principal amount of two hundred forty million dollars  
38 (\$240,000,000) to finance the capital facility costs of the new Biomedical  
39 Research Imaging Center at the University of North Carolina at Chapel Hill.  
40 No more than a maximum aggregate principal amount of seventy-four  
41 million dollars (\$74,000,000) may be issued or incurred under this  
42 subdivision prior to July 1, 2010. No more than a maximum aggregate  
43 amount of one hundred seventy-four million dollars (\$174,000,000) may be  
44 issued or incurred prior to July 1, 2011. No more than a maximum aggregate  
45 amount of two hundred twenty-four million dollars (\$224,000,000) may be  
46 issued or incurred prior to July 1, 2012. The projected allocation for this  
47 capital facility may be increased to reflect the availability of other funds,  
48 including contingency funds, income earned on the investment of bond and  
49 note proceeds, and the proceeds of any grants.
- 50 (2) A maximum aggregate principal amount of sixty-six million six hundred ten  
51 thousand dollars (\$66,610,000) to be used only in accordance with this

1 subdivision for the repair and renovation of State facilities and related  
2 infrastructure. No more than a maximum aggregate amount of thirty-two  
3 million six hundred ten thousand dollars (\$32,610,000) may be issued or  
4 incurred under this subdivision prior to July 1, 2012.

5 **SECTION 27.10.(g) Issuance of Bonds and Notes. –**

6 (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be  
7 serial or term bonds or notes, or any combination thereof, may mature in  
8 such amounts and at such time or times, not exceeding 40 years from their  
9 date or dates, may be payable at such place or places, either within or  
10 without the United States of America, in such coin or currency of the United  
11 States of America as at the time of payment is legal tender for payment of  
12 public and private debts, may bear interest at such rate or rates, which may  
13 vary from time to time, and may be made redeemable before maturity, at the  
14 option of the State or otherwise as may be provided by the State, at such  
15 price or prices, including a price less than or greater than the face amount of  
16 the bonds or notes, and under such terms and conditions, all as may be  
17 determined by the State Treasurer, by and with the consent of the Council of  
18 State.

19 (2) Signatures; form and denomination; registration. – Bonds or notes may be  
20 issued in certificated or uncertificated form. If issued in certificated form,  
21 bonds or notes shall be signed on behalf of the State by the Governor or shall  
22 bear the Governor's facsimile signature, shall be signed by the State  
23 Treasurer or shall bear the State Treasurer's facsimile signature, and shall  
24 bear the great seal of the State, or a facsimile of the seal shall be impressed  
25 or imprinted thereon. If bonds or notes bear the facsimile signatures of the  
26 Governor and the State Treasurer, the bonds or notes shall also bear a  
27 manual signature which may be that of a bond registrar, trustee, paying  
28 agent, or designated assistant of the State Treasurer. Should any officer  
29 whose signature or facsimile signature appears on bonds or notes cease to be  
30 such officer before the delivery of the bonds or notes, the signature or  
31 facsimile signature shall nevertheless have the same validity for all purposes  
32 as if the officer had remained in office until delivery. Bonds or notes may  
33 bear the facsimile signatures of persons who at the actual time of the  
34 execution of the bonds or notes shall be the proper officers to sign any bond  
35 or note, although at the date of the bond or note such persons may not have  
36 been such officers. The form and denomination of bonds or notes, including  
37 the provisions with respect to registration of the bonds or notes and any  
38 system for their registration, shall be as the State Treasurer may determine in  
39 conformity with this section.

40 (3) Manner of sale; expenses. – Subject to the approval by the Council of State  
41 as to the manner in which bonds or notes shall be offered for sale, whether at  
42 public or private sale, whether within or without the United States, and  
43 whether by publishing notices in certain newspapers and financial journals,  
44 mailing notices, inviting bids by correspondence, negotiating contracts of  
45 purchase, or otherwise, the State Treasurer is authorized to sell bonds or  
46 notes at one time or from time to time at any rates of interest, which may  
47 vary from time to time, and at any prices, including a price less than or  
48 greater than the face amount of the bonds or notes, as the State Treasurer  
49 may determine. All expenses incurred in the preparation, sale, and issuance  
50 of bonds or notes shall be paid by the State Treasurer from the proceeds of  
51 bonds or notes or other available moneys.

- 1 (4) Notes; repayment. –  
2 a. By and with the consent of the Council of State, the State Treasurer  
3 is hereby authorized to borrow money and to execute and issue notes  
4 of the State for the same, but only in the following circumstances and  
5 under the following conditions:  
6 1. For anticipating the sale of bonds, the issuance of which the  
7 Council of State has approved, if the State Treasurer  
8 considers it advisable to postpone the issuance of the bonds;  
9 2. For the payment of interest on or any installment of principal  
10 of any bonds then outstanding, if there are not sufficient  
11 funds in the State treasury with which to pay the interest or  
12 installment of principal as they respectively become due;  
13 3. For the renewal of any loan evidenced by notes authorized in  
14 this section;  
15 4. For the purposes authorized in this section; and  
16 5. For refunding bonds or notes as authorized in this section.  
17 b. Funds derived from the sale of bonds or notes may be used in the  
18 payment of any bond anticipation notes issued under this section.  
19 Funds provided by the General Assembly for the payment of interest  
20 on or principal of bonds shall be used in paying the interest on or  
21 principal of any notes and any renewals thereof, the proceeds of  
22 which shall have been used in paying interest on or principal of the  
23 bonds.
- 24 (5) Refunding bonds and notes. – By and with the consent of the Council of  
25 State, the State Treasurer is authorized to issue and sell refunding bonds and  
26 notes pursuant to the provisions of the State Refunding Bond Act for the  
27 purpose of refunding bonds or notes issued pursuant to this section. The  
28 refunding bonds and notes may be combined with any other issues of State  
29 bonds and notes similarly secured. Refunding bonds or notes may be issued  
30 at any time prior to the final maturity of the debt obligation to be refunded.  
31 The proceeds from the sale of any refunding bonds or notes shall be applied  
32 to the immediate payment and retirement of the bonds or notes being  
33 refunded or, if not required for the immediate payment of the bonds or notes  
34 being refunded, the proceeds shall be deposited in trust to provide for the  
35 payment and retirement of the bonds or notes being refunded and to pay any  
36 expenses incurred in connection with the refunding. Money in a trust fund  
37 may be invested in (i) direct obligations of the United States government, (ii)  
38 obligations the principal of and interest on which are guaranteed by the  
39 United States government, (iii) obligations of any agency or instrumentality  
40 of the United States government if the timely payment of principal and  
41 interest on the obligations is unconditionally guaranteed by the United States  
42 government, or (iv) certificates of deposit issued by a bank or trust company  
43 located in the State if the certificates are secured by a pledge of any of the  
44 obligations described in (i), (ii), or (iii) above having an aggregate market  
45 value, exclusive of accrued interest, equal at least to the principal amount of  
46 the certificates so secured. This section does not limit the duration of any  
47 deposit in trust for the retirement of bonds or notes being refunded but that  
48 have not matured and are not presently redeemable, or if presently  
49 redeemable, have not been called for redemption.
- 50 (6) Tax exemption. – Bonds and notes shall at all times be free from taxation by  
51 the State or any political subdivision or any of their agencies, excepting

1 estate, inheritance or gift taxes, income taxes on the gain from the transfer of  
2 bonds or notes, and franchise taxes. The interest on bonds or notes is not  
3 subject to taxation as income.

4 (7) Investment eligibility. – Bonds and notes are securities in which all of the  
5 following may invest, including capital in their control or belonging to them:  
6 public officers, agencies, and public bodies of the State and its political  
7 subdivisions, all insurance companies, trust companies, investment  
8 companies, banks, savings banks, savings and loan associations, credit  
9 unions, pension or retirement funds, other financial institutions engaged in  
10 business in the State, executors, administrators, trustees, and other  
11 fiduciaries. Bonds and notes are hereby made securities which may properly  
12 and legally be deposited with and received by any officer or agency of the  
13 State or political subdivision of the State for any purpose for which the  
14 deposit of bonds, notes, or obligations of the State or any political  
15 subdivision is now or may hereafter be authorized by law.

16 (8) Faith and credit. – The faith and credit and taxing power of the State are  
17 hereby pledged for the payment of the principal of and the interest on bonds  
18 and notes. The State expressly reserves the right to amend any provision of  
19 this section to the extent it does not impair any contractual right of a bond  
20 owner.

21 (9) Other agreements. – The State Treasurer may authorize, execute, obtain, or  
22 otherwise provide for bond insurance, investment contracts, credit and  
23 liquidity facilities, interest-rate swap agreements and other derivative  
24 products, and any other related instruments and matters the State Treasurer  
25 determines are desirable in connection with issuance, incurrence, carrying,  
26 or securing of bonds or notes. The State Treasurer is authorized to employ  
27 and designate any financial consultants, underwriters, and bond attorneys to  
28 be associated with any bond or note issue under this section as the State  
29 Treasurer considers necessary.

30 **SECTION 27.10.(h)** Variable Rate Demand Bonds and Notes. – In fixing the  
31 details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

32 (1) Be made payable from time to time on demand or tender for purchase by the  
33 owner, if a credit facility supports the bonds or notes, unless the State  
34 Treasurer specifically determines that a credit facility is not required upon a  
35 finding and determination by the State Treasurer that the absence of a credit  
36 facility will not materially and adversely affect the financial position of the  
37 State and the marketing of the bonds or notes at a reasonable interest cost to  
38 the State;

39 (2) Be additionally supported by a credit facility;

40 (3) Be made subject to redemption or a mandatory tender for purchase prior to  
41 maturity;

42 (4) Bear interest at a rate or rates that may vary for any period of time, as may  
43 be provided in the proceedings providing for the issuance of the bonds or  
44 notes, including, without limitation, such variations as may be permitted  
45 pursuant to a par formula; and

46 (5) Be made the subject of a remarketing agreement whereby an attempt is made  
47 to remarket bonds or notes to new purchasers prior to their presentment for  
48 payment to the provider of the credit facility or to the State.

49 If the aggregate principal amount payable by the State under a credit facility is in  
50 excess of the aggregate principal amount of bonds or notes secured by the credit facility,  
51 whether as a result of the inclusion in the credit facility of a provision for the payment of

1 interest for a limited period of time or the payment of a redemption premium or for any other  
 2 reason, then the amount of authorized but unissued bonds or notes during the term of such  
 3 credit facility shall not be less than the amount of such excess, unless the payment of such  
 4 excess is otherwise provided for by agreement of the State executed by the State Treasurer.

5 **SECTION 27.10.(i)** Interpretation of Section. –

- 6 (1) Additional method. – The foregoing sections of this section shall be deemed  
 7 to provide an additional and alternative method for the doing of the things  
 8 authorized under it and shall be regarded as supplemental and additional to  
 9 powers conferred by other laws and shall not be regarded as in derogation of  
 10 any powers now existing.
- 11 (2) Statutory references. – References in this section to specific sections or  
 12 Chapters of the General Statutes or to specific acts are intended to be  
 13 references to such sections, Chapters, or acts as they may be amended from  
 14 time to time by the General Assembly.
- 15 (3) Broad construction. – This section, being necessary for the health and  
 16 welfare of the people of the State, shall be broadly construed to effect the  
 17 purposes thereof.
- 18 (4) Inconsistent provisions. – Insofar as the provisions of this section are  
 19 inconsistent with the provisions of any general, special, or local laws, or  
 20 parts thereof, the provisions of this section shall be controlling.
- 21 (5) Severability. – If any provision of this section or the application thereof to  
 22 any person or circumstance is held invalid, such invalidity shall not affect  
 23 other provisions or applications of the section which can be given effect  
 24 without the invalid provision or application, and to this end the provisions of  
 25 this section are declared to be severable.

26 **SECTION 27.10.(j)** G.S 116-29.5 reads as rewritten:

27 **"§ 116-29.5. Biomedical Research Imaging Center.**

28 The General Assembly finds that the construction of the Biomedical Research Imaging  
 29 Center at the University of North Carolina at Chapel Hill is a vital component of the State's  
 30 efforts to improve the health and wellness of its citizens. Therefore, there is appropriated from  
 31 the General Fund to the Board of Governors of The University of North Carolina the following  
 32 sums for the corresponding fiscal year to be used for the planning and construction of the  
 33 Biomedical Research Imaging Center:

Fiscal Year	Amount:
34 2009-2010	<del>\$172,000,000</del> <u>\$74,000,000</u>
35 2010-2011	<del>\$45,000,000</del> <u>\$100,000,000</u>
36 2011-2012	<u>\$50,000,000</u>
37 2012-2013	<u>\$16,000,000."</u>

38 **SECTION 27.10.(k)** The funds appropriated for the 2009-2010 shall be placed in a  
 39 Reserve for the Biomedical Research Imaging Center and shall be spent only to the extent that  
 40 the Council of State does not authorize the issuance of bonds in the amount of \$74,000,000  
 41 during the 2009-2010 fiscal year.

42 **SECTION 27.10.(l)** Effective Date. – This section is effective when it becomes  
 43 law.  
 44

45 **PART XXVIII. MISCELLANEOUS PROVISIONS**

46 **STATE BUDGET ACT APPLIES**

47 **SECTION 28.1.** The provisions of the State Budget Act, Chapter 143C of the  
 48 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in  
 49 this act by reference.  
 50  
 51

**COMMITTEE REPORT**

**SECTION 28.2.(a)** The Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets dated April 7, 2009, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 28.2.(b)** The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2008-2009 budget as provided in G.S.143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in March 2009 in the documents "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," for the 2009-2011 fiscal biennium for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

**SECTION 28.2.(c)** The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

**MOST TEXT APPLIES ONLY TO THE 2009-2011 FISCAL BIENNIUM**

**SECTION 28.3.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2009-2011 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2009-2011 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 28.4.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

**SEVERABILITY CLAUSE**

**SECTION 28.5.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 28.5A.** This act becomes effective only if the General Assembly enacts modifications to tax law that increase revenues by an amount sufficient to ensure that the State's budget is balanced.

**SECTION 28.6.** Except as otherwise provided, this act becomes effective July 1, 2009.