

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 897
PROPOSED COMMITTEE SUBSTITUTE S897-PCS35431-LExf-47

Short Title: Appropriations Act of 2010.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS
3 APPROPRIATIONS ACT OF 2009 AND FOR OTHER PURPOSES.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. INTRODUCTION AND TITLE OF ACT**

7
8 **TITLE OF ACT**

9 **SECTION 1.1.** This act shall be known as "The Current Operations and Capital
10 Improvements Appropriations Act of 2010."

11
12 **INTRODUCTION**

13 **SECTION 1.2.** The appropriations made in this act are for maximum amounts
14 necessary to provide the services and accomplish the purposes described in the budget. Savings
15 shall be effected where the total amounts appropriated are not required to perform these
16 services and accomplish these purposes and, except as allowed by the State Budget Act, or this
17 act, the savings shall revert to the appropriate fund at the end of each fiscal year as provided in
18 G.S. 143C-1-2(b).

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 adjusted for the fiscal year ending June 30, 2011, according to the schedule
26 that follows. Amounts set out in brackets are reductions from General Fund appropriations for
27 the 2009-2010 fiscal year.

28
29 **Current Operations – General Fund**

2010-2011

30
31 **EDUCATION**

32
33 Community Colleges System Office

\$ 50,744,859



1	Department of Public Instruction	(219,159,933)
2		
3	University of North Carolina – Board of Governors	
4	General Administration	(632,140)
5	University Institutional Programs	5,846,731
6	Related Educational Programs	8,195,517
7	UNC Financial Aid Private Colleges	(1,500,000)
8	North Carolina School of Science and Mathematics	
9	UNC Hospitals at Chapel Hill	(2,000,000)
10	Total University of North Carolina – Board of Governors	\$ 9,910,108
11		
12	HEALTH AND HUMAN SERVICES	
13		
14	Department of Health and Human Services	
15	Central Management and Support	\$ (4,923,834)
16	Division of Blind Services/Deaf/HH	(632,912)
17	Division of Child Development	(46,090,555)
18	Division of Education Services	(5,612,680)
19	Division of Health Service Regulation	(2,061,346)
20	Division of Medical Assistance	(349,276,270)
21	Division of Mental Health	21,595,819
22	NC Health Choice	6,444,925
23	Division of Public Health	(6,091,724)
24	Division of Social Services	(15,645,084)
25	Division of Vocational Rehabilitation	(3,102,472)
26	Total Health and Human Services	\$ (405,396,133)
27		
28	NATURAL AND ECONOMIC RESOURCES	
29		
30	Department of Agriculture and Consumer Services	\$ (1,938,749)
31		
32	Department of Commerce	
33	Commerce	33,952,587
34	Commerce State-Aid	4,980,564
35	NC Biotechnology Center	(725,095)
36	Rural Economic Development Center	2,933,378
37		
38	Department of Environment and Natural Resources	1,227,571
39		
40	Department of Labor	(1,411,321)
41		
42	JUSTICE AND PUBLIC SAFETY	
43		
44	Department of Correction	\$ (54,081,580)
45		
46	Department of Crime Control and Public Safety	(1,316,174)
47		
48	Judicial Department	(15,818,245)
49	Judicial Department – Indigent Defense	(4,194,867)
50		
51	Department of Justice	(2,990,307)

1		
2	Department of Juvenile Justice and Delinquency Prevention	(4,737,080)
3		
4	GENERAL GOVERNMENT	
5		
6	Department of Administration	\$ (2,157,910)
7		
8	Office of Administrative Hearings	(278,356)
9		
10	Department of State Auditor	(777,194)
11		
12	Office of State Controller	8,075,323
13		
14	Department of Cultural Resources	
15	Cultural Resources	(3,905,057)
16	Roanoke Island Commission	(115,926)
17		
18	State Board of Elections	373,851
19		
20	General Assembly	(3,295,241)
21		
22	Office of the Governor	
23	Office of the Governor	(353,359)
24	Office of State Budget and Management	(373,164)
25	OSBM – Reserve for Special Appropriations	(4,650)
26	Housing Finance Agency	(850,732)
27		
28	Office of Lieutenant Governor	(54,235)
29		
30	Department of Revenue	(1,523,641)
31		
32	Department of Secretary of State	(666,886)
33		
34	RESERVES, ADJUSTMENTS AND DEBT SERVICE	
35		
36	Reserve for Teachers' and State Employees' Retirement Contribution	\$ 20,000,000
37		
38	Reserve for Job Development Investment Grants (JDIG)	(6,600,000)
39		
40	University Cancer Research Fund	600,000
41		
42	Reserve for Capital	18,222,000
43		
44	Debt Service	
45	General Debt Service	(15,845,385)
46		
47	TOTAL CURRENT OPERATIONS – GENERAL FUND	\$ (597,650,979)
48		
49	GENERAL FUND AVAILABILITY STATEMENT	

50 **SECTION 2.2.(a)** Section 2.2(a) of S.L. 2009-451 is repealed. The General Fund
51 availability used in adjusting the 2010-2011 budget is shown below:

1		
2		FY 2010-2011
3		
4	Unappropriated Balance Remaining from Previous Year	3,702,182
5	Adjustment from Estimated to Actual 2009-2010 Beginning Unreserved Balance	270,080
6	Beginning Unreserved Fund Balance	3,972,262
7		
8	Revenues Based on Existing Tax Structure	18,199,339,016
9		
10	Nontax Revenues	
11	Investment Income	57,500,000
12	Judicial Fees	239,100,000
13	Disproportionate Share	100,000,000
14	Insurance	67,000,000
15	Other Nontax Revenues	182,700,000
16	Highway Trust Fund/Use Tax Reimbursement Transfer	72,800,000
17	Highway Fund Transfer	17,600,000
18	Subtotal Nontax Revenues	736,700,000
19		
20	Total General Fund Availability	18,940,011,278
21		
22	Adjustments to Availability: Senate Bill 897	
23	IRC Conformity	(1,200,000)
24	Cap Tax Rate on Family-Owned and Other Small Business Income	(39,700,000)
25	Lower Sales Tax Compliance Burden on Small Retailers	(7,000,000)
26	Relieve Annual Report Compliance Burden on Small Business	(400,000)
27	Extend Sunset on Expiring Tax Incentive Income Tax Credits and Sales Tax	
28	Refunds One Year	(3,500,000)
29	Modernize Sales Tax On Accommodations	(700,000)
30	Modernize Admissions Tax and Restore Amenities Exclusion	3,000,000
31	Improve Tax and Debt Collection Process	(1,500,000)
32	Reduce Franchise Tax Burden On Construction Companies	1,700,000
33	Department of Revenue Corporate Settlement Initiative	110,000,000
34	Loss of Estate Tax Revenues for FY 2010-2011	(85,000,000)
35	Transfer from Disproportionate Share Reserve	35,000,000
36	Adjust Highway Fund Transfer – Commerce Executive Aircraft Transfer	(500,000)
37	Increase Justice and Public Safety Fees	22,214,722
38	Transfer From Severance Reserve Expenditure Account	30,000,000
39	Commerce Business Recruitment Initiatives (Pending Legislation)	(10,000,000)
40	Transfer from Tobacco Trust Fund	2,500,000
41		
42	Subtotal Adjustments to Availability: Senate Bill 897	54,914,722
43		
44	Revised General Fund Availability	18,994,926,000
45	Less: General Fund Appropriations	18,989,677,375
46		
47	Unappropriated Balance Remaining	5,248,625
48		

49 **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State
50 Controller shall not transfer funds to the Repairs and Renovations Reserve Account on June 30,
51 2010. This subsection becomes effective June 30, 2010.

1 **SECTION 2.2.(c)** Notwithstanding G.S. 143C-4-2, the State Controller shall not
 2 transfer funds to the Savings Reserve Account on June 30, 2010. This subsection becomes
 3 effective June 30, 2010.

4 **SECTION 2.2.(d)** Section 2.2(h) of S.L. 2009-451 reads as rewritten:

5 **"SECTION 2.2.(h)** Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco
 6 Trust, the sum of five million dollars (\$5,000,000) for the 2009-2010 fiscal year and the sum of
 7 seven million five hundred thousand dollars (\$7,500,000) for the 2010-2011 fiscal year shall be
 8 transferred from the Department of Agriculture and Consumer Services, Budget Code 23703
 9 (Tobacco Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978
 10 (Intrastate Transfers) to support General Fund ~~appropriations for the 2009-2010 and 2010-2011~~
 11 ~~fiscal years. These funds shall be transferred on or after April 30, 2010.~~appropriations."
 12

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

14
 15 **CURRENT OPERATIONS/HIGHWAY FUND**

16 **SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance
 17 and operation of the Department of Transportation and for other purposes as enumerated are
 18 adjusted for the fiscal year ending June 30, 2011, according to the following schedule.
 19 Amounts set out in brackets are reductions from Highway Fund Appropriations for the
 20 2010-2011 fiscal year.

	2010-2011
23 Department of Transportation	
24 Administration	\$ 1,663,695
25	
26 Division of Highways	
27 Administration	0
28 Construction	3,840,718
29 Maintenance	(7,709,150)
30 Planning and Research	0
31 OSHA Program	0
32	
33 Ferry Operations	11,349,869
34	
35 State Aid	
36 Municipalities	(785,319)
37 Public Transportation	0
38 Airports	500,000
39 Railroads	6,325,000
40	
41 Governor's Highway Safety Program	0
42	
43 Division of Motor Vehicles	617,223
44	
45 Transfers to Other State Agencies, Reserves	37,087,964
46	
47 TOTAL	\$ 52,890,000

48
 49 **HIGHWAY FUND AVAILABILITY**

50 **SECTION 3.2.** Section 3.2 of S.L. 2009-451 is repealed. The Highway Fund
 51 availability used in adjusting the 2010-2011 fiscal year budget is shown below:

1		
2	Highway Fund Availability Statement	2010-2011
3		
4	Unappropriated Balance From Previous Year	0
5	Beginning Fund Balance	0
6	Estimated Revenue	1,792,540,000
7		
8	Total Highway Fund Availability	\$1,792,540,000

9

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

11

12 **CURRENT OPERATIONS/HIGHWAY TRUST FUND**

13 **SECTION 4.1.** Appropriations from the State Highway Trust Fund for the
 14 maintenance and operation of the Department of Transportation and for other purposes as
 15 enumerated are adjusted for the fiscal year ending June 30, 2011, according to the following
 16 schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations
 17 for the 2010-2011 fiscal year.

18		
19	Current Operations – Highway Trust Fund	2010-2011
20		
21	Intrastate System	4,995,162
22	Urban Loops	2,019,836
23	Aid to Municipalities	524,109
24	Secondary Roads	(170,627)
25	Program Administration	371,520
26	North Carolina Turnpike Authority	0
27	Transfer to General Fund	0
28	Debt Service	0
29		
30	TOTAL	7,740,000

31

32

33 **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

34

35 **SECTION 4.2.** Section 4.2 of S.L. 2009-451 is repealed. The Highway Trust Fund
 36 availability used in developing the 2010-2011 fiscal year is shown below:

37		
38	Total Highway Trust Fund Availability	\$ 928,730,000

39

40 **PART V. OTHER APPROPRIATIONS**

41

42 **EDUCATION LOTTERY**

43 **SECTION 5.1.(a)** Pursuant to G.S. 18C-164, the revenue used to support
 44 appropriations made in this act is transferred from the State Lottery Fund in the amount of four
 45 hundred forty-one million three hundred forty-seven thousand five hundred dollars
 46 (\$441,347,500) for the 2010-2011 fiscal year.

47 **SECTION 5.1.(b)** Notwithstanding G.S. 18C-164, the appropriations made from
 48 the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2010-2011 fiscal year are as
 49 follows:

50	(1) Class Size Reduction	\$ 136,038,041
51	(2) Prekindergarten Program	84,635,709

1	(3) Public School Building Capital Fund	176,539,000
2	(4) Scholarships for Needy Students	44,134,750
3	Total	\$ 441,347,500

4 **SECTION 5.1.(c)** Notwithstanding G.S. 18C-164(f) or any other provision of law,
 5 excess lottery receipts realized in the 2009-2010 fiscal year in the amount of thirty-one million
 6 eight hundred eighty-one thousand forty-six dollars (\$31,881,046) shall be transferred to the
 7 Public School Building Capital Fund and allocated on the basis of average daily membership
 8 (ADM) to those local school administrative units that did not qualify for funding in the
 9 2009-2010 fiscal year pursuant to G.S. 115C-546.2(d)(2). Notwithstanding G.S. 18C-164(f) or
 10 any other provision of law, the balance of the excess lottery revenues realized in the 2009-2010
 11 fiscal year shall be used for scholarships for needy students.

12 **SECTION 5.1.(d)** Section 5.2.(d) of S.L. 2009-451, as enacted by Section 3N of
 13 S.L. 2009-575, is repealed.

14 **SECTION 5.1.(e)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any
 15 other provision of law, funds appropriated in this section to the Public School Building Capital
 16 Fund for the 2010-2011 fiscal year shall be allocated to counties on the basis of average daily
 17 membership (ADM). Counties may authorize local school administrative units to use all or part
 18 of these funds for classroom teachers.

19 These funds shall not be included in the computation of "average per pupil
 20 allocation for average daily membership" or "per pupil local current expense appropriation"
 21 under G.S. 115C-238.29H.

22 **SECTION 5.1.(f)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C
 23 of the General Statutes, or any other provision of law, of the funds appropriated in this section
 24 for Scholarships for Needy Students, the sum of twenty-six million six hundred sixty-one
 25 thousand forty-six dollars (\$26,661,046) shall be administered in accordance with the policy
 26 adopted by the Board of Governors of The University of North Carolina.

27 **SECTION 5.1.(g)** Subsections (c) and (d) of this section become effective June 30,
 28 2010.

29
 30 **INFORMATION TECHNOLOGY AVAILABILITY AND APPROPRIATION**

31 **SECTION 5.2.** Section 5.3.(b) of S.L. 2009-451 reads as rewritten:

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

35	Office of Information Technology Services	FY 2009-2010	FY 2010-2011
36			
37	Information Technology Operations	\$5,350,000	\$4,990,000
38	<u>Center for Geographic Information and Analysis</u>		\$740,000
39	<u>Enterprise Security and Risk Management Office</u>		1,101,296
40	<u>Enterprise Project Management Office</u>		1,795,000
41	<u>Architecture and Engineering</u>		648,000
42	<u>Total Information Technology Operations</u>	\$5,350,000	\$4,284,296
43			
44	Information Technology Projects	\$4,462,733	\$4,077,467
45	<u>Enterprise Licensing</u>		\$300,000
46	<u>State Portal</u>		500,000
47	<u>Enterprise Identity Management</u>		1,250,000
48	<u>IT Consolidation</u>		2,079,467
49	<u>Electronic Forms/Digital Signatures</u>		653,704
50	<u>Total Information Technology Projects</u>	\$4,462,733	\$4,783,171
51			

1	Budget and Performance Management System	\$1,021,985	0
2			
3	Budget/Committee Reporting System	\$500,000	0
4			
5	Total	\$11,334,718	\$9,067,467"

7 APPROPRIATION OF CASH BALANCES

8 **SECTION 5.3.** Section 5.4 of S.L. 2009-451 reads as rewritten:

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

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

39 **"SECTION 5.4.(b)** Receipts collected in a fiscal year in excess of the amounts authorized
 40 by this section shall remain unexpended and unencumbered until appropriated by the General
 41 Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the
 42 fiscal year in which the receipts were collected is authorized by the State Budget Act.

43 Overrealized receipts are appropriated up to the amounts necessary to implement this
 44 subsection.

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

1 "SECTION 5.4.(c) Notwithstanding subsections (a) and (b) of this section, there is
2 appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax
3 Revenues for each fiscal year an amount equal to the amount of the distributions required by
4 law to be made from that reserve for that fiscal year."
5

6 OTHER RECEIPTS FROM PENDING GRANT AWARDS

7 SECTION 5.4. Section 5.6 of S.L. 2009-451 reads as rewritten:

8 "SECTION 5.6. Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the
9 Director of the Budget and after consultation with the Joint Legislative Committee on
10 Governmental Operations, spend funds received from grants awarded subsequent to the
11 enactment of this act. The Office of State Budget and Management shall work with the
12 recipient State agencies to budget grant awards according to the annual program needs and
13 within the parameters of the respective granting entities. Depending on the nature of the award,
14 additional State personnel may be employed on a time-limited basis. The Office of State
15 Budget and Management shall consult with the Joint Legislative Commission on Governmental
16 Operations prior to expending any funds received from grant awards. Funds received from such
17 grants are hereby appropriated and shall be incorporated into the ~~certified~~-authorized budget of
18 the recipient State agency."
19

20 PART VI. GENERAL PROVISIONS

21 EXPENDITURE OF FUNDS IN RESERVES LIMITED

22 SECTION 6.1. All funds appropriated by this act into reserves may be expended
23 only for the purposes for which the reserves were established.
24
25

26 BUDGET CODE CONSOLIDATIONS

27 SECTION 6.2. Notwithstanding G.S. 143C-6-4, the Office of State Budget and
28 Management may adjust the enacted budget by making transfers among purposes or programs
29 for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund
30 codes. The Office of State Budget and Management shall change the authorized budget to
31 reflect these adjustments.
32

33 BUDGET REALIGNMENT

34 SECTION 6.3. Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and
35 Management, in consultation with the Office of the State Controller and the Fiscal Research
36 Division, may adjust the enacted budget by making transfers among purposes or programs for
37 the sole purpose of correctly aligning authorized positions and associated operating costs with
38 the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State
39 Budget and Management shall change the certified budget to reflect these adjustments only
40 after reporting the proposed adjustments to the Joint Legislative Commission on Governmental
41 Operations and the Fiscal Research Division. Under no circumstances shall total General Fund
42 expenditures for a State department exceed the amount appropriated to that department from
43 the General Fund for the fiscal year.
44

45 BUDGET ADJUSTMENTS AUTHORIZED

46 SECTION 6.4.(a) Notwithstanding G.S. 143C-6-4(a) or any other provision of
47 law, the maximum amount expended at the budget code level from funds appropriated in
48 Section 2.1 of S.L. 2009-451, as amended, shall not exceed by more than three percent (3%)
49 the amount appropriated for that budget code in Section 2.1 of S.L. 2009-451, as amended.
50

51 SECTION 6.4.(b) This section applies to the 2010-2011 fiscal year only.

ESTABLISHING OR INCREASING FEES PURSUANT TO THIS ACT

SECTION 6.5.(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 6.5.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

LEGISLATIVE BUDGET PRIORITIES

SECTION 6.6. The General Assembly finds North Carolina's citizens and businesses are suffering from the effects of a significant State, national, and international financial crisis and that this financial crisis has resulted in large reductions in revenues available to fund the State's budget for the upcoming year and in large increases in demand for State services. The General Assembly further finds that, in spite of the reduced revenues, the State must act decisively to create jobs, encourage economic activity to keep our families working, provide job training and higher education opportunities to the citizens of the State, and protect core government services such as health care for the most vulnerable populations and public safety for the citizens of the State; therefore, the General Assembly provides funding for and support of the following initiatives:

- (1) Retention of classroom teachers.
- (2) Tax credits for small businesses.
- (3) Small Business Assistance Fund.
- (4) Preservation of access to health care for vulnerable populations.
- (5) Financial aid to needy college and community college students.
- (6) Full funding community college enrollment growth to be used to hire additional faculty and student support staff.
- (7) Small Business Centers at community colleges.
- (8) Business Recruitment.
- (9) One North Carolina Small Business.
- (10) One North Carolina Fund.
- (11) Job Maintenance and Capital Development Fund.
- (12) Health science and engineering programs at the community college and university levels.
- (13) Energy Research Grants.
- (14) Regional Economic Development Commissions.
- (15) Home Grown Jobs.
- (16) Funding restored for mental health programs.
- (17) Tar Heel Work Program.
- (18) UNCC Energy Production Infrastructure Center (EPIC).
- (19) ECU Dental School Operations.
- (20) Sustainable Communities Task Force.
- (21) Clean Water State Revolving Fund.
- (22) Drinking Water State Revolving Fund.
- (23) Minority Support Center.
- (24) Tourism Marketing.
- (25) In-Source NC.
- (26) Lab-to-Market Commercialization Funds.
- (27) Capital projects.

AMEND ARRA FUNDS

1 **SECTION 6.7.** Section 6.6C.(b) of Session Law 2009-451 reads as rewritten:

2 "**SECTION 6.6C.(b)** Appropriation of ARRA Funds. – Funds received from ARRA grants
3 and receipts not specified in this act are hereby appropriated in the amounts provided in the
4 notification of award from the federal government or any entity acting on behalf of the federal
5 government to administer federal ARRA funds. ~~Prior to allocation of funds not expressly~~
6 ~~delineated in this act, the OSBM and affected state agencies shall consult with report to the~~
7 Joint Legislative Commission on Governmental Operations. Operations on ARRA grants
8 received that are not expressly delineated in this act."

9
10 **INFORMATION TECHNOLOGY OPERATIONS**

11 **SECTION 6.8.** Section 6.7 of S.L. 2009-451 reads as rewritten:

12 "**SECTION 6.7.(a)** Office of Information Technology Services Budget. – Notwithstanding
13 G.S. 147-33.88, the Office of Information Technology Services shall develop an annual budget
14 for review and approval by the Office of State Budget and Management in accordance with a
15 schedule prescribed by the Director of the Office of State Budget and Management. The
16 approved Office of Information Technology Services budget shall be included in the
17 Governor's budget recommendations to the General Assembly.

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

21 "**SECTION 6.7.(b)** Enterprise Projects. – The State Chief Information Officer shall
22 consult the respective State agency chief information officers to identify specific State agency
23 requirements prior to the initiation of any enterprise project. State agency requirements shall be
24 incorporated into any enterprise agreement signed by the State Chief Information Officer.
25 Enterprise projects shall not exceed the participating State agencies' ability to financially
26 support the contracts.

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

- 30 (1) Ensure that sufficient funds are budgeted to support their agreed shares of
31 enterprise agreements throughout the life of the contract.
32 (2) Transfer the agreed-upon funds to the Office of Information Technology
33 Services in sufficient time for the Office of Information Technology
34 Services to meet contract requirements.
35 (3) Ensure that enterprise project costs are allocated to participating agencies in
36 an equitable manner.

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

- 43 (1) Any advance payment complies with the Office of Information Technology
44 Services budget.
45 (2) The State Controller receives conclusive evidence that the proposed
46 agreement would be more cost-effective than a multiyear agreement that
47 complies with G.S. 147-86.11.
48 (3) The procurement complies in all other aspects with applicable statutes and
49 rules.
50 (4) The proposed agreement contains contract terms that protect the financial
51 interests of the State against contractor nonperformance or insolvency

1 through the creation of escrow accounts for funds, source codes, or both, or
2 by any other reasonable means that have legally binding effect.

3 The Office of State Budget and Management shall ensure the savings from any authorized
4 agreement shall be included in the Office of Information Technology Services calculation of
5 rates before the Office of State Budget and Management annually approves the proposed rates.
6 The Office of Information Technology Services shall report to the Office of State Budget and
7 Management on any State agency budget impacts resulting from multiyear contracts.

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

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

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

19 **"SECTION 6.7.(e)** Service level agreements developed with supported State agencies
20 shall include metrics for ITS, as well as the supported agencies. When ITS or an agency fails to
21 meet metrics established by the SLA, a report will be provided to the Office of State Budget
22 and Management and the Fiscal Research Division of the General Assembly within 10 days
23 that details the shortfall and provides a corrective action plan with a time line.

24 **"SECTION 6.7.(f)** The Office of Information Technology Procurement shall assist State
25 agencies in identifying the least expensive source for the purchase of IT goods and services and
26 shall ensure that agencies receive every available discount when purchasing IT goods and
27 services.

28 **"SECTION 6.7.(g)** The State CIO shall ensure that the agency bills from ITS for
29 information technology goods and services are easily understood and fully transparent."

30 31 **COORDINATION OF INFORMATION TECHNOLOGY REQUIREMENTS AND** 32 **GEOGRAPHICAL INFORMATION SYSTEM EFFORTS**

33 **SECTION 6.9.(a)** The State Chief Information Officer (SCIO), through the
34 Enterprise Program Management Office (EPMO), shall adopt measures to avoid the duplication
35 of information technology capabilities and resources across State agencies. When multiple
36 State agencies require the same or a substantially similar information technology capability, the
37 SCIO shall designate one State agency as the lead to coordinate support and to manage that
38 capability for all State agencies requiring the capability, with the SCIO maintaining oversight
39 of the effort. Further, the EPMO shall:

- 40 (1) Review all ongoing and future information technology projects to determine
41 whether the capabilities required for each project, or the specific
42 requirements comprising a component within a project, already exist in a
43 planned, ongoing, or completed information technology project developed
44 by another State agency.
- 45 (2) When State agencies request approval for new projects determine if the
46 information technology project has transferable applicability to current or
47 future capabilities required by another State agency.
- 48 (3) Upon identifying an existing information technology capability needed by a
49 State agency, assist that agency in determining how best to access existing
50 projects.

- 1 (4) Identify all current instances of duplication and work with the affected State
2 agencies to develop and implement a plan to integrate their efforts. These
3 plans shall be reported to the Joint Legislative Oversight Committee on
4 Information Technology and to the Fiscal Research Division by January 1,
5 2011.

6 **SECTION 6.9.(b)** All State agencies shall coordinate any Geographic Information
7 System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA)
8 to ensure that they are not duplicating an existing function. The CGIA shall monitor and
9 approve all new GIS-related information technology projects and expansion budget requests.
10 By January 1, 2011, the CGIA shall make a written report to the Joint Legislative Oversight
11 Committee on Information Technology and to the Fiscal Research Division on the results of
12 these efforts.

13
14 **CRIMINAL JUSTICE LAW ENFORCEMENT AUTOMATED DATA SERVICES**
15 **(CJLEADS)**

16 **SECTION 6.10.(a)** The Office of the State Controller, in cooperation with the
17 State Chief Information Officer, shall:

- 18 (1) Continue the implementation of the Criminal Justice Data Integration Pilot
19 Program, which is now known as the Criminal Justice Law Enforcement
20 Automated Data Services (CJLEADS), in Wake County; and
21 (2) Begin the transfer of the hosting of CJLEADS to the Department of Justice.

22 The Office of the State Controller shall not expand CJLEADS beyond Wake County.

23 **SECTION 6.10.(b)** Effective October 1, 2010, CJLEADS is transferred from the
24 Office of State Controller to the Department of Justice. This transfer shall have all of the
25 elements of a Type I transfer, as defined in G.S. 143A-6.

26 **SECTION 6.10.(c)** The Department of Justice shall administer CJLEADS with the
27 assistance of a Leadership Council consisting of:

- 28 (1) The Attorney General;
29 (2) The Director of Administrative Office of the Courts;
30 (3) The Secretary of the Department of Correction;
31 (4) The Secretary of Crime Control and Public Safety;
32 (5) The Secretary of the Department of Juvenile Justice and Delinquency
33 Prevention;
34 (6) The Commissioner of Motor Vehicles, Department of Transportation;
35 (7) The President of The North Carolina Association of Chiefs of Police;
36 (8) The Executive Director of the North Carolina Sheriffs' Association, Inc.; and
37 (9) A representative of the Federal Bureau of Investigation who shall be a
38 nonvoting member.

39 **SECTION 6.10.(d)** The transfer of the hosting of CJLEADS to the Department of
40 Justice shall be completed by July 1, 2011.

41 **SECTION 6.10.(e)** Funds appropriated for CJLEADS shall be used only for
42 project requirements of CJLEADS and not for other BEACON data integration requirements.

43
44 **ITS NETWORK INTEGRATION**

45 **SECTION 6.11.** Section 6.13.(c) of S.L. 2009-451 as amended by Section 3A(b) of
46 S.L. 2009-575 reads as rewritten:

47 **"SECTION 6.13.(c)** Following completion of the feasibility study by the Office of
48 Information and Technology Services and the Office of State Budget and Management, and if
49 the Program Evaluation Division and the Fiscal Research Division can verify that the
50 efficiencies and savings identified in the study are valid, accurate, and substantial enough to
51 justify increased coordination, then the Office of Information Technology Services and MCNC

1 shall develop a plan to identify areas in which it may be feasible to coordinate their operations.

2 The coordination plan shall include at least the following:

- 3 (1) Definition of requirements to achieve statewide integration.
- 4 (2) Detailed information on the allocation of responsibility for each requirement
5 and component.
- 6 (3) An estimate of the associated costs with each requirement or component,
7 including what the costs to each agency would be without coordination.
- 8 (4) Priorities for integration.
- 9 (5) A schedule for implementation.
- 10 (6) Detailed cost information for the development and integration of a single
11 network.
- 12 (7) A governance structure for management and oversight of the network.
- 13 (8) A means for resolution of any issues identified during the feasibility study.

14 The coordination plan shall be completed by ~~February 28, 2010~~, December 1, 2010, and
15 shall be presented to the Joint Legislative Commission on Governmental Operations and the
16 Joint Legislative Oversight Committee on Information Technology."
17

18 INFORMATION TECHNOLOGY CONTRACTED PERSONNEL

19 **SECTION 6.12.** Section 6.18 of S.L. 2009-451 reads as rewritten:

20 "**SECTION 6.18.(a)** Beginning July 1, 2009, and notwithstanding any provision of law to
21 the contrary:

- 22 (1) No contract for information technology personal services, or providing
23 personnel to perform information technology functions, may be established
24 or renewed ~~for any term longer than 12 months unless otherwise specifically~~
25 ~~required by a contract in effect on June 30, 2009, without the express written~~
26 approval of the Statewide Information Technology Procurement Office.
- 27 (2) Before any State agency, department, or institution may renew a contract
28 position for information technology personnel the State agency must report
29 to the Statewide Information Technology Procurement Office (SITPO),
30 Office of State Budget and Management (OSBM), to the Office of State
31 Personnel (OSP), to the Office of Information Technology Services (ITS),
32 and to the Fiscal Research Division (FRD) of the Legislative Services Office
33 on the justification for the contract. The report shall explain:
 - 34 a. The proposed duration of the contract position. If the contract term is
35 for more than 12 months, why recruitment for an in-house State
36 employee position is not feasible.
 - 37 b. Whether the contract position requires unique skills for which the
38 State has a short-term need.
 - 39 c. Whether the contract position is required by a specific information
40 technology project and if the position will be terminated upon
41 completion of the project.
 - 42 d. The specific work products and completion time lines for the contract
43 position.
- 44 (3) Contract positions subject to this subsection shall be reviewed and approved
45 by the Statewide Information Technology Procurement Office and shall be
46 entered in the project portfolio management tool.
- 47 (4) Once approved, contract positions will be reviewed by the Office of State
48 Personnel to determine what the market rate is for the type of contractor
49 required, as well as to determine the comparable cost for a State employee.
50 Agencies may not exceed the market rate determined by OSP.
- 51 (5) After OSP provides cost data, OSBM must approve funding for the position.

- 1 (6) Whenever a State agency, department, or institution determines that only
2 contractor can fill a position and the position is required to perform an
3 ongoing function within the agency, the head of the State agency must
4 develop and implement a plan to hire or train a qualified State employee to
5 fill that position within 12 months. Within 60 days of hiring the contractor,
6 this plan shall be forwarded to the Office of State Budget and Management,
7 to the Office of State Personnel, to the Office of Information Technology
8 Services, to the Joint Legislative Oversight Committee on Information
9 Technology, and to the Fiscal Research Division of the Legislative Services
10 Office.
- 11 (7) Any contract position requiring information technology skills is subject to
12 this provision. OSBM may immediately terminate the funding for any
13 information technology position that is filled without following defined
14 procedures.
- 15 (8) All information technology personnel contracts shall be competitive and
16 shall be subject to competition each time they expire. Exceptions must be
17 approved by ITS, OSP, and OSBM and can only be approved once for a
18 particular individual. Approved exceptions must be immediately reported to
19 the Joint Legislative Oversight Committee on Information Technology and
20 to the Fiscal Research Division of the Legislative Services Office.

21 **"SECTION 6.18.(b)** By October 1, 2009, and monthly thereafter, each State agency,
22 department, and institution employing information technology personal services contractors, or
23 personnel to perform information technology functions, shall provide a detailed report on those
24 contracts to the Office of State Budget and Management, to the Office of State Personnel, to the
25 Office of Information Technology Services, to the Joint Legislative Oversight Committee on
26 Information Technology, and to the Fiscal Research Division of the Legislative Services
27 Office. Each State agency's report shall include at least the following:

- 28 (1) For each contracted information technology position:
29 a. The title of the position, a brief synopsis of the essential functions of
30 the position, and how long the position has existed.
31 b. The name of the individual filling the position and the vendor
32 company, if any, that regularly employs that individual.
33 c. The type, start date, and the termination date of the contract.
34 d. The length of time that the individual filling the contracted position
35 has been employed as a contractor.
36 e. The contracted position salary or hourly rate, the number of hours per
37 year, and the total annualized cost of the contracted position.
38 f. The salary and benefits cost for a State employee performing the
39 same function.
40 g. The purchase order number for the position.
41 h. Whether the position can be converted to a State employee position.
42 This determination shall be made by the SITPO.
43 i. When the agency anticipates converting the position to a State
44 employee.
- 45 (2) The total annual cost for information technology contractors and the total
46 annual salary and benefits cost for filling the contract positions with State
47 employees.
- 48 (3) A determination of whether the information technology functions performed
49 by contractors can be performed by State employees, which shall be
50 validated by the Statewide Information Technology Procurement Office.

- 1 (4) All information required by this subsection related to information
2 technology contractors regardless of the contracting source.
- 3 (5) A detailed explanation for any differences between the agency report and the
4 Information Technology Expenditures Report annually published by the
5 Office of the State Controller.

6 "**SECTION 6.18.(c)** This section does not apply to The University of North Carolina and
7 its constituent institutions."

8

9 **CONTINUING PILOT PROGRAM TO ALLOW PUBLIC-PRIVATE PARTNERSHIPS**
10 **TO MEET DEPARTMENT OF REVENUE TECHNOLOGY NEEDS**

11 **SECTION 6.13.** Section 6.20 of S.L. 2009-451 reads as rewritten:

12 "**SECTION 6.20.(a)** To speed the implementation of the Tax Information Management
13 System (TIMS) and the additional components of the Planning and Design Project (PDP)
14 ~~during the 2009-2011 fiscal biennium, through June 30, 2015,~~ the Secretary of the Department
15 of Revenue may enter into public-private arrangements where (i) the funding of projects under
16 the arrangement comes from revenue generated by the project and (ii) the project is related to
17 the implementation of TIMS and additional components of the PDP. As used in this section, the
18 "additional components of the PDP" are Enterprise Data Warehouse, Management Reporting
19 and Decision Analytics, Customer Relationship Management, Enterprise Case Management,
20 and E-Services.

21 Work under a public-private arrangement may be contracted by requests for proposals,
22 modifications to existing contracts, and purchases using existing contract vehicles.

23 The Secretary of Revenue shall establish a measurement process to determine the increased
24 revenue attributable to the public-private arrangements. To accomplish this, the Secretary shall
25 consult subject matter experts outside the Department of Revenue, both within State
26 government and from private industry. The measurement process shall include:

- 27 (1) Calculation of a revenue baseline against which the increased revenue
28 attributable to the project is measured;
- 29 (2) Periodic evaluation to determine if the baseline needs to be modified based
30 on significant measurable changes in the economic environment; and
- 31 (3) Monthly calculation of increased revenue attributable to contracts executed
32 under this program.

33 Of funds generated from collections above the baseline established by subdivision (1) of
34 this subsection, in both the General and Highway Funds, up to forty-one million dollars
35 (\$41,000,000) may be authorized by the Office of State Budget and Management (i) for the
36 purchases related to the implementation of TIMS and the additional components of the PDP,
37 including payment for services from non-State entities and (ii) toward internal State costs
38 related to the implementation of TIMS and PDP components. The total of any funds expended
39 ~~during the 2009-2011 biennium~~ for implementation of TIMS and the additional PDP
40 components shall not exceed the sum of forty-one million dollars (\$41,000,000).

41 If the Department of Revenue finds that it cannot generate additional benefits totaling
42 forty-one million dollars (\$41,000,000) ~~in the 2009-2011 biennium, through June 30, 2015,~~ the
43 Department shall immediately notify the Chairs of the House of Representatives and Senate
44 Appropriations Committees and Fiscal Research Division, identify any obligations to vendors,
45 identify options for meeting obligations to vendors, and provide costs associated with each
46 option. The Department shall ensure that this notification is made in sufficient time to allow the
47 General Assembly to properly evaluate the options presented.

48 "**SECTION 6.20.(b)** Notwithstanding G.S. 114-2.3, the Department of Revenue shall
49 engage the services of private counsel with the pertinent information technology and computer
50 law expertise to review requests for proposals, and to negotiate and review contracts associated
51 with TIMS and the additional components of the Planning and Design Project (PDP)

1 (Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer
2 Relationship Management, Enterprise Case Management, and E-Services).

3 "SECTION 6.20.(c) There is established within the Department of Revenue the Oversight
4 Committee for reviewing and approving the benefits measurement methodology and
5 calculation process. The Oversight Committee shall review and approve all contracts executed
6 under this section. This shall include (i) details of each public-private contract, (ii) the benefits
7 from each contract, and (iii) a comprehensive forecast of the benefits of using public-private
8 agreements to implement TIMS and the additional PDP components, including the
9 measurement process established for the Secretary of Revenue. The Oversight Committee shall
10 approve all of the fund transfers for this project.

11 The members of the Committee shall include the following:

- 12 (1) The State Budget Director;
- 13 (2) The Secretary of the Department of Revenue;
- 14 (3) The State Chief Information Officer;
- 15 (4) Two persons appointed by the Governor;
- 16 (5) One member of the general public having expertise in information
17 technology appointed by the General Assembly upon the recommendation of
18 the Speaker of the House of Representatives; and
- 19 (6) One member of the general public having expertise in economic and revenue
20 forecasting appointed by the General Assembly upon recommendation of the
21 President Pro Tempore of the Senate.

22 The State Budget Director shall serve as chair of the Committee. The Committee shall set
23 its meeting schedule and adopt its rules of operation by majority vote. A majority of the
24 members constitutes a quorum. Vacancies shall be filled by the appointing authority.
25 Administrative support staff shall be provided by the Department of Revenue. Members of the
26 Committee shall receive reimbursements for subsistence and travel expenses as provided by
27 Chapter 138 of the General Statutes. The Committee shall terminate on ~~June 30, 2011~~ June 30,
28 2015.

29 "SECTION 6.20.(d) Beginning October 1, 2009 and quarterly thereafter, the Department
30 of Revenue shall submit reports to the Chairs of the House of Representatives and Senate
31 Committees on Appropriation, to the Joint Legislative Oversight Committee on Information
32 Technology, and to the Fiscal Research Division of the Legislative Services Office. The report
33 shall include (i) details of each public-private contract, (ii) the benefits from each contract, (iii)
34 a comprehensive forecast of the benefits of using public-private agreements to implement
35 TIMS and the additional PDP components, including cost savings and the acceleration of the
36 project timeline, (iv) and any issues associated with the operation of the public-private
37 partnership. Within 60 days of implementing the public-private partnership, the Department of
38 Revenue shall provide to the Chairs of the House of Representatives and Senate Appropriations
39 Committees, and Fiscal Research Division, a schedule for vendor payments that identifies
40 sources and amounts of funding anticipated as a result of the project's implementation.

41 "SECTION 6.20.(e) In addition to the oversight provided by the Oversight Committee
42 established in subsection (c) of this section, the TIMS project shall be subject to existing
43 Information Technology project oversight legislation, including, but not limited to,
44 G.S. 147-33.72C and G.S. 147-33.72E."
45

46 FUNDING FOR DATA INTEGRATION ENTERPRISE LICENSING AGREEMENTS

47 SECTION 6.14.(a) If the cost of data integration enterprise licensing agreements
48 for the 2010-2011 fiscal year is in excess of two million dollars (\$2,000,000), the Office of
49 Information Technology Services shall recover the excess cost through cost allocation to
50 participating agencies.

1 **SECTION 6.14.(b)** The State Chief Information Officer shall develop a plan for
2 the equitable distribution of all costs for executive agency data integration enterprise licensing
3 agreements to the participating agencies. By October 1, 2010, the State Chief Information
4 Officer shall present this plan to the Joint Legislative Oversight Committee on Information
5 Technology and shall provide a copy to Fiscal Research Division.

6 **SECTION 6.14.(c)** Beginning with the 2011-2012 fiscal year, all costs for
7 executive agency data integration enterprise licensing agreements shall be allocated to the
8 participating agencies.

9 10 **NETWORK SECURITY ASSESSMENTS**

11 **SECTION 6.15.(a)** G.S. 147-33.111 reads as rewritten:

12 **"§ 147-33.111. State CIO approval of security standards and security assessments.**

13 (a) Notwithstanding G.S. 143-48.3 or any other provision of law, and except as
14 otherwise provided by this section, all information technology security purchased using State
15 funds, or for use by a State agency or in a State facility, shall be subject to approval by the State
16 Chief Information Officer in accordance with security standards adopted under this Article.

17 (a1) The State Chief Information Officer shall conduct assessments of network
18 vulnerability, including network penetration or any similar procedure. The State Chief
19 Information Officer may contract with another party or parties to perform the assessments.
20 Detailed reports of the security issues identified shall be kept confidential as provided in
21 G.S. 132-6.1(c).

22 (b) If the legislative branch, the judicial branch, The University of North Carolina and
23 its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the
24 North Carolina Community Colleges System develop their own security standards, taking into
25 consideration the mission and functions of that entity, that are comparable to or exceed those
26 set by the State Chief Information Officer under this section, then these entities may elect to be
27 governed by their own respective security standards, and approval of the State Chief
28 Information Officer shall not be required before the purchase of information technology
29 security. The State Chief Information Officer shall consult with the legislative branch, the
30 judicial branch, The University of North Carolina and its constituent institutions, local school
31 administrative units, and the North Carolina Community Colleges System in reviewing the
32 security standards adopted by those entities.

33 (c) Before a State agency may enter into any contract with another party for an
34 assessment of network ~~vulnerability, including network penetration or any similar procedure,~~
35 vulnerability, the State agency shall notify the State Chief Information Officer and obtain
36 approval of the request. ~~The State Chief Information Officer shall refer the request to the State~~
37 ~~Auditor for a determination of whether the Auditor's office can perform the assessment and~~
38 ~~testing. If the State Auditor determines that the Auditor's office can perform the assessment and~~
39 ~~testing, then the State Chief Information Officer shall authorize the assessment and testing by~~
40 ~~the Auditor. If the State Auditor determines that the Auditor's office cannot perform the~~
41 ~~assessment and testing, then with the approval of the State Chief Information Officer and State~~
42 ~~Auditor, the State agency may enter into a contract with another party for the assessment and~~
43 ~~testing.~~ after approval of the State Chief Information Officer, the State agency shall issue public reports
44 on the general results of the reviews. The contractor shall provide the State agency with
45 detailed reports of the security issues identified that shall not be disclosed as provided in
46 G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer ~~and the~~
47 ~~State Auditor~~ with copies of the detailed reports that shall not be disclosed as provided in
48 G.S. 132-6.1(c).
49

1 (d) Nothing in this section shall be construed to preclude the Office of the State Auditor
2 from assessing the security practices of State information technology systems as part of that
3 Office's duties and responsibilities."

4 **SECTION 6.15.(b)** G.S. 147-64.6(c)(18) is repealed.
5

6 **INMATE MEDICAL COST CONTAINMENT**

7 **SECTION 6.16.(a)** Providers and facilities that deliver medically necessary
8 services to inmates in the Department's custody of the Department of Correction shall charge
9 the Department using the same schedule of charges used for other patients, and the Department
10 may reimburse those providers and facilities at up to seventy percent (70%) of the amount
11 charged. The requirements of this subsection shall apply to all medical and facility services
12 provided outside the correctional facility, including hospitalizations, professional services,
13 medical supplies, and other medications provided to any inmate confined in a correctional
14 facility.

15 **SECTION 6.16.(b)** The Department of Correction shall make every effort to
16 contain inmate medical costs by making use of its own hospital and health care facilities to
17 provide health care services to inmates. To the extent that the Department of Correction must
18 utilize other facilities and services to provide health care services to inmates, the Department
19 shall make use of hospitals with available capacity or other health care facilities in a region to
20 accomplish that goal. The Department shall work to ensure that care usage is distributed
21 equitably among all hospitals or other appropriate health care facilities, with no one health care
22 facility being required to admit more than five percent (5%) of all patients requiring
23 hospitalization or hospital services, unless doing so would jeopardize the health of an inmate or
24 unless otherwise agreed to by contract. The Department shall also give preference to those
25 hospitals in the same county or an adjoining county to the correctional facility where an inmate
26 requiring hospitalization is incarcerated.

27 **SECTION 6.16.(c)** The Department of Correction shall consult with the Division
28 of Medical Assistance in the Department of Health and Human Services to develop protocols
29 for prisoners who would be eligible for Medicaid if they were not incarcerated to access
30 Medicaid while in custody or under extended limits of confinement. The Department shall seek
31 reimbursement from Medicaid for those health care costs incurred by the Department in those
32 instances when an inmate's Medicaid eligibility has been temporarily reinstated due to a
33 hospitalization.

34 **SECTION 6.16.(d)** The Department of Correction, in consultation with the Office
35 of State Budget and Management, shall study the impact on inmate medical costs resulting
36 from the measures set forth in subsections (a), (b), and (c) of this section. The Department shall
37 present its findings by March 1, 2011, to the Chairs of the House of Representatives and Senate
38 Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative
39 Corrections, Crime Control, and Juvenile Justice Oversight Committee.

40 **SECTION 6.16.(e)** If the findings of the Department of Correction demonstrate
41 that the Department has been unable to achieve the savings in inmate medical costs called for in
42 the 2010-2011 budget, the Office of State Budget and Management may require that any
43 hospital that provides health care services to Medicaid and Medicare patients shall also provide
44 services to any inmate confined in a correctional facility at the rates applicable under
45 subsection (a) of this section.

46 **SECTION 6.16.(f)** The Department of Correction shall make every effort to
47 explore other cost containment methods not expressly outlined in this section. These methods
48 may include the following:

- 49 (1) Contracting with a private third party to manage and provide all inmate
50 medical services;

- 1 (2) Partnering with the federal government to allow for treatment of State
2 inmates in federal correctional hospitals; and
3 (3) Purchasing a fixed number of beds at a hospital.

4 **SECTION 6.16.(g)** The Department of Correction shall report to the Joint
5 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than
6 October 1, 2010, on

- 7 (1) The Department's progress with the RFP process initiated pursuant to
8 Section 19.20(b) of S.L. 2009-451, as rewritten by Section 15A of S.L.
9 2009-575, to contract for claims processing, medical management services,
10 and the development and management of a medical professional and facility
11 provider network.

- 12 (2) The anticipated effects on medical care provided to inmates as a result of the
13 new hospital at Central Prison and the updated facilities at the North
14 Carolina Correctional Institute for Women, as well as any other new medical
15 services capacity within the Department. Specifically, the Department shall
16 report on:

- 17 a. The types and volumes of services that the new and updated facilities
18 will provide that previously would have been provided by
19 community providers; and
20 b. The projected types and volumes of services that will still be referred
21 to community providers.

22 The report shall also address changes in statewide inmate custody that are
23 needed to maximize the utilization of the new facilities and the Department's
24 ability to contract with community providers with the available capacity
25 throughout the State.

26 **SECTION 6.16.(h)** The Department of Correction shall report to the Joint
27 Legislative Commission on Governmental Operations no later than October 1, 2010, and
28 quarterly thereafter on:

- 29 (1) The volume of services provided by community medical providers that can
30 be scheduled in advance and, of that volume, the percentage of those
31 services that are provided by contracted providers; and
32 (2) The volume of services provided by community medical providers that
33 cannot be scheduled in advance and, of that volume, the percentage of those
34 services that are provided by contracted providers.

35 **SECTION 6.16.(i)** Section 19.20(a) of S.L. 2009-451, as amended by Section 15A
36 of S.L. 2009-575, is repealed.

37 38 **PART VII. PUBLIC SCHOOLS**

39 40 **FUNDS FOR CHILDREN WITH DISABILITIES**

41 **SECTION 7.1.** The State Board of Education shall allocate additional funds for
42 children with disabilities on the basis of three thousand five hundred ninety-eight dollars and
43 fifty-five cents (\$3,598.55) per child. Each local school administrative unit shall receive funds
44 for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and
45 five-tenths percent (12.5%) of the 2010-2011 allocated average daily membership in the local
46 school administrative unit. The dollar amounts allocated under this section for children with
47 disabilities shall also adjust in accordance with legislative salary increments, retirement rate
48 adjustments, and health benefit adjustments for personnel who serve children with disabilities.

49 50 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

1 **SECTION 7.2.** The State Board of Education shall allocate additional funds for
2 academically or intellectually gifted children on the basis of one thousand one hundred
3 ninety-two dollars and ninety cents (\$1,192.90) per child. A local school administrative unit
4 shall receive funds for a maximum of four percent (4%) of its 2010-2011 allocated average
5 daily membership, regardless of the number of children identified as academically or
6 intellectually gifted in the unit. The dollar amounts allocated under this section for
7 academically or intellectually gifted children shall also adjust in accordance with legislative
8 salary increments, retirement rate adjustments, and health benefit adjustments for personnel
9 who serve academically or intellectually gifted children.

10 11 **STATE FISCAL STABILIZATION FUND APPROPRIATION**

12 **SECTION 7.3.** In order to ensure compliance with the requirements of Title XIV
13 of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other
14 provision of law, the Office of State Budget and Management shall adjust the State Fiscal
15 Stabilization Fund appropriation amounts, including any associated budget reductions, between
16 the State Public School Fund and The University of North Carolina budget to align with the
17 requirements of the North Carolina State Fiscal Stabilization Fund application as amended for
18 2010-2011. If associated budget reductions are required within the State Public School Fund,
19 the Office of State Budget and Management shall first adjust the Career Technical Education –
20 Months of Employment allotment prior to adjusting any other allotments within the State
21 Public School Fund.

22 23 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS ALLOTMENT FORMULA**

24 **SECTION 7.4.(a)** The State Board of Education shall implement an allotment
25 formula for the North Carolina Virtual Public Schools (NCVPS) beginning with the 2010-2011
26 school year. In accordance with Section 7.16 of S.L. 2006-66, the allotment formula shall
27 create a sustainable source of funding that increases commensurate with student enrollment and
28 recognizes "the extent to which projected enrollment in e-learning courses affects funding
29 required for other allotments that are based on ADM."

30 **SECTION 7.4.(b)** The State Board shall use only funds provided through the
31 North Carolina Virtual Public Schools Allotment Formula to fund NCVPS.

32 **SECTION 7.4.(c)** The Department of Public Instruction shall take the following
33 steps to implement the North Carolina Virtual Public Schools Allotment Formula:

- 34 (1) Project the unduplicated NCVPS enrollment for each local school
35 administrative unit and for each grade level.
- 36 (2) Divide the projected unduplicated NCVPS enrollment for each unit by six in
37 order to calculate its ADM-equivalent student enrollment in NCVPS.
- 38 (3) Reduce the unit's ADM allotments by seventy-five percent (75%) of its
39 ADM-equivalent student enrollment in NCVPS.
- 40 (4) Transfer a dollar amount equal to seventy-five percent (75%) of the unit's
41 ADM-equivalent student enrollment to NCVPS.

42 NCVPS shall use the funds transferred to it to provide the NCVPS program at no
43 cost to all high school students in North Carolina who are enrolled in North Carolina's public
44 schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

45 **SECTION 7.4.(d)** NCVPS shall provide only high school courses.

46 **SECTION 7.4.(e)** The Director of NCVPS shall continue to ensure that course
47 quality standards are established and met and that all e-learning opportunities offered by
48 State-funded entities to public school students are consolidated under the North Carolina
49 Virtual Public School program, eliminating course duplication.

50 51 **MORE AT FOUR PROGRAM**

1 **SECTION 7.5.(a)** The Department of Public Instruction shall continue the
2 implementation of the More at Four prekindergarten program for four-year-olds who are at risk
3 for school failure in all counties. The State prekindergarten program shall serve children who
4 reach the age of four on or before August 31 of that school year and who meet eligibility
5 criteria that indicate a child's risk for school failure. Prekindergarten classrooms shall be
6 operated in public schools, Head Start programs, and licensed child care facilities that choose to
7 participate under procedures defined by the Office of Early Learning within the Department of
8 Public Instruction. All such classrooms shall be subject to the supervision of the Office of Early
9 Learning and shall be operated in accordance with standards adopted by the State Board of
10 Education.

11 **SECTION 7.5.(b)** The Office of Early Learning shall specify program standards
12 and requirements addressing:

- 13 (1) Early learning standards and curricula;
- 14 (2) Teacher education and specialized training;
- 15 (3) Teacher in-service training and professional development;
- 16 (4) Maximum class size;
- 17 (5) Staff-child ratio;
- 18 (6) Screenings, referrals, and support services;
- 19 (7) Meals; and
- 20 (8) Monitoring of sites to demonstrate adherence to State programs standards.

21 **SECTION 7.5.(c)** The State Board of Education shall submit an annual report no
22 later than March 15 of each year to the Joint Legislative Commission on Governmental
23 Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations
24 Committee on Education, the House of Representatives Appropriations Subcommittee on
25 Education, the Office of State Budget and Management, and the Fiscal Research Division. The
26 report shall include the following:

- 27 (1) The number of children participating in State prekindergarten.
- 28 (2) The number of children participating in State prekindergarten who have
29 never been served in other early education programs, such as child care,
30 public or private preschool, Head Start, Early Head Start, or early
31 intervention programs.
- 32 (3) The expected State prekindergarten expenditures for the programs and the
33 source of the local contributions.
- 34 (4) The results of an annual evaluation of the program.

35 **SECTION 7.5.(d)** The Office of Early Learning shall establish income eligibility
36 requirements for the program not to exceed seventy-five percent (75%) of the State median
37 income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of
38 seventy-five percent (75%) of median income if they have other designated risk factors.
39 Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the
40 United States, including the North Carolina National Guard, State military forces, or a reserve
41 component of the armed forces who is ordered to active duty by the proper authority within the
42 last 18 months or expected to be ordered within the next 18 months or (ii) a member of the
43 armed forces of the United States, including the North Carolina National Guard, State military
44 forces, or a reserve component of the armed forces, who was injured or killed while serving on
45 active duty, shall be eligible for the program.

46 **SECTION 7.5.(e)** The More at Four program funding shall not supplant any
47 funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of
48 existing four-year-old classrooms with More at Four program funding shall be permitted when
49 current funding is eliminated, reduced, or redirected as required to meet other specified federal
50 or State mandates.

1 **SECTION 7.5.(f)** The Office of Early Learning shall develop a new More at Four
2 funding model to be implemented in the 2010-2011 fiscal year. The per-child funding rates
3 shall be based on participating provider cost structures and shall require a contribution of local
4 resources to support the full cost of providing high quality prekindergarten. The Office of Early
5 Learning shall implement an administrative cap on More at Four program funding and shall
6 establish parameters for allowable administrative costs.

7 **SECTION 7.5.(g)** The Office of Early Learning shall contract with an independent
8 research organization not affiliated with the Department of Health and Human Services, the
9 Department of Public Instruction, the Office of the Governor, or any entity currently funded by
10 or affiliated with the Department of Health and Human Services, the Department of Public
11 Instruction, or the Office of the Governor to produce an annual report to include longitudinal
12 review of the More at Four program and academic, behavioral, and other child-specific
13 outcomes. The review shall include a quasi-experimental research design of a representative
14 sample of children who complete the More at Four program every year and shall report on their
15 sustained progress until the end of grade 9. The review shall also study a representative sample
16 of children who do not enter the More at Four program but who are of the same grade level and
17 demographic as those who complete the program, and their sustained progress shall also be
18 reviewed until the end of grade 9. The review shall be presented to the Joint Legislative
19 Oversight Committee on Education by January 31 of every year.

20 21 **LEADERSHIP ACADEMY**

22 **SECTION 7.6.** Of the funds appropriated in this act to the Department of Public
23 Instruction for the 2010-2011 fiscal year, up to two hundred thousand dollars (\$200,000) may
24 be used to support a Leadership Academy that provides professional development to
25 superintendents enabling them to train principals to address critical areas such as student
26 achievement and teacher recruitment and retention.

27 28 **DEPARTMENT OF PUBLIC INSTRUCTION**

29 **SECTION 7.7.(a)** The Department of Public Instruction is not required to
30 eliminate receipt-supported positions for the 2010-2011 fiscal year.

31 **SECTION 7.7.(b)** The Department of Public Instruction shall review expenditures
32 of federal funds for personnel and contracts at the State level. Unless the expenditure is a
33 condition of receiving the funds, the Department shall reallocate the funds to local school
34 administrative units whenever possible.

35 The Department shall report on the reallocation of these funds to local school
36 administrative units, to the Office of the Governor, the chairs of the House of Representatives
37 Committee on Appropriations and the House of Representatives Appropriations Subcommittee
38 on Education, the chairs of the Senate Committee on Appropriations/Base Budget and the
39 Senate Appropriations Committee on Education/Higher Education, and the Office of State
40 Budget and Management no later than January 15, 2011.

41 42 **CAREER AND COLLEGE – READY, SET, GO!**

43 **SECTION 7.8.(a)** The State Board of Education shall work with all member
44 institutions of the Education Cabinet and the Joint Governing Boards to focus funding and
45 program priorities to ensure that all North Carolina students graduate prepared to successfully
46 pursue a career or further education. Each Education Cabinet Institution shall prioritize the
47 Governor's Ready, Set, Go! initiative and ensure that all students PK-20:

- 48 (1) Are prepared to be successful in school and can successfully progress
49 through PK-20 education. This includes, but is not limited to:
- 50 a. Establishment of the Governor's Child Advocacy Council to increase
51 ways for all children to come to school healthy and ready to learn;

- 1 b. Investment in early child development programs like Smart Start and
- 2 More at Four;
- 3 c. Investment in smaller class sizes in K-3;
- 4 d. Implementation of student diagnostics in grades K-3 and 5 to ensure
- 5 that all students at a minimum possess grade-level reading, writing,
- 6 and math skills;
- 7 e. Implementation of student diagnostics for career and college
- 8 readiness in grades 8 and 11 so students graduate prepared for work,
- 9 college, or technical training; and
- 10 f. Implementation of the Student Learning Conditions Survey for
- 11 grades 7, 9, and 11 that is aligned with the Teacher Working
- 12 Conditions Survey.
- 13 (2) Receive clear standards and high expectations, and benefit from the best
- 14 teachers and principals that can most effectively help students reach those
- 15 standards. This includes, but is not limited to:
- 16 a. Adoption of the State-led National Common Standards, including
- 17 Career and College Ready Skills and assessments that prepare
- 18 students for the global economy;
- 19 b. Evaluation of Teacher Preparation programs to identify best practices
- 20 and programs that produce effective teachers;
- 21 c. Increased access to virtual learning opportunities for students and
- 22 teachers like those provided through the NC Virtual Public School;
- 23 d. Increased access to Science, Technology, Engineering and
- 24 Mathematics (STEM) opportunities;
- 25 e. Development of leadership academies that recruit and prepare
- 26 effective principals;
- 27 f. Development of a PK-20 data system to provide comprehensive
- 28 information on students;
- 29 g. Reduction and eventual elimination of low-performing status in
- 30 North Carolina schools; and
- 31 h. Job-imbedded professional development for teachers and principals.
- 32 (3) Fully understand and complete the prerequisites for the career, certification,
- 33 or degree of choice that promotes workforce success. This includes, but is
- 34 not limited to:
- 35 a. Development of academic boot camps for high school students who
- 36 need additional support in reading, composition, and math;
- 37 b. Consolidation of high school transition courses to provide high
- 38 school students with more college level or career and technical
- 39 courses;
- 40 c. Increased access to virtual college level and specific career and
- 41 technical courses for high school students;
- 42 d. Alignment between high school and college curricula so that all
- 43 students are prepared for higher education work; and
- 44 e. Implementation of NCSuccess, a program designed to increase the
- 45 number of certificates and associate or bachelor's degrees in higher
- 46 education.

47 **SECTION 7.8.(b)** The Education Cabinet shall report by January 15, 2011, to the
48 Office of the Governor, the Joint Governing Boards, and the Joint Education Oversight
49 Committee on its progress toward reaching the Governor's goal that every North Carolina
50 student will graduate ready to be successful in a career, a 2- or 4-year college, or technical
51 training.

SCHOOL CONNECTIVITY INITIATIVE

SECTION 7.9. Section 7.12.(a) of S.L. 2009-451, as rewritten by Section 3E of S.L. 2009-575, is repealed.

SCHOOL CALENDAR PILOT PROGRAM

SECTION 7.10. Section 7.40 of S.L. 2009-451 reads as rewritten:

"SECTION 7.40. The State Board of Education shall establish a school calendar pilot program in the Wilkes County Schools. The purpose of the pilot program is to determine whether and to what extent a local school administrative unit can save money during this extreme fiscal crisis by consolidating the school calendar.

Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2009-2010 ~~calendar year~~ and the 2010-2011 calendar years for the Wilkes County Schools shall include a minimum of 180 days or 1,000 hours of instruction covering at least nine calendar months. Notwithstanding G.S. 115C-84.2(d), the opening date for students shall not be before August 24.

If the Wilkes County Board of Education adds instructional hours to previously scheduled days under this section, the local school administrative unit is deemed to have a minimum of 180 days of instruction and teachers employed for a 10-month term are deemed to have been employed for the days being made up and shall be compensated as if they had worked the days being made up.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15, ~~2010,2011~~, on the administration of the pilot program, cost-savings realized by it, and its impact on student achievement."

NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS (NBPTS) FUNDS

SECTION 7.11.(a) G.S. 115C-296.2(d1) reads as rewritten:

"(d1) Repayment of the Application Fee. – A teacher shall repay the application fee to the State Education Assistance Authority within three years. The State Education Assistance Authority may forgive the loan upon the death or permanent disability of the teacher.

All funds appropriated to, or otherwise received by, the Authority to provide loans to teachers pursuant to this section, all funds received as repayment of loans, and all interest earned on these funds shall be placed in a trust fund. This fund shall be used only for loans made pursuant to this section and administrative costs of the Authority."

SECTION 7.11.(b) The State Board of Education shall transfer funds in the amount of three million two hundred seventy-four thousand five hundred dollars (\$3,274,500) from the State Public School Fund to the State Education Assistance Authority for the 2010-2011 fiscal year for NBPTS loans. It is the intent of the General Assembly that these funds are included in the certified budget for the State Education Assistance Authority for the 2011-2012 fiscal year and subsequent fiscal years.

DRIVER EDUCATION

SECTION 7.12. The Highway Safety Research Center Institute of the University of North Carolina at Chapel Hill shall work in collaboration with the Department of Public Instruction and the Governor's Highway Safety Commission to create a standard curriculum to be used for the Driver Education Program in the Department of Public Instruction. The curriculum shall be ready for use in the school year beginning in the fall of 2011 and shall be used for all driver education programs funded with State funds.

PROTECTION OF THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY

SECTION 7.13.(a) Section 7.8 of S.L. 2009-451 reads as rewritten:

1 "SECTION 7.8.(a) The State Board of Education is authorized to adopt emergency rules
2 in accordance with G.S. 150B-21.1A to grant maximum flexibility to local school
3 administrative units regarding the expenditure of State funds. These rules shall not be subject to
4 the limitations on transfers of funds between funding allotment categories set out in
5 G.S. 115C-105.25. These rules:

- 6 (1) Shall authorize the transfer of textbook funds to other allotments to manage
7 funding cuts; and
- 8 (2) Shall not permit the transfer of funds from school-based positions to the
9 central office.

10 "~~SECTION 7.8.(b) For fiscal years 2009-2010 and 2010-2011, For the 2010-2011 fiscal~~
11 ~~year, local school administrative units shall make every effort to reduce spending whenever and~~
12 ~~wherever such budget reductions are appropriate with the goal of to protecting-protect direct~~
13 ~~classroom-services services, and services for students at risk and children with special needs.~~
14 Local school administrative units shall implement administrative and other operating
15 efficiencies prior to and minimize the dismissal of classroom-based personnel-personnel. Local
16 school administrative units shall maximize federal by maximizing funds received from the
17 including American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5; Keep Our
18 Educators Working Act or any other federal act that provides funding that can be expended on
19 positions; Individuals with Disabilities Act (IDEA); Title I; and Title II funds. Local school
20 administrative units are encouraged to designate all Title I-eligible schools and must maximize
21 attrition prior to the dismissal of classroom-based personnel. Notwithstanding G.S. 115C-301
22 or any other law, local school administrative units shall have the maximum flexibility to use
23 allotted teacher positions to maximize student achievement in grades 4-12. Allocation of
24 teachers and class size requirements in grades K-3 shall remain unchanged.

25 "SECTION 7.8.(c) Within 14 days of the date this act becomes law, the State Board of
26 Education shall notify each local school administrative unit and charter school of the amount
27 the unit must reduce from the State General Fund appropriations. The State Board shall
28 determine the amount of the reduction for each unit on the basis of average daily membership.

29 "SECTION 7.8.(d) Each unit shall report to the State Board of Education, the Office of
30 State Budget and Management, and the Department of Public Instruction on the flexibility
31 budget reductions it has identified for the unit, including an explanation of how administrative
32 efficiencies, federal funds, and attrition have been maximized prior to the dismissal of
33 classroom-based personnel, within 30 days of the date this act becomes law."

34 SECTION 7.13.(b) For fiscal year 2010-2011, local boards of education may also
35 implement furloughs in accordance with Section 29.1 of this act to manage funding amounts.
36

37 PROBATIONARY TEACHERS

38 SECTION 7.14.(a) G.S. 115C-325(c)(5) reads as rewritten:

- 39 "(5) Consecutive Years of Service. – If a probationary teacher in a full-time
40 permanent position does not work for at least 120 workdays in a school year
41 because the teacher is on sick leave, disability leave, or both, that school
42 year shall not be deemed to constitute (i) a consecutive year of service for
43 the teacher or (ii) a break in the continuity in consecutive years of service for
44 the teacher.

45 If a probationary teacher in a full-time permanent position resigns or is
46 not renewed because of a reduction in force and is subsequently rehired by
47 the same school system within three years, there shall be deemed to be no
48 break in the continuity in consecutive years of service for such teacher up to
49 a maximum of three consecutive years towards career status. If, at the time
50 the teacher resigns or is not renewed because of a reduction in force, the
51 teacher had been employed by a school system for four consecutive years

1 pursuant to G.S. 115C-325(c)(1), or one year pursuant to
2 G.S. 115C-325(c)(2), and the board subsequently rehires such teacher within
3 three years, the board may grant career status immediately upon
4 reemploying the teacher, or vote on the teacher's career status pursuant to
5 G.S. 115C-325(c)(1) or (c)(2) after one additional year of employment."

6 **SECTION 7.14.(b)** This act is effective when it becomes law and applies to
7 probationary teacher employed by a local school administrative unit in a full-time permanent
8 position for the 2010-2011 school year.

9 10 **PART VIII COMMUNITY COLLEGES**

11 12 **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

13 **SECTION 8.1.(a)** Of the funds appropriated to the Community Colleges System
14 Office for the 2009-2011 fiscal biennium for the College Information System, up to one million
15 two hundred fifty thousand dollars (\$1,250,000) shall not revert at the end of each fiscal year
16 but shall remain available until expended. These funds may only be used to purchase periodic
17 system upgrades.

18 **SECTION 8.1.(b)** This section becomes effective June 30, 2010.

19 20 **STATE AID BUDGET FLEXIBILITY**

21 **SECTION 8.2.** G.S. 115D-31 is amended by adding a new subsection to read:

22 "(b1) A local community college may use all State funds allocated to it, except for
23 Literacy funds and Customized Training funds, for any authorized purpose that is consistent
24 with the college's Institutional Effectiveness Plan. Each local community college shall include
25 in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to
26 meet the demands of the local community and to maintain a presence in all previously funded
27 categorical programs."

28 29 **TUITION FOR PRISON INMATES**

30 **SECTION 8.3.(a)** Funds are appropriated to the Department of Correction in
31 Section 2.1 of this act to provide courses for inmates in State prisons. These funds shall be
32 used only for courses that are known to reduce recidivism.

33 Courses provided in federal prisons or local jails shall be offered on a
34 self-supporting basis.

35 **SECTION 8.3.(b)** The Department of Correction and the Community Colleges
36 System Office shall report to the 2011 General Assembly on:

37 (1) The implementation of the new funding structure and requirements.

38 (2) Strategies for implementing their recommendations to:

39 a. Enhance measurable goals, objectives, and outcomes.

40 b. Enhance and standardize data collection.

41 c. Strengthen the continuum of programming from entry to exit, based
42 on assessment of skills and needs.

43 d. Give individuals the opportunity to use specific skills through work
44 assignments that meet system needs.

45 e. Tailor programs to specific inmate needs.

46 f. Increase Cognitive Behavioral Interventions (CBI) courses.

47 g. Develop an offender-specific human resources development course.

48 h. Explore additional funding sources.

49 i. Explore federal grant for wiring courses.

50 (3) Strategies for reasonably limiting the number of courses an individual takes
51 while in prison.

1 **SECTION 8.3.(c)** The Office of State Budget and Management shall transfer
 2 sufficient funds from the Department of Correction to the Community Colleges System Office
 3 to pay for inmates' tuition for the Fall 2010 semester.
 4

5 **TUITION WAIVERS**

6 **SECTION 8.4.(a)** G.S. 115D-5(b) reads as rewritten:

7 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of
 8 curricular courses and of noncurricular extension courses at convenient locations away from
 9 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata
 10 portion of the established regular tuition rate charged a full-time student shall be charged a
 11 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of
 12 Community Colleges shall establish a uniform registration fee, or a schedule of uniform
 13 registration fees, to be charged students enrolling in extension courses for which instruction is
 14 financed primarily from State funds; ~~provided, however, that the funds.~~ The State Board of
 15 Community Colleges may provide by general and uniform regulations for waiver of tuition and
 16 registration fees for persons for:

- 17 (1) Persons not enrolled in elementary or secondary schools taking courses
 18 leading to a high school diploma or equivalent ~~certificate, for training~~
 19 ~~certificate;~~
- 20 (2) Training courses for (i) volunteer firemen, (ii) local fire department
 21 personnel, (iii) volunteer rescue and lifesaving department personnel, (iv)
 22 local rescue and lifesaving department personnel, (v) Radio Emergency
 23 Associated Citizens Team (REACT) members when the REACT team is
 24 under contract to a county as an emergency response agency, ~~local~~ (vi)
 25 municipal, county, State, or federal law-enforcement officers, provided that
 26 the permanent duty station of the officers is within North Carolina, ~~patients~~
 27 ~~in State alcoholic rehabilitation centers,~~ (vii) all full-time custodial
 28 employees of the Department of Correction, and (viii) employees of the
 29 Department's Division of Community Corrections and employees of the
 30 Department of Juvenile Justice and Delinquency Prevention required to be
 31 certified under Chapter 17C of the General Statutes and the rules of the
 32 Criminal Justice and Training Standards Commission, Commission;
- 33 (3) Patients in State alcoholic rehabilitation centers; trainees
- 34 (4) Trainees enrolled in courses conducted under the ~~New and Expanding~~
 35 ~~Industry Program, clients~~ Customized Training Program;
- 36 (5) Clients of sheltered workshops, clients ~~workshops;~~
- 37 (6) Clients of adult developmental activity programs, students ~~programs;~~
- 38 (7) Students in Health and Human Services Development ~~Programs,~~
 39 ~~juveniles~~ Programs;
- 40 (8) Juveniles of any age committed to the Department of Juvenile Justice and
 41 Delinquency Prevention by a court of competent jurisdiction,
 42 ~~members~~ jurisdiction;
- 43 (9) Members of the North Carolina State Defense Militia as defined in
 44 G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the
 45 ~~General Statutes, and elementary Statutes;~~
- 46 (10) Elementary and secondary school employees enrolled in courses in first aid
 47 or cardiopulmonary resuscitation (CPR). ~~Provided further, tuition shall be~~
 48 ~~waived for up (CPR);~~
- 49 (11) Up to six hours of credit instruction and ~~96 contact hours one course of~~
 50 noncredit instruction per academic semester for senior citizens age 65 or

1 older who are qualified as legal residents of North Carolina. ~~Provided~~
 2 ~~further, tuition shall also be waived for all Carolina;~~

3 (12) All courses taken by high school students at community colleges, including
 4 students in early college and middle college high school programs, in
 5 accordance with G.S. 115D-20(4) and this section."~~section; and~~

6 (13) Human resources development courses for any individual who (i) is
 7 unemployed; (ii) has received notification of a pending layoff; (iii) is
 8 working and is eligible for the Federal Earned Income Tax Credit (FEITC);
 9 or (iv) is working and earning wages at or below two hundred percent
 10 (200%) of the federal poverty guidelines."

11 **SECTION 8.4.(b)** The Community Colleges System Office shall report to the 2011
 12 General Assembly on the number and cost of courses taken by State law enforcement officers
 13 and of courses taken by local law enforcement officers.

14 **SECTION 8.4.(c)** The Community Colleges System Office shall make a
 15 comprehensive study of the currently authorized tuition waivers and shall report to the 2011
 16 General Assembly on waivers that should be modified or abolished because they are not being
 17 used or for other reasons.

18 **COMMUNITY COLLEGE FINANCIAL AID LOANS**

19 **SECTION 8.5.(a)** The State Board of Community Colleges shall permanently
 20 realign its funding formula by increasing the amount allocated in the funding formula for
 21 students' services by fifty million dollars (\$50,000,000) and by reducing the amount in the
 22 funding formula for curriculum and continuing education instruction by a commensurate
 23 amount. The revised formula shall ensure that community colleges have the adequate funds
 24 and resources necessary to administer and provide financial aid services to students.

25 **SECTION 8.5.(b)** G.S. 115D-40.1 reads as rewritten:

26 **"§ 115D-40.1. Financial Assistance for Community College Students.**

27 (a) Need-Based Assistance Program. – It is the intent of the General Assembly that the
 28 Community College System make these financial aid funds available to the neediest students
 29 who are not eligible for other financial aid programs that fully cover the required educational
 30 expenses of these students. The State Board may use some of these funds as short-term loans to
 31 students who anticipate receiving the federal HOPE or Lifetime Learning Tax Credits.

32 (b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State
 33 Board may allocate no more than ten percent (10%) of the funds appropriated for Financial
 34 Assistance for Community College Students to:

35 (1) Students who do not qualify for need-based assistance but who enroll in
 36 low-enrollment programs that prepare students for high-demand
 37 occupations, and

38 (2) Students with disabilities who have been referred by the Division of
 39 Vocational Rehabilitation and are enrolled in a community college.

40 (c) Administration of Program. – The State Board shall adopt rules and policies for the
 41 disbursement of the financial assistance provided in subsections (a) and (b) of this section.
 42 Degree, diploma, and certificate students must complete a Free Application for Federal Student
 43 Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the
 44 State Education Assistance Authority for administration of these financial assistance funds.
 45 These funds shall not revert at the end of each fiscal year but shall remain available until
 46 expended for need-based financial assistance. The

47 ~~The State Board shall ensure that at least one counselor is available at each college to~~
 48 ~~inform students about federal programs and funds available to assist community college~~
 49 ~~students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax~~
 50 ~~Credits and to actively encourage students to utilize these federal programs and funds. The~~
 51

1 interest earned on the funds provided in subsections (a) and (b) of this section may be used to
2 support the costs of administering the Community College Grant Program.

3 (d) Participation in Federal Loan Programs. – All community colleges shall participate
4 in the William D. Ford Federal Direct Loan Program. The State Board shall ensure that at least
5 one counselor is available at each college to inform students about federal programs and funds
6 available to assist community college students, including, but not limited to, Pell Grants, HOPE
7 and Lifetime Learning Tax Credits, and the William D. Ford Federal Direct Loan Program, and
8 to actively encourage students to utilize these federal programs and funds."

9 **SECTION 8.5.(c)** Subsection (b) of this section becomes effective July 1, 2011.
10 The remainder of this section becomes effective July 1, 2010.

11 12 **TUITION REFUNDS**

13 **SECTION 8.6.(a)** A refund of community college tuition shall not be made except
14 under the following circumstances:

- 15 (1) A one hundred percent (100%) refund shall be made if the student officially
16 withdraws prior to the first day of class of the academic semester or term as
17 noted in the college calendar. Also, a student is eligible for a 100 percent
18 refund if the class in which the student is officially registered is cancelled
19 due to insufficient enrollment.
- 20 (2) A seventy-five percent (75%) refund shall be made if the student officially
21 withdraws from the class prior to or on the official ten percent (10%) point
22 of the semester.
- 23 (3) For classes beginning at times other than the first week (seven calendar
24 days) of a semester a one hundred percent (100%) refund shall be made if
25 the student officially withdraws from the class prior to the first class
26 meeting. A seventy-five percent (75%) refund shall be made if the student
27 officially withdraws from the class prior to or on the ten percent (10%) point
28 of the class.
- 29 (4) A one hundred percent (100%) refund shall be made if the student officially
30 withdraws from a contact hour class prior to the first day of class of the
31 academic semester or term or if the college cancels the class. A seventy-five
32 percent (75%) shall be made if the student officially withdraws from a
33 contact hour class on or before the tenth calendar day of the class.

34 **SECTION 8.6.(b)** To comply with applicable federal regulations regarding
35 refunds, federal regulations supersede the provisions of this section.

36 **SECTION 8.6.(c)** Where a student, having paid the required tuition for a semester,
37 dies during that semester (prior to or on the last day of examinations of the college the student
38 was attending), all tuition and fees for that semester may be refunded to the estate of the
39 deceased.

40 **SECTION 8.6.(d)** Community colleges shall adopt local refund policies for classes
41 for which they collect receipts which are not required to be deposited into the State Treasury
42 account.

43 44 **MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES**

45 **SECTION 8.7.** Section 8.24 of S.L. 2009-451 reads as rewritten:

46 "**SECTION 8.24.** The management flexibility reduction for the North Carolina Community
47 College System shall be allocated by the State Board of Community Colleges in a manner that
48 accounts for the unique needs of each college and provides for the equitable distribution of
49 funds to the institutions consistent with G.S. 115D-5(a). Before taking reductions to
50 instructional budgets, the community colleges shall consider reducing budgets for senior and
51 middle management personnel and for programs that have both low-enrollment and

1 low-postgraduate success. Colleges shall minimize the impact on student support services and
2 on the retraining of dislocated workers. Colleges shall not reduce funding for the Small
3 Business Centers. The community colleges shall also review their institutional funds to
4 determine whether there are monies available in those funds that can be used to assist with
5 operating costs before taking reductions in instructional budgets."
6

7 **PART IX. UNIVERSITIES**

8 9 **REPEAL ESCHEAT FUND APPROPRIATION FOR MILLENNIUM TEACHING** 10 **SCHOLARSHIP LOAN PROGRAM**

11 **SECTION 9.1.** Section 9.1.(c) of S.L. 2009-451 is repealed.
12

13 **STUDY FINANCIAL AID CONSOLIDATION**

14 **SECTION 9.2.(a)** The State Education Assistance Authority, The University of
15 North Carolina, the North Carolina Community College System, and the Fiscal Research
16 Division of the General Assembly shall establish a work group to study jointly the
17 simplification and consolidation of State-funded financial aid for students. North Carolina
18 Independent Colleges and Universities, Inc., shall also be included as a joint member of the
19 work group if it chooses to participate in the study. The State Education Assistance Authority
20 shall be the lead agency for the work group and study.

21 **SECTION 9.2.(b)** The purpose of the study is to develop recommendations and
22 options for simplifying and consolidating the delivery of, administration of, and access to
23 State-funded financial aid for students. In conducting the study, the work group shall consider
24 the State's current student financial aid programs and how to consolidate those programs into
25 two categories of State-funded student aid programs: one program that consolidates the State's
26 major need-based programs and one program that consolidates many of the State's scholarship
27 and forgivable loan programs currently available to students who plan to earn degrees and
28 pursue careers in certain professional areas. More specifically the work group shall do the
29 following:

- 30 (1) Design a unified need-based financial aid program that combines at a
31 minimum the following three programs into a single need-based financial aid
32 program: The University of North Carolina Need-Based Grant program, the
33 North Carolina Community College Grant program, and the North Carolina
34 Education Lottery Scholarship program established under Article 35A of
35 Chapter 115C of the General Statutes. Currently each of these programs has
36 its own award criteria, formulas, target populations, and funding sources
37 (Escheat Fund, General Fund, and Lottery Funds). As part of its study, the
38 work group shall determine what the appropriate parameters may be for such
39 a unified program by using models that take into account income, expected
40 family contribution, college expenses, type of college attended, and any
41 other factors the work group deems relevant. In designing the program, the
42 work group shall address the issue of proportionality of funding and shall
43 take into account all of the following in its consideration of that issue: the
44 proportionality of funding that currently exists among The University of
45 North Carolina, the North Carolina Community College System, and the
46 North Carolina private colleges and universities; funding sources;
47 accounting for student enrollment change; monetary differences between
48 certain categories of students and whether based on those monetary
49 differences student financial aid should be based on cost of attendance or
50 tuition and fees. The work group may also consider whether it is appropriate
51 to redefine "need" for purposes of student financial aid and to develop a

1 common formula for the distribution of financial aid and the consequences
2 of any proposed modifications if the decision is made to redefine "need" and
3 develop a common formula. The program shall be designed to: (i) distribute
4 funds in a manner that is consistent with legislative intent, but more easily
5 understood by potential students, and (ii) retain the ability to track lottery
6 funds.

- 7 (2) Design a "forgivable loans for service" program that combines at a minimum
8 the following existing programs into one consolidated program that focuses
9 on loans for services: the Nurse Educators of Tomorrow; Nurse Scholars
10 Program; Nurse Education Scholarship Loan Program; Board of Governors
11 Medical Scholarship Loans; Board of Governors Dental Scholarship Loans;
12 Health, Science and Mathematics Student Loan Program; Prospective
13 Teacher Scholarship Loan Program; and the Teacher Assistant Scholarship
14 Program. This single consolidated program shall initially focus on two high
15 area needs: teaching and health professions (including nursing, allied health
16 and medical, dental, and pharmacy careers). In designing this program, the
17 work group may consider the current allocation of funds among the various
18 scholarship and forgivable loan programs, whether it would be appropriate
19 to allow the reallocation and award of funds not distributed as forgivable
20 loans in a specific service area to be awarded as forgivable loans in a
21 different service area, and, if so, what procedure and methodology would be
22 appropriate to trigger the reallocation of funds and provide for the
23 distribution of those funds as awards in a different service area.

24 **SECTION 9.2.(c)** In addition to the considerations set out in subsection (b) of this
25 section, the work group shall also consider all of the following:

- 26 (1) The time period required to phase out student loans from any of the
27 programs affected by the program consolidation.
28 (2) How federal funding may affect student financial aid services.
29 (3) How to deal with current recipients of funds from programs affected by the
30 consolidation.
31 (4) How to deal with recipients who are paying back loans made through
32 programs affected by the consolidation.
33 (5) Whether the State Education Assistance Authority should be authorized to
34 extend the repayment period for forgivable loans in hardship circumstances
35 when a good faith effort has been made to repay the loan in a timely manner,
36 and if so, what the appropriate procedure may be for making that
37 determination and extending the repayment period.
38 (6) Whether there are, and if so how to address, any significant abuses of the
39 financial aid system, particularly by persons who intentionally apply for and
40 receive financial aid but who intend to drop out of school after securing
41 financial aid funds.
42 (7) Any other issues the work group deems relevant to this study.

43 **SECTION 9.2.(d)** The work group shall present its proposed program designs and
44 report its findings and recommendations to the Joint Select Committee on State Funded Student
45 Financial Aid by October 1, 2010. In its report the work group shall also identify options that
46 may vary from the proposed program designs but that are alternatives that the work group
47 determines may also be workable and consistent with the legislative intent of this study. The
48 work group shall also include in the report any legislative changes that may be needed to
49 implement the program designs and work group recommendations.
50

1 **COORDINATE THE REPORT DUE DATES FOR VARIOUS TEACHER EDUCATION**
2 **REPORTS**

3 **SECTION 9.3.(a)** G.S. 116-11 is amended by adding a new subdivision to read:

4 "(12d) The Board of Governors shall provide a comprehensive annual report on
5 teacher education efforts at The University of North Carolina. The report
6 shall include information about teacher education and recruitment, 2+2
7 initiatives, distance education programs focused on teacher education, and
8 professional development programs for teachers and school administrators.
9 The teacher education report shall be due on April 15 of each year to the
10 Joint Legislative Education Oversight Committee and the State Board of
11 Education."

12 **SECTION 9.3.(b)** G.S. 116-74.21(c) reads as rewritten:

13 "(c) The Board of Governors shall study the issue of supply and demand of school
14 administrators to determine the number of school administrators to be trained in the programs
15 in each year of the biennium and report the results of this study to the Joint Legislative
16 Education Oversight Committee no later than ~~March 1~~ April 15 annually."

17 **SECTION 9.3.(c)** Section 9.7(c) of S.L. 2008-107 reads as rewritten:

18 "**SECTION 9.7.(c)** The University of North Carolina and Community Colleges System
19 Office shall report by ~~September 1, 2008,~~ April 15, 2011, and annually thereafter, to the Joint
20 Legislative Education Oversight ~~Commission,~~ Committee, the State Board of Education, the
21 Office of State Budget and Management, and the Fiscal Research Division of the General
22 Assembly on the implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report
23 shall include:

- 24 (1) The courses and programs within the 2+2 E-Learning Initiative;
- 25 (2) The total number of prospective teachers that have taken or are taking part in
26 this initiative to date broken down by the current academic period and each
27 of the previous academic periods since the program's inception;
- 28 (3) The total number of teachers currently in the State's classrooms, by local
29 school administrative unit, who have taken part in this initiative;
- 30 (4) The change in the number of teachers available to schools since the
31 program's inception;
- 32 (5) The qualitative data from students, teachers, local school administrative unit
33 personnel, university personnel, and community college personnel as to the
34 impact of this initiative on our State's teaching pool; and
- 35 (6) An explanation of the expenditures and collaborative programs between the
36 North Carolina Community College System and The University of North
37 Carolina, including recommendations for improvement."

38 **SECTION 9.3.(d)** Section 9.3(c) of S.L. 2005-276 reads as rewritten:

39 "**SECTION 9.3.(c)** These results shall be reported by ~~September 1, 2006,~~ April 15, 2011,
40 and annually thereafter to the State Board of Education, the Board of Governors of The
41 University of North Carolina, the State Board of Community Colleges, the Education Cabinet,
42 the Joint Legislative Education Oversight ~~Commission,~~ Committee, and the Office of State
43 Budget and Management."

44 **SECTION 9.3.(e)** Section 9.9 of S.L. 2002-126 reads as rewritten:

45 "**SECTION 9.9.** The Board of Governors of The University of North Carolina may allow
46 Elizabeth City State University, the University of North Carolina at Pembroke, and Western
47 Carolina University each to allocate up to one hundred seventy-eight thousand three hundred
48 eighty dollars (\$178,380) of the funds allocated to them for focused enrollment growth for a
49 maximum of 20 Prospective Teacher Scholars. These funds may be used to recruit new
50 nonresident students to enter into agreements to: (i) pursue a full-time course of study that will
51 lead to teacher certification in North Carolina and (ii) teach in a North Carolina public school

1 or a school operated by the United States government in North Carolina for one year for each
2 year that they receive this benefit. The Board of Governors shall establish guidelines and
3 regulations for this pilot program, including methodology for determining its success in
4 increasing the supply of qualified teachers for North Carolina public schools. The Board shall
5 report its guidelines and regulations to guide these pilot programs to the Joint Legislative
6 Education Oversight Committee by ~~November 15, 2002.~~ April 15, 2011. The Board shall report
7 annually to the Committee on the progress of the pilot programs and their costs."
8

9 **ELIMINATE BIENNIAL DISTANCE EDUCATION REPORTS**

10 **SECTION 9.4.** Section 11.7 of S.L. 1998-212 reads as rewritten:

11 "Section 11.7. This act provides funding to The University of North Carolina Board of
12 Governors for degree-related courses provided away from the campus sites of the constituent
13 institutions of The University of North Carolina. The intent of this commitment is to provide
14 expanded opportunities for higher education to more North Carolina residents, including
15 nontraditional students, and to increase the number of North Carolina residents who earn
16 post-secondary degrees.

17 These funds shall be used for the provision of off-campus higher education programs,
18 including the costs for the development or adaptation of programs for this purpose, and the
19 funds may be used for the costs of providing space and services at the off-campus sites.

20 Prior to approving funding for off-campus programs in nursing, the Board shall consult
21 with the central office of the Area Health Education Centers (AHEC) to obtain information
22 about regional needs and priorities and to coordinate funding with AHEC efforts in nursing
23 education.

24 The Board of Governors shall track these funds separately in order to provide data on the
25 costs of providing these programs, including the different costs for various methods of delivery
26 of educational programs. The Board of Governors shall provide for evaluation of these
27 off-campus programs, including comparisons to the costs and quality of on-campus delivery of
28 similar programs, as well as the impact on access to higher education and the educational
29 attainment levels of North Carolina residents. ~~The Board shall provide a preliminary report to
30 the General Assembly by May 1, 2000, and subsequent evaluations, including
31 recommendations for changes, shall be made at least biennially to the Joint Legislative
32 Education Oversight Committee."~~

33 **REPEAL DUPLICATE STUDY/STATE-FUNDED STUDENT FINANCIAL AID**

34 **SECTION 9.5.** Section 9.24 of S.L. 2009-451 is repealed.
35
36

37 **PERMANENT TRANSFER OF FUNDING TO ROANOKE ISLAND COMMISSION** 38 **FOR PERFORMING ARTS**

39 **SECTION 9.6.** Section 9.4 of S.L. 2009-451 reads as rewritten:

40 "**SECTION 9.4.** The General Assembly finds that in order to expand opportunities for
41 students involved in the performing arts, existing funding for the Summer Institute on Roanoke
42 Island should not be allocated to one specific University of North Carolina institution but
43 instead be allocated directly to the Roanoke Island Commission, so that any interested
44 University of North Carolina institution may have the opportunity to participate in summer arts
45 enrichment and education programs. Therefore, of the funds appropriated by this act to the
46 Board of Governors of The University of North Carolina and allocated to the Summer Institute
47 of the University of North Carolina School of the Arts on Roanoke Island program for the
48 2009-2011 fiscal biennium, the sum of four hundred sixty-one thousand six hundred forty-six
49 dollars (\$461,646) shall be transferred for the 2009-2010 fiscal year to the Roanoke Island
50 Commission, and the ~~sum of four hundred sixty-one thousand six hundred forty-six dollars
51 (\$461,646) shall be transferred for the 2010-2011 fiscal year to the Roanoke Island~~

1 ~~Commission~~ recurring funds appropriated for the 2010-2011 fiscal year to the Board of
2 ~~Governors of The University of North Carolina and allocated to the University of North~~
3 ~~Carolina School of the Arts for the Summer Institute on Roanoke Island program shall be~~
4 ~~permanently transferred to the Department of Cultural Resources and allocated to the Roanoke~~
5 ~~Island Commission. The amount to be transferred shall be equal to the amount of the~~
6 ~~appropriation remaining after all reductions, prior to and included in the act, are incorporated.~~
7 The Roanoke Island Commission may use these funds to contract with any of the constituent
8 institutions of The University of North Carolina System to provide music and drama students
9 an education in a professional performing environment while providing a public service to the
10 State. Any available funds may be used to contract with community-based or nonprofit
11 performing arts groups or other performing arts groups supported with State or local funds to
12 provide music and drama on Roanoke Island."
13

14 REVIEW OF UNC SCIENCE, TECHNOLOGY, ENGINEERING, AND 15 MATHEMATICS (STEM) PROGRAMS

16 SECTION 9.7.(a) In order to assess the effectiveness of the science, technology,
17 engineering, and mathematics (STEM) programs administered by The University of North
18 Carolina, General Administration shall compile a comprehensive list of the programs within
19 The University System whose primary objective is to provide community outreach in the form
20 of either (i) teacher professional development programs to strengthen the quality of science or
21 mathematics instruction in the public schools; or (ii) K-12 student enrichment programs in the
22 areas of science, technology, engineering, or mathematics. The University of North Carolina
23 General Administration shall submit the list of STEM programs compiled pursuant to this
24 subsection to the Office of State Budget and Management and the Fiscal Research Division by
25 February 15, 2011.

26 At a minimum, all of the following programs shall be included in the list:

- 27 (1) Pre-College and Teacher Professional Development programs administered
28 through the North Carolina Mathematics and Science Education Network
29 (NC-MSEN).
- 30 (2) Summer Ventures Program.
- 31 (3) North Carolina Central University Center for Science, Math and Technology
32 Education.
- 33 (4) Fayetteville State University CHEER Summer Bridges.
- 34 (5) NCSTEM Community Collaborative.

35 SECTION 9.7.(b) The University of North Carolina General Administration shall
36 conduct a review of each of the programs identified pursuant to subsection (a) of this section
37 and shall report the results to the Office of State Budget and Management and the Fiscal
38 Research Division no later than September 30, 2011, to assist with future funding decisions.
39 The report shall contain the following information for each program:

- 40 (1) A description of the program mission, goals, and objectives.
- 41 (2) The statutory objectives for the program if applicable.
- 42 (3) Annual State appropriation and receipt funding for the program.
- 43 (4) Program effectiveness measures for Teacher Professional Development
44 programs to include at a minimum:
 - 45 a. A measure of teachers' classroom effectiveness in STEM areas
46 before and after attending a university professional development
47 program.
 - 48 b. A measure of math and science educators retained as a result of
49 attending a UNC professional development program.
- 50 (5) Program effectiveness measures for student enrichment programs to include
51 at a minimum:

- 1 a. A measure of students' expected college and career aspirations before
- 2 and after attending a STEM program.
- 3 b. A measure of students' math and science performance on
- 4 standardized tests before and after attending a STEM program.
- 5 c. A measure of declared STEM majors within the UNC system who
- 6 attended a UNC-sponsored STEM program.

7 **SECTION 9.7.(c)** In addition, the Department of Public Instruction shall survey
8 math and science educators in North Carolina to identify the number of current math and
9 science educators who attended a Pre-College or Summer Ventures program sponsored by The
10 University of North Carolina before entering college. The survey may be conducted in
11 cooperation with ongoing data collection efforts within The University of North Carolina
12 System. The data shall be reported to the Office of State Budget and Management and the
13 Fiscal Research Division by February 15, 2011.

14 15 **TRANSFER OF A+ SCHOOLS FROM UNC-GREENSBORO TO DEPARTMENT OF** 16 **CULTURAL RESOURCES**

17 **SECTION 9.8.** The A+ Schools program is transferred from the University of
18 North Carolina at Greensboro to the North Carolina Arts Council in the Department of Cultural
19 Resources, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a
20 transfer. The program transfer shall include the sum of fifty-eight thousand six hundred
21 thirty-eight dollars (\$58,638).

22 23 **COASTAL DEMONSTRATION WIND TURBINES**

24 **SECTION 9.9.** Section 9.14 of S.L. 2009-451 reads as rewritten:

25 **"SECTION 9.14.(a)** Of the funds received by the State and appropriated by United States
26 Public Law 111-005, the American Recovery and Reinvestment Act of 2009, and appropriated
27 in this act to the State Energy Office for the 2009-2010 fiscal year, the sum of three hundred
28 thousand dollars (\$300,000) in nonrecurring funds shall be allocated to The University of North
29 Carolina to continue the coastal sounds wind energy study set forth in Section 9.12 of S.L.
30 2008-107. The University shall contract with a third party by October 1, 2009, to design,
31 permit, procure, construct, establish, ~~operate, and reclaim as appropriate at the end of their~~
32 economic life and operate up to three demonstration turbines and necessary support facilities in
33 the sounds or off the coast of ~~North Carolina by September 1, 2010.~~ North Carolina. The
34 contract shall provide for the reclamation and decommissioning of the project at the end of its
35 economic life. The demonstration project shall commence operations as soon as practicable,
36 and, in any event, no later than December 31, 2011.

37 Any contract entered into between The University and a third party pursuant to this section
38 shall ensure that The University is provided appropriate access to the demonstration turbines
39 and necessary support facilities for research purposes. The actual number and placement of the
40 wind turbines and necessary support facilities shall be determined by the coastal sounds wind
41 energy study in coordination with participating entities. The Director of the Budget shall ensure
42 that any available federal funds are secured by the State to construct the demonstration turbines
43 and necessary support facilities. The University may negotiate and execute any rights-of-way,
44 easements, leases, and any other agreements necessary to construct, establish, and operate the
45 demonstration turbines and supporting facilities, notwithstanding any other provisions of law
46 governing such negotiation and execution of any rights-of-way, easements, leases, or other
47 required agreements required for the facilities authorized under this section.

48 ...

49 **"SECTION 9.14.(c)** The North Carolina Utilities Commission is directed to facilitate and
50 expedite wind energy pilot projects developed pursuant to this act that come within its
51 jurisdiction to the extent allowed by law and consistent with State statute. A wind turbine

1 constructed pursuant to this section shall be exempt from the requirements of G.S. 62-110.1.
2 For such wind turbines owned by a public utility, upon an application by the public utility
3 seeking a rider to recover the costs of such project, the Utilities Commission shall establish an
4 annual rider for the public utility to recover the just and reasonable costs, including the utility's
5 cost of debt and equity, of such project upon completion. Should the project development and
6 construction of the demonstration wind turbines be unreasonably delayed beyond the date set
7 forth in subsection (a) of this section for reasons outside the control of the public utility, all just
8 and reasonable costs incurred by the public utility during project development and construction
9 shall nonetheless be recoverable through an annual rider under this subsection, provided that
10 the public utility shall bear the burden of proving by a preponderance of the evidence that the
11 reasons for the delay were beyond its control and its execution of the project was reasonable
12 and prudent. Should the demonstration wind turbines be abandoned prior to completion, the
13 capital costs and AFUDC related to the project shall nonetheless be recoverable under this
14 Article, provided that the utility shall bear the burden of proving by a preponderance of the
15 evidence that the decision to abandon construction of the project was prudent.

16 ..."

17 18 **COASTAL WAVE ENERGY RESEARCH AND PROTOTYPE PROJECT**

19 **SECTION 9.10.(a)** In order to provide opportunities for research into tidal, wave,
20 and other ocean-based sources of alternative energy, the University of North Carolina Coastal
21 Studies Institute shall form a consortium with the Colleges of Engineering at North Carolina
22 State University, North Carolina Agricultural and Technical State University, and the
23 University of North Carolina at Charlotte to design and construct a prototype generator to
24 capture energy of ocean waves. The generator shall be attached to or staged from an existing
25 State-owned structure located in the ocean waters of the State and shall be used to support
26 marine or ocean-based research collaborations involving public and private universities.

27 **SECTION 9.10.(b)** With respect to the demonstration wave energy facility and
28 necessary support facilities authorized by subsection (a) of this section, the facilities authorized
29 under this act shall be constructed in accordance with the provisions of general law applicable
30 to the construction of State facilities, except that the State Property Office shall expedite and
31 grant all easements and use agreements required for construction of the facilities without
32 payment of any fee, royalty, or other cost. Notwithstanding any other provision of law,
33 construction of the facilities authorized by this section shall be exempt from the following
34 statutes and rules implementing those statutes: G.S. 143-48 through 143-64, 143-128, 143-129,
35 143-132, 113A-1 through 113A-10, 113A-50 through 113A-66, and 113A-116 through
36 113A-128. With respect to any other environmental permits required for construction of the
37 facilities, the Department of Environment and Natural Resources is directed to expedite
38 permitting of the project to the extent allowed by law and shall waive any application fees that
39 would be otherwise applicable to applications for permits required for the facilities and, where
40 possible under applicable law, issue all permits within 40 days of receipt of a complete
41 application.

42 43 **UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM**

44 **SECTION 9.11.** G.S. 116-37 reads as rewritten:

45 "**§ 116-37. University of North Carolina Health Care System.**

46 (a) Creation of System. –

47 ...

48 (4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k)
49 of this section, the board of directors may adopt policies that make the
50 authorities and responsibilities established by one or more of said
51 subsections ~~separately~~ applicable ~~either~~ to the University of North Carolina

1 Hospitals at Chapel ~~Hill or Hill~~, to the clinical patient care programs of the
2 School of Medicine of the University of North Carolina at Chapel Hill, ~~or to~~
3 ~~both to both~~, or to other persons or entities affiliated with or under the
4 control of the University of North Carolina Health Care System.

5 ...

6 (b) Board of Directors. – There is hereby established a board of directors of the
7 University of North Carolina Health Care System, effective November 1, 1998.

8 (1) The board of directors ~~initially~~ shall be composed as follows:

9 a. A minimum of six members ex officio of said board shall be the
10 President of The University of North Carolina (or the President's
11 designee); the Chief Executive Officer of the University of North
12 Carolina Health Care System; ~~two~~ the Chancellor of the University
13 of North Carolina at Chapel Hill and one additional administrative
14 officers ~~officer~~ of the University of North Carolina at Chapel Hill
15 designated by the ~~Chancellor of that institution;~~ Chancellor; and two
16 members of the faculty of the School of Medicine of the University
17 of North Carolina at Chapel Hill designated by the Dean of the
18 School of Medicine; provided, that if not such a member ex officio
19 by virtue of holding one or more of the offices aforementioned,
20 additional ex officio memberships shall be held by the President of
21 the University of North Carolina Hospitals at Chapel ~~Hill-Hill~~, the
22 faculty member responsible for leading the clinical patient care
23 programs of the School of Medicine, and the Dean of the School of
24 Medicine of the University of North Carolina at Chapel ~~Hill~~, for a
25 total potential ex officio membership of eight. ~~Hill.~~

26 b. No less than nine and no more than 21 members at large, which
27 number shall be determined by the board of directors, shall be
28 appointed for four-year terms, commencing on November 1 of the
29 year of appointment; provided, that the initial class of at-large
30 members shall include the persons who hold the appointed
31 memberships on the board of directors of the University of North
32 Carolina Hospitals at Chapel Hill incumbent as of October 31, 1998,
33 with their terms of membership on the board of directors of the
34 University of North Carolina Health Care System to expire on the
35 last day of October of the year in which their term as a member of
36 the board of directors of the University of North Carolina Hospitals
37 at Chapel Hill would have expired. Vacant at-large positions shall be
38 filled by the appointment of persons from the business and
39 professional public at large who have special competence in business
40 management, hospital administration, health care delivery, or
41 medical practice or who otherwise have demonstrated dedication to
42 the improvement of health care in North Carolina, and who are
43 neither members of the Board of Governors, members of the board of
44 trustees of a constituent institution of The University of North
45 Carolina, nor officers or employees of the State. Members shall be
46 appointed by the President of the University, and ratified by the
47 Board of Governors, from among a slate of nominations made by the
48 board of directors of the University of North Carolina Health Care
49 System, ~~said slate to include at least twice as many nominees as there~~
50 ~~are vacant positions to be filled.~~ System. No member may be
51 appointed to more than two full four-year terms in succession;

1 provided, that persons holding appointed memberships on November
2 1, 1998, by virtue of their previous membership on the board of
3 directors of the University of North Carolina Hospitals at Chapel
4 Hill, shall not be eligible, for a period of one year following
5 expiration of their term, to be reappointed to the board of directors of
6 the University of North Carolina Health Care System. Any vacancy
7 in an unexpired term shall be filled by an appointment made by the
8 President, and ratified by the Board of Governors, upon the
9 nomination of the board of directors, for the balance of the term
10 remaining.

- 11 (2) ~~The board of directors, with each ex officio and at large member having a~~
12 ~~vote, shall elect a chairman from among the at large members, for a term of~~
13 ~~two years; no person shall be eligible to serve as chairman for more than~~
14 ~~three terms in succession.~~The Chancellor of the University of North Carolina
15 at Chapel Hill or a board member designated by the Chancellor shall serve
16 as chair of the board of directors.

17 ...

- 18 (4) In meeting the patient-care, educational, research, and public-service goals
19 of the University of North Carolina Health Care System, the board of
20 directors is authorized to exercise such authority and responsibility and
21 adopt such policies, rules, and regulations as it deems necessary and
22 appropriate, not inconsistent with the provisions of this section or the
23 policies of the Board of ~~Governors.~~Governors or, to the extent the board's
24 actions affect employees of the University of North Carolina at Chapel Hill,
25 the policies of the University of North Carolina at Chapel Hill. The board
26 may authorize any component of the University of North Carolina Health
27 Care System, including the University of North Carolina Hospitals at Chapel
28 Hill, to contract in its individual capacity, subject to such policies and
29 procedures as the board of directors may direct. The board of directors may
30 enter into formal agreements with the University of North Carolina at
31 Chapel Hill with respect to the provision of clinical experience for students
32 and for the provision of maintenance and supporting services. The board's
33 action on matters within its jurisdiction is final, except that appeals may be
34 made, in writing, to the Board of Governors with a copy of the appeal to the
35 Chancellor of the University of North Carolina at Chapel Hill. The board of
36 directors shall keep the Board of Governors and the board of trustees of the
37 University of North Carolina at Chapel Hill fully informed about health care
38 policy and recommend changes necessary to maintain adequate health care
39 delivery, education, and research for improvement of the health of the
40 citizens of North Carolina.

- 41 (c) Officers. –

- 42 (1) The executive and administrative head of the University of North Carolina
43 Health Care System shall have the title of "Chief Executive Officer." The
44 board of directors, ~~in cooperation with~~ the board of trustees and the
45 Chancellor of the University of North Carolina at Chapel Hill, following
46 such search process as the boards and the Chancellor deem appropriate, shall
47 identify, ~~in cooperation with the Chancellor,~~ two or more persons as
48 candidates for the office, who, pursuant to criteria agreed upon by the boards
49 and the Chancellor, have the qualifications for both the positions of Chief
50 Executive Officer of the University of North Carolina Health Care System
51 and Vice-Chancellor for Medical Affairs of the University of North Carolina

1 at Chapel Hill. The names of the candidates so ~~identified~~ identified, once
 2 approved by the board of directors and the board of trustees, shall be
 3 forwarded by the Chancellor to the President of The University of North
 4 Carolina, who if satisfied with the quality of one or more of the candidates,
 5 will nominate one as Chief Executive Officer, subject to selection by the
 6 Board of Governors. The individual serving as Chief Executive Officer shall
 7 have complete executive and administrative authority to formulate proposals
 8 for, recommend the adoption of, and implement policies governing the
 9 programs and activities of the University of North Carolina Health Care
 10 System, subject to all requirements of the board of directors. That same
 11 individual, when serving as Vice-Chancellor for Medical Affairs, shall have
 12 all authorities, rights, and responsibilities of a vice-chancellor of the
 13 University of North Carolina at Chapel Hill.

14 ...

- 15 (3) The board of directors shall elect, on nomination of the Chief Executive
 16 Officer, the President of the University of North Carolina Hospitals at
 17 Chapel Hill, and such additional administrative and professional staff
 18 employees of the University of North Carolina Health Care System as may
 19 be deemed necessary to assist in fulfilling the duties of the office of the
 20 Chief Executive Officer, all of whom shall serve at the pleasure of the Chief
 21 Executive Officer.

22"

23 UNIVERSITY CANCER RESEARCH FUND

24 SECTION 9.12. G.S. 116-29.1 reads as rewritten:

25 "§ 116-29.1. University Cancer Research Fund.

26 ...

27 (c) Cancer Research Fund Committee. – The Cancer Research Fund Committee shall
 28 consist of five ex officio members and two appointed members. The five ex officio members
 29 shall consist of the following: (i) one member shall be the ~~President of The University of North~~
 30 ~~Carolina, Chancellor of the University of North Carolina at Chapel Hill,~~ (ii) one member shall
 31 be the Director of the Lineberger Comprehensive Cancer Center, (iii) one member shall be the
 32 Dean of the School of Medicine at The University of North Carolina, (iv) one member shall be
 33 the Dean of the School of Pharmacy at The University of North Carolina, and (v) one member
 34 shall be the Dean of the School of Public Health at The University of North Carolina. The
 35 remaining two members shall be appointed by a majority vote of the standing members of the
 36 Committee and shall be selected from persons holding a leadership position in a nationally
 37 prominent cancer program.

38 If any of the specified positions cease to exist, then the successor position shall be deemed
 39 to be substituted in the place of the former one, and the person holding the successor position
 40 shall become an ex officio member of the Committee."

41 (d) Chair. – The chair shall be the ~~President of The University of North~~
 42 ~~Carolina, Chancellor of the University of North Carolina at Chapel Hill.~~

43"

44 UNC MANAGEMENT FLEXIBILITY REDUCTION

45 SECTION 9.13.(a) Section 9.19 of S.L. 2009-451 reads as rewritten:

46 "SECTION 9.19. The management flexibility reduction for The University of North
 47 Carolina shall not be allocated by the Board of Governors to the constituent institutions and
 48 affiliated entities using an across-the-board method but in a manner that recognizes the
 49 importance of the academic mission and differences among The University of North Carolina
 50
 51

1 entities. Before taking reductions in instructional budgets, the Board of Governors and the
2 campuses of the constituent institutions shall consider reducing budgets for senior and middle
3 management personnel, centers and institutes, low enrollment degree programs, speaker series,
4 and nonacademic activities. The Board of Governors and the campuses of the constituent
5 institutions also shall review the institutional trust funds and the special funds held by or on
6 behalf of ~~the~~The University of North Carolina and its constituent institutions to determine
7 whether there are monies available in those funds that can be used to assist with operating costs
8 before taking reductions in instructional budgets. In addition, the campuses of the constituent
9 institutions also shall require their faculty to have a teaching workload equal to the national
10 average in their Carnegie classification. Budget reductions shall not be considered in funding
11 available for need-based financial aid.

12 Notwithstanding any other provision of law, for the 2010-2011 fiscal year only, the
13 constituent institutions may, with the approval of the President of The University of North
14 Carolina and the Board of Governors, increase tuition by up to seven hundred fifty dollars
15 (\$750.00) per academic year. This increase shall be in addition to other increases authorized for
16 the fiscal year. These funds shall be used only to offset the institutions' management flexibility
17 reductions."

18 **SECTION 9.13.(b)** Section 9.23 of S.L. 2009-451 is repealed.
19

20 **INSTITUTE FOR OUTDOOR DRAMA**

21 **SECTION 9.14.(a)** The Institute for Outdoor Drama shall be transferred from the
22 University of North Carolina at Chapel Hill to East Carolina University.

23 **SECTION 9.14.(b)** Of the funds appropriated to the Department of Commerce,
24 Division of Tourism, Film, and Sports Development, the sum of one hundred fifty thousand
25 dollars (\$150,000) shall be transferred to the Board of Governors of The University of North
26 Carolina for the Institute for Outdoor Drama at East Carolina University.
27

28 **RECRUITMENT OF PHARMACY STUDENTS**

29 **SECTION 9.15.(a)** The University of North Carolina at Chapel Hill shall
30 collaborate with the University of North Carolina at Asheville and Elizabeth City State
31 University regarding the recruitment of students of pharmacy. The universities shall develop
32 and institute a plan in which potential pharmacy students are informed of the pharmacy
33 programs at each of the public universities in an effort to recruit those students to State schools.

34 **SECTION 9.15.(b)** The Board of Governors shall make funds in the amount of
35 forty-four thousand dollars (\$44,000) available to Elizabeth State University for the 2010-2011
36 fiscal year for the recruitment and academic support of pharmacy students.
37

38 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

39 **ELECTRONIC BENEFITS TRANSFER SYSTEM**

40 **SECTION 10.1.** The Department of Health and Human Services, Division of Child
41 Development, shall implement an Electronic Benefits Transfer system for child care subsidy.
42 The Department shall review all current electronic card system operations as related to Child
43 Support Enforcement and Food and Nutrition to determine whether coordination may occur
44 among the three-card systems that result in cost-savings.
45

46 The Department shall monitor the implementation of the "smart card" system pilot
47 program in Georgia and similar technology in other states. The Department shall submit a
48 report to the Senate Appropriations Committee on Health and Human Services, the House of
49 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal
50 Research Division on the implementation of Georgia's pilot program and other states' programs
51 and provide any recommendations for a card system program in this State by May 1, 2011.

1
2 **REPEAL POLICIES TO FACILITATE AND EXPEDITE USE OF CHILD CARE**
3 **SUBSIDY FUNDS**

4 **SECTION 10.2.** Section 10.4 of S.L. 2009-451 is repealed.
5

6 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
7 **ENHANCEMENTS**

8 **SECTION 10.3.** Section 10.7.(g) of S.L. 2009-451 reads as rewritten:

9 "SECTION 10.7.(g) For fiscal years 2009-2010 and 2010-2011, the local partnerships
10 shall spend an amount for child care subsidies that provides at least fifty-two million dollars
11 (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care
12 Development Fund and Block Grant match requirement. ~~The Department of Health and Human~~
13 ~~Services shall determine the level of funds that need to be expended in order to draw down all~~
14 ~~federal recovery funds and shall direct the local partnerships to spend at least at the determined~~
15 ~~level. The local partnerships shall not spend at a level less than that directed by the~~
16 ~~Department."~~
17

18 **COST SHARE HEALTH-RELATED EXPENDITURES WITH MEDICAID**

19 **SECTION 10.4.** The Division of Public Health and the Division of Medical
20 Assistance shall coordinate with the North Carolina Partnership for Children, Inc., to cost share
21 the health-related expenditures with Medicaid. The Division of Child Development shall
22 transfer the amount of planned expenditures for health-related activities to the Division of
23 Public Health to coordinate the cost-sharing through local health departments. The Division of
24 Child Development shall report on these activities by October 1, 2010, to the Joint Legislative
25 Commission on Governmental Operations, the Senate Appropriations Committee on Health
26 and Human Services, the House of Representatives Appropriations Subcommittee on Health
27 and Human Services, and the Fiscal Research Division.
28

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

31 **SECTION 10.5.** Section 10.10 of S.L. 2009-451 reads as rewritten:

32 "SECTION 10.10. The Division of Child Development of the Department of Health and
33 Human Services shall increase the allowance that county departments of social services may
34 use for administrative costs from four percent (4%) to five percent (5%) of the county's total
35 child care subsidy funds allocated in the Child Care Development Fund Block Grant plan. The
36 increase shall be effective for the 2009-2010 ~~fiscal year~~ and 2010-2011 fiscal years."
37

38 **MENTAL HEALTH CHANGES**

39 **SECTION 10.6.(a).** Section 10.12.(b) of S.L. reads as rewritten:

40 "SECTION 10.12.(b) Of the funds appropriated in this act to the Department of Health
41 and Human Services, Division of Mental Health, Developmental Disabilities, and Substance
42 Abuse Services, the sum of twenty million one hundred twenty-one thousand six hundred
43 forty-four dollars (\$20,121,644) for the 2009-2010 fiscal year and the sum of twenty million
44 one hundred twenty-one thousand six hundred forty-four dollars (\$20,121,644) for the
45 2010-2011 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or
46 bed days. These beds or bed days shall be distributed across the State in all LME catchment
47 areas and according to need as determined by the Department. The Department shall enter into
48 contracts with the LMEs and community hospitals for the management of these beds or bed
49 days. The Department shall work to ensure that these contracts are awarded equitably around
50 all regions of the State. Local inpatient psychiatric beds or bed days shall be managed and
51 controlled by the LME, including the determination of which local or State hospital the

1 individual should be admitted to pursuant to an involuntary commitment order. Funds shall not
2 be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health,
3 Developmental Disabilities, and Substance Abuse Services to pay for services authorized by
4 the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment
5 to the Division within 15 working days of receipt of a clean claim from the hospital and shall
6 pay the hospital within 30 working days of receipt of payment from the Division. If the
7 Department determines (i) that an LME is not effectively managing the beds or bed days for
8 which it has responsibility, as evidenced by beds or bed days in the local hospital not being
9 utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the
10 LME has failed to comply with the prompt payment provisions of this subsection, the
11 Department may contract with another LME to manage the beds or bed days, or,
12 notwithstanding any other provision of law to the contrary, may pay the hospital directly. The
13 Department shall develop reporting requirements for LMEs regarding the utilization of the beds
14 or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric
15 beds or bed days shall be used to purchase additional beds or bed days not currently funded by
16 or through LMEs and shall not be used to supplant other funds available or otherwise
17 appropriated for the purchase of psychiatric inpatient services under contract with community
18 hospitals, including beds or bed days being purchased through Hospital Utilization Pilot funds
19 appropriated in S.L. 2007-323. Not later than March 1, 2010, the Department shall report to the
20 House of Representatives Appropriations Subcommittee on Health and Human Services, the
21 Senate, the Joint Legislative Oversight Committee on Mental Health, Developmental
22 Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform
23 system for beds or bed days purchased (i) with local funds, (ii) from existing State
24 appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds
25 appropriated under this subsection.

26 **SECTION 10.6.(b).** Section 10.12.(f) of S.L. 2009-451 reads as rewritten:

27 **"SECTION 10.12.(f)**

- 28 (1) ~~The Department of Health and Human Services, Division of Mental Health,~~
29 ~~Developmental Disabilities, and Substance Abuse Services, shall continue~~
30 ~~implementation of the current Supports Intensity Scale (SIS) assessment tool~~
31 ~~pilot project if the pilot project has demonstrated that the SIS tool:~~
32 a. ~~Is effective in identifying the appropriate array and intensity of~~
33 ~~services, including residential supports or placement, for individuals~~
34 ~~assessed.~~
35 b. ~~Is valid for determining intensity of support related to resource~~
36 ~~allocation for CAP MR/DD, public and private ICF MR facilities,~~
37 ~~developmental disability group homes, and other State or federally~~
38 ~~funded services.~~
39 c. ~~Is used by an assessor that does not have a pecuniary interest in the~~
40 ~~determinations resulting from the assessment.~~
41 d. ~~Determines the level of intensity and type of services needed from~~
42 ~~developmental disability service providers.~~
43 (2) ~~The Department shall report on the progress of the pilot project by May 1,~~
44 ~~2010. The Department shall submit the report to the Joint Legislative~~
45 ~~Oversight Committee on Mental Health, Developmental Disabilities, and~~
46 ~~Substance Abuse Services, the House of Representatives Appropriations~~
47 ~~Subcommittee on Health and Human Services, the Senate Appropriations~~
48 ~~Committee on Health and Human Services, and the Fiscal Research~~
49 ~~Division. The report shall include the following:~~
50 a. ~~The infrastructure that will be needed to assure that the~~
51 ~~administration of the assessment tool is independent from service~~

1 delivery, the qualifications of assessors, training and management of
2 data, and test-retest accountability.

- 3 b. ~~The cost to (i) purchase the tool, (ii) implement the tool, (iii) provide~~
4 ~~training, and (iv) provide for future expansion of the tool statewide.~~

5 The Department of Health and Human Services, Division of Mental Health, Developmental
6 Disabilities, and Substance Abuse Services shall require the seven LMEs participating in the
7 current Supports Intensity Scale (SIS) assessment tool pilot project to administer a SIS
8 assessment to all clients with developmental disabilities. The participating LMEs shall use the
9 results of the SIS assessment to assign clients with developmental disabilities to one of the
10 Tiers within the CAP-MR/DD Waiver and to other needed services, according to their relative
11 intensity of need."

13 **TERM LIMITS FOR COUNTY MANAGERS ON AREA MENTAL HEALTH BOARDS**

14 **SECTION 10.7.** G.S. 122C-118.1(d) reads as rewritten:

15 "(d) Any member of an area board who is a county commissioner serves on the board in
16 an ex officio capacity. The terms of county commissioners on an area board are concurrent with
17 their terms as county commissioners. The terms of county managers on an area board may be
18 for the duration of their employment as a county manager. The terms of the other members on
19 the area board shall be for three years, except that upon the initial formation of an area board
20 one-third shall be appointed for one year, one-third for two years, and all remaining members
21 for three years. Members, other than county managers, shall not be appointed for more than two
22 consecutive terms. Board members serving as of July 1, 2006, may remain on the board for one
23 additional term. This subsection applies to all area authority board members regardless of the
24 procedure used to appoint members under subsection (a) of this section."

26 **REPEAL SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

27 **SECTION 10.8.** Section 10.13 of S.L. 2009-451 is repealed.

29 **JOINT STUDY COMMITTEE ON AUTISM SPECTRUM DISORDERS AND PUBLIC** 30 **SAFETY**

31 **SECTION 10.9.** Section 10.21D.(i) of S.L. 2009-451 reads as rewritten:

32 "**SECTION 10.21D.(i)** The Committee may submit an interim report on the results of its
33 study, including any proposed legislation, to the members of the Senate and the House of
34 Representatives on or before May 1, 2010, by filing a copy of the report with the Office of the
35 President Pro Tempore of the Senate, the Office of the Speaker of the House of
36 Representatives, and the Legislative Library. The Committee shall submit a final report on the
37 results of its study, including any proposed legislation, to the members of the Senate and the
38 House of Representatives ~~on or before December 31, 2010,~~ upon the completion of its work by
39 filing a copy of the report with the Office of the President Pro Tempore of the Senate, the
40 Office of the Speaker of the House of Representatives, and the Legislative Library. The
41 Committee shall terminate ~~on December 31, 2010, or upon the filing of its final report,~~
42 whichever occurs first upon the completion of its work."

44 **CLOSURE PLAN FOR DOROTHEA DIX HOSPITAL**

45 **SECTION 10.10.** The Department of Health and Human Services, Division of
46 Mental Health, Developmental Disabilities, and Substance Abuse Services shall do all of the
47 following with respect to Dorothea Dix Hospital:

- 48 (1) By August 1, 2010, submit an itemized operations budget for the 2010-2011
49 fiscal year to the Senate Appropriations Committee on Health and Human
50 Services, the House of Representatives Appropriations Subcommittee on
51 Health and Human Services, and the Fiscal Research Division.

- 1 (2) By October 1, 2010, develop and submit a plan for closing the hospital no
2 later than June 30, 2011, to the Senate Appropriations Committee on Health
3 and Human Services, the House of Representatives Appropriations
4 Subcommittee on Health and Human Services, and the Fiscal Research
5 Division.
6

7 **CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES** 8 **INITIATIVE**

9 **SECTION 10.11.** Section 10.23.(c) of S.L. 2009-451 reads as rewritten:

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

- 13 (1) Which community programs and local health departments received CFEHDI
14 grants.
15 (2) The amount of funding each program or local health department received.
16 (3) Which of the minority populations were served by the programs or local
17 health departments.
18 (4) Which counties were served by the programs or local health departments.
19 (5) What activities were planned and implemented by the programs or local
20 health departments to fulfill the community focus of the CFEHDI program.
21 (6) How the activities implemented by the programs or local health departments
22 fulfilled the goal of reducing health disparities among minority populations.

23 The report shall also include specific activities undertaken pursuant to subsection (a) of this
24 section to address large gaps in health status among North Carolinians who are
25 African-American and other minority populations in this State. The Department shall submit
26 the report not later than ~~March 15, 2010~~, March 14, 2011, to the House of Representatives
27 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
28 Committee on Health and Human Services, and the Fiscal Research Division."
29

30 **SUPPLEMENTAL FUNDS FOR HEALTH INITIATIVES FROM HEALTH AND** 31 **WELLNESS TRUST FUND**

32 **SECTION 10.12.** The Health and Wellness Trust Fund Commission shall allocate
33 from funds available in the Health and Wellness Trust Fund in the 2010-2011 fiscal year the
34 sum of three million two hundred ninety-seven thousand dollars (\$3,297,000) for health
35 initiatives in the Department of Health and Human Services in accordance with the following:

- | | |
|--|-------------|
| 36 (1) Stroke Prevention | \$450,000 |
| 37 (2) Improve Birth Outcomes | \$247,000 |
| 38 (3) Prevent Neural Tube Birth Defects | \$350,000 |
| 39 (4) Prevent Blindness | \$150,000 |
| 40 (5) Amyotrophic Lateral Sclerosis (ALS) | \$300,000 |
| 41 (6) Adolescent and Teen Pregnancy Prevention | \$650,000 |
| 42 (7) Healthy Carolinians | \$100,000 |
| 43 (8) North Carolina Arthritis Patient Services | \$ 50,000 |
| 44 (9) Rural Hospital Operation & Maintenance | \$1,000,000 |

45 These funds shall supplement and not supplant other funds allocated within the
46 Division of Public Health for these activities.
47

48 **IMMUNIZATION CHANGES**

49 **SECTION 10.13.** Section 10.29A of S.L. 2009-451 is amended by adding a new
50 subsection to read:

"(c) The General Assembly finds that health insurers licensed to practice in this State currently provide reimbursement for the full series of standard immunizations recommended by the federal Centers for Disease Control and Prevention (CDC) and the American Academy of Family Physicians, and required by the North Carolina Immunization Program. The covered immunizations include all of the following:

- (1) Diphtheria, Pertussis, Tetanus Toxoid (DPT)
- (2) Polio
- (3) Measles, Mumps, Rubella (MMR)
- (4) Influenza
- (5) Pneumococcal vaccine
- (6) Human Papilloma virus (HPV)
- (7) Haemophilus Influenzae Type b (Hib) vaccine
- (8) Hepatitis B
- (9) Meningococcal vaccine
- (10) Chicken Pox
- (11) Rotavirus
- (12) Shingles

The General Assembly also finds that, consistent with G.S. 130A-153, physicians and local health departments currently administer the required immunizations listed in subdivisions (1) through (12) of this subsection, that are supplied by the federal government at no cost through the Vaccine For Children (VFC) program, to uninsured and under-insured children with incomes below two hundred percent (200%) of the federal poverty level. Therefore, the General Assembly eliminates the State appropriation for the purchase of childhood vaccines for which health care providers, including local health departments, should be billing health insurers."

NORTH CAROLINA HEALTH CHOICE EMERGENCY ROOM VISIT CO-PAYMENTS

SECTION 10.14. Under the North Carolina Health Choice Program for Children, the co-payment for nonemergency visits to the emergency room for children whose family income is at or below one hundred fifty percent (150%) of the federal poverty level is ten dollars (\$10.00). The co-payment for children whose family income is between one hundred fifty-one percent (151%) and two hundred percent (200%) of the federal poverty level is twenty-five dollars (\$25.00).

COMMUNITY CARE OF NORTH CAROLINA

SECTION 10.15. Section 10.36 of S.L. 2009-451 reads as rewritten:

~~"SECTION 10.36.(a) Given the primary care case management foundation established by Community Care of North Carolina (CCNC), the Department shall build upon that foundation to ensure quality care and cost control of care provided to Medicaid patients.~~

~~SECTION 10.36.(b) The Department shall contract with CCNC participating physicians and local CCNC networks to manage the care of Medicaid recipients through a per member per month reimbursement.~~

~~SECTION 10.36.(c) The Department shall ensure that, through CCNC participating physicians and networks, the Department is striving to follow tenets adapted from the National Committee of Quality Assurance's (NCQA) national measures for patient centered Medical Homes Models. The Department shall consult with local CCNC networks to achieve all of the following:~~

- ~~(1) Identify priority diseases, conditions, and patients for care management.~~
- ~~(2) Develop, adopt, and implement protocols for consistent and effective care management of those diseases, conditions, and patients.~~

- 1 (3) Identify data elements necessary for effective delivery and management of
2 medical care and care management services.
3 (4) Develop and implement a system to measure, analyze, and report clinical
4 performance and service performance by physicians and networks.

5 ~~SECTION 10.36.(d)~~ Consistent with subdivision (1) of subsection (c) of this section, the
6 Department shall (i) identify baseline data on priority diseases, conditions, patients, and
7 populations, and on physicians and networks; (ii) identify patient, physician, and network
8 performance measures, and (iii) develop and implement data systems to gather, analyze, and
9 report on those performance measures. The Department shall begin work immediately to
10 implement this subsection.

11 ~~SECTION 10.36.(e)~~ The Department shall report to the House of Representatives
12 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
13 Committee on Health and Human Services, and the Fiscal Research Division no later than
14 December 31, 2009, on the performance measures adopted pursuant to subsection (d) of this
15 section. Beginning July 1, 2010, and every six months thereafter, the Department shall submit a
16 report to the House of Representatives Appropriations Subcommittee on Health and Human
17 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
18 Research Division evaluating the performance of each of the 14 CCNC Networks based on the
19 performance measures adopted pursuant to subsection (d) of this section.

20 "~~SECTION 10.36.(f)~~ The Department of Health and Human Services (Department) shall
21 conduct a Request for Proposal process to solicit bids from qualified outside entities with
22 proven experience in conducting actuarial and health care studies and evaluations to annually
23 report on the Medicaid cost savings achieved by the ~~CCNC~~ Community Care of North Carolina
24 (CCNC) networks during a 12-month period. Beginning ~~December 31, 2010, March 1, 2011,~~
25 and every year thereafter, the Department shall submit a report on the Medicaid cost savings
26 achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and
27 disabled, to the House of Representatives Appropriations Subcommittee on Health and Human
28 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
29 Research Division.

30 "~~SECTION 10.36.(g)~~ By October 1, 2010, the Department and the Division of Medical
31 Assistance (DMA) shall contract with North Carolina Community Care Networks, Inc.
32 (NCCCN, Inc.) and the 14 participating local CCNC networks represented by NCCCN, Inc. to
33 provide standardized clinical and budgetary coordination, oversight, and reporting for a
34 State-wide Enhanced Primary Care Management System for Medicaid enrollees. The contract
35 with NCCCN, Inc., shall build upon and expand the existing successful CCNC primary care
36 case management model to include comprehensive State-wide quantitative performance goals
37 and deliverables which shall include all of the following areas: (i) service utilization
38 management, (ii) budget analytics, (iii) budget forecasting methodologies, (iv) quality of care
39 analytics, (v) participant access measures, and (vi) predictable cost containment methodologies.

40 "~~SECTION 10.36.(g1)~~ NCCCN, Inc., shall report quarterly to the Department and to the
41 Office of State Budget and Management (OSBM) on the development of the statewide
42 Enhanced Primary Care Case Management System and its defined goals and deliverables as
43 agreed upon in the contract. Beginning July 1, 2010, NCCCN, Inc., shall submit a quarterly
44 report to the Secretary of Health and Human Services, OSBM, the House of Representatives
45 Appropriations Subcommittee on Health and Human Services, the Senate Appropriations
46 Committee on Health and Human Services, and the Fiscal Research Division on the progress
47 and results of implementing the quantitative, analytical, utilization, quality, cost containment,
48 and access goals and deliverables set out in the contract. NCCCN, Inc., shall conduct its own
49 analysis of the CCNC system to identify any variations from the development plan for the
50 Enhanced Primary Care Case Management System and its defined goals and deliverables set
51 out in the contract between DMA and NCCCN, Inc. Upon identifying any variations, NCCCN,

1 Inc., shall develop and implement a plan to address the variations. NCCCN, Inc., shall report
2 the plan to DMA within 30 days after taking any action to implement the plan.

3 "SECTION 10.36.(h) By July 1, 2011, the Department and OSBM shall assess the
4 performance of NCCCN, Inc., and CCNC regarding the goals and deliverables established in
5 the contract. Based on this assessment, the Department and DMA shall expand, cancel, or alter
6 the contract with NCCCN, Inc., and CCNC effective October 1, 2011. Expansion or alteration
7 of the contract may reflect refinements based on clearly identified goals and deliverables in the
8 areas of quality of care, participant access, cost containment, and service delivery.

9 "SECTION 10.36.(i) By July 1, 2011, the Department, DMA, and NCCCN, Inc., shall
10 finalize a comprehensive plan that establishes management methodologies which include all of
11 the following: (i) quality of care measures, (ii) utilization measures, (iii) recipient access
12 measures, (iv) performance incentive models in which past experience indicates a benefit from
13 financial incentives, (v) accountable budget models, (vi) shared savings budget models, and
14 (vii) budget forecasting analytics as agreed upon by the Department, DMA, and NCCCN, Inc.
15 In the development of these methodologies, the Department, DMA, and NCCCN, Inc., shall
16 consider options for shared risk. The Department and DMA shall provide assistance to
17 NCCCN, Inc., in meeting the objectives of this section.

18 "SECTION 10.36.(j) Beginning with the 2010-2011 fiscal year, the Department shall
19 establish a separate line item in Budget Code 14445 for all expenditures in DMA associated
20 with managed care activities pertaining to the utilization of Medicaid expenditures through
21 CCNC.

22 "SECTION 10.36.(k) The Department shall not increase the per member per month
23 funding to CCNC without prior approval from the General Assembly."

24 25 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)** 26 **FUNDS/IMPLEMENTATION OF MMIS**

27 **SECTION 10.16.** Section 10.41.(a) of S.L. 2009-451 reads as rewritten:

28 "SECTION 10.41.(a) Of the funds appropriated in this act to the Department of Health
29 and Human Services (Department), the sum of ~~ten million seven hundred sixty five thousand~~
30 ~~one hundred fifty three dollars (\$10,765,153) for fiscal year 2009-2010 and the sum of eight~~
31 ~~million sixty four thousand one hundred twenty eight dollars (\$8,064,128) eleven million seven~~
32 ~~hundred thirty-seven thousand four hundred fourteen dollars (\$11,737,414) for fiscal year~~
33 2010-2011 shall be (i) deposited to the Department's information technology budget code and
34 (ii) used to match federal funds for the procurement, design, development, and implementation
35 of the new Medicaid Management Information System (MMIS) and to fund the central
36 management of the project. The Department shall utilize all prior year earned revenues received
37 for the MMIS. In the event that the Department does not receive prior year earned revenues in
38 the amounts authorized by this section, the Department is authorized, with approval of the
39 Office of State Budget and Management, to utilize other overrealized receipts and funds
40 appropriated to the Department to achieve the level of funding specified in this section for the
41 MMIS."

42 43 **ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES**

44 **SECTION 10.17.** Section 10.46A of S.L. 2009-451 is amended by adding a new
45 subsection to read:

46 "SECTION 10.46A.(c) Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary
47 of Department of Health and Human Services may transfer State-owned equipment, including
48 computers, printers, and furniture, used by State-operated child support offices to administer
49 child support enforcement programs to a county government or the Eastern Band of the
50 Cherokee Indians for the sole purpose of facilitating the county government or the Eastern
51 Band of the Cherokee Indians' administration of the child support program. The transfer shall

1 be at no cost to the county government or the Eastern Band of the Cherokee Indians and shall
2 occur no later than July 1, 2010.

3 The county government or the Eastern Band of the Cherokee Indians assuming
4 responsibility for the child support program effective July 1, 2010, shall identify from the
5 existing equipment and office furnishings which items will be needed to administer the child
6 support program. A comprehensive list of items to be transferred shall be compiled and signed
7 by the manager of the State-operated child support office and the manager of the county or
8 tribal child support office and the signed list shall serve as official documentation of the
9 transfer. Copies of the documentation shall be provided to the Department of Health and
10 Human Services Controller's Office and the Department of Administration. Any equipment not
11 included in the transfer shall revert to the Department of Administration, Division of Surplus
12 Property."

13 14 **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT** 15 **FUND**

16 **SECTION 10.18.** Section 10.50 of S.L. 2009-451 reads as rewritten:

17 **"SECTION 10.50.(a)** There is appropriated from the Escheat Fund income to the
18 Department of Health and Human Services the sum of three million one hundred sixty-eight
19 thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year. These funds
20 shall be used to support the child welfare postsecondary support program for the educational
21 needs of foster youth aging out of the foster care system and special needs children adopted
22 from foster care after age 12 by providing assistance with the "cost of attendance" as that term
23 is defined in 20 U.S.C. § 10871l. The Department shall collaborate with the State Education
24 Assistance Authority to develop policies and procedures for the distribution of these funds.

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

29 Funds appropriated by this subsection shall be allocated by the State Education Assistance
30 Authority.

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

34 **"SECTION 10.50.(a1)** Of the funds appropriated from the General Fund to the
35 Department of Health and Human Services, the sum of ~~three million one hundred sixty-eight~~
36 ~~thousand two hundred fifty dollars (\$3,168,250)~~ one million five hundred eighty-four thousand
37 one hundred twenty-five dollars (\$1,584,125) for the 2010-2011 fiscal year shall be used to
38 support the child welfare postsecondary support program for the educational needs of foster
39 youth aging out of the foster care system and special needs children adopted from foster care
40 after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20
41 U.S.C. § 10871l.

42 Funds appropriated by this subsection shall be allocated by the State Education Assistance
43 Authority.

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

50 **"SECTION 10.50.(c)** Of the funds appropriated from the General Fund to the Department
51 of Health and Human Services the sum of five hundred thousand dollars (\$500,000) for the

1 2009-2010 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~ three hundred
2 thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2010-2011 fiscal year
3 shall be used to contract with an entity to develop and administer the child welfare
4 postsecondary support program described under subsection (a) of this section, which
5 development and administration shall include the performance of case management services.

6 "SECTION 10.50.(d) Funds appropriated to the Department of Health and Human
7 Services for the child welfare postsecondary support program shall be used only for students
8 attending public institutions of higher education in this State."
9

10 TANF BENEFIT IMPLEMENTATION

11 SECTION 10.19. Section 10.51 of S.L. 2009-451 reads as rewritten:

12 "SECTION 10.51.(a) The General Assembly approves the plan titled "North Carolina
13 Temporary Assistance for Needy Families State Plan FY ~~2009-2011,~~ 2010-2012," prepared by
14 the Department of Health and Human Services and presented to the General Assembly. The
15 North Carolina Temporary Assistance for Needy Families State Plan covers the period October
16 1, ~~2009,2010,~~ through September 30, ~~2011,2012.~~ The Department shall submit the State Plan,
17 as revised in accordance with subsection (b) of this section, to the United States Department of
18 Health and Human Services, as amended by this act or any other act of the 2009 General
19 Assembly.

20 "SECTION 10.51.(b) The counties approved as Electing Counties in the North Carolina
21 Temporary Assistance for Needy Families State Plan FY ~~2009-2011,~~ 2010-2012, as approved
22 by this section are: Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

23 "SECTION 10.51.(c) Counties that submitted the letter of intent to remain as an Electing
24 County or to be redesignated as an Electing County and the accompanying county plan for
25 fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the Electing
26 County budget requirements effective July 1, 2009. For programmatic purposes, all counties
27 referred to in this subsection ~~shall~~ may remain under their current county designation through
28 September 30, ~~2009,2012.~~

29 "SECTION 10.51.(d) For the ~~2009-2010~~ 2010-2011 fiscal year, Electing Counties shall be
30 held harmless to their Work First Family Assistance allocations for the 2008-2009 fiscal year,
31 provided that remaining funds allocated for Work First Family Assistance and Work First
32 Diversion Assistance are sufficient for payments made by the Department on behalf of
33 Standard Counties pursuant to G.S. 108A-27.11(b).

34 "SECTION 10.51.(e) In the event that Departmental projections of Work First Family
35 Assistance and Work First Diversion Assistance for the ~~2009-2010~~ 2010-2011 fiscal year
36 indicate that remaining funds are insufficient for Work First Family Assistance and Work First
37 Diversion Assistance payments to be made on behalf of Standard Counties, the Department is
38 authorized to deallocate funds, of those allocated to Electing Counties for Work First Family
39 Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for
40 payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by
41 the Office of State Budget and Management. If the Department adjusts the allocation set forth
42 in subsection (d) of this section, then a report shall be made to the Joint Legislative
43 Commission on Governmental Operations, the House of Representatives Appropriations
44 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health
45 and Human Services, and the Fiscal Research Division."
46

47 EXTEND REPORTING DATE/EVALUATION OF CONSOLIDATION OF 48 ADMINISTRATIVE FUNCTIONS OF COUNTY DEPARTMENT OF SOCIAL 49 SERVICES

50 SECTION 10.20. Section 10.52.(b) of S.L. 2009-451 reads as rewritten:

1 "SECTION 10.52.(b) The Program Evaluation Division shall report its findings and
2 recommendations to the Senate Appropriations Committee on Health and Human Services, the
3 House of Representatives Appropriations Subcommittee on Health and Human Services, and
4 the Fiscal Research Division by ~~December 1, 2010~~ February 1, 2011."

5
6 **ELIMINATION OF THE OFFICE OF EDUCATION SERVICES/TRANSFER**
7 **RESIDENTIAL AND PRESCHOOLS TO THE DEPARTMENT OF PUBLIC**
8 **INSTRUCTION**

9 **SECTION 10.21.(a)** The Office of Education Services (OES) within the
10 Department of Health and Human Services is hereby dissolved and the Central Office,
11 Resource Support, Governor Morehead School Outreach, Deaf/Blind, and Exceptional Children
12 Support programs within OES are eliminated.

13 **SECTION 10.21.(b)** In accordance with G.S. 143A-6, the North Carolina School
14 for the Deaf, the Eastern North Carolina School for the Deaf, the Governor Morehead School
15 for the Blind, the Governor Morehead Preschool, Early Intervention Services – Preschool, and
16 Family Resource Center programs operated within the Office of Education Services are
17 transferred to the Department of Public Instruction, Exceptional Children Division, by Type I
18 transfer. In addition, the School Administrator position, #60089692, and School
19 Speech-Language Pathologist position, #60039336, shall be transferred to the Department of
20 Public Instruction, Exceptional Children Division, to continue to provide technical assistance to
21 Local Education Agencies and support collaborative efforts with the following:

- 22 (1) North Carolina Central University, Visual Impairment Training Program.
- 23 (2) East Carolina University, Teacher Support Program for Students with
24 Deaf-Blindness.
- 25 (3) East Carolina University, Project E.A.R.
- 26 (4) Department of Health and Human Services, Division of Public Health, Early
27 Intervention Services.
- 28 (5) Beginnings for Parents of Children Who Are Deaf or Hard of Hearing.
- 29 (6) University of North Carolina Center for the Acquisition of Spoken Language
30 through Listening Enrichment (CASTLE).

31 **SECTION 10.21.(c)** The Office of State Budget and Management, the Department
32 of Health and Human Services, and the Department of Public Instruction shall effect this Type I
33 transfer no later than July 1, 2010.

34 **SECTION 10.21.(d)** Upon transfer, the Director of the Exceptional Children
35 Division shall assume the functions of the Superintendent of the Local Education Agency
36 comprised of the North Carolina School for the Deaf, the Eastern North Carolina School for the
37 Deaf, and the Governor Morehead School for the Blind. The Department shall establish an
38 Assistant Director position to augment management of residential school and itinerant
39 preschool programs.

40 **SECTION 10.21.(e)** The Department of Public Instruction shall reinstate the
41 residential and instructional schedules for the Governor Morehead School for the Blind,
42 Eastern North Carolina School for the Deaf, and North Carolina School for the Deaf in effect
43 before February 8, 2010. Residential students shall have the opportunity to arrive at their
44 respective schools on the evening of the day before commencement of academic instruction for
45 the week. The Department of Public Instruction shall also reinstate on-site summer school
46 programming for these schools.

47
48 **MEDICAID POLICY CHANGES**

49 **SECTION 10.22.(a)** Section 10.58.(d) of S.L. 2009-451 reads as rewritten:

50 **"SECTION 10.58.(d)** Services and Payment Bases. – The Department shall spend funds
51 appropriated for Medicaid services in accordance with the following schedule of services and

1 payment bases. All services and payments are subject to the language at the end of this
2 subsection. Unless otherwise provided, services and payment bases will be as prescribed in the
3 State Plan as established by the Department of Health and Human Services and may be
4 changed with the approval of the Director of the Budget.

5 ...
6 (28) Drugs. – Reimbursements. Reimbursements shall be available for
7 prescription drugs as allowed by federal regulations plus a professional
8 services fee per month, excluding refills for the same drug or generic
9 equivalent during the same month. Payments for drugs are subject to the
10 provisions of this subdivision or in accordance with the State Plan adopted
11 by the Department of Health and Human Services, consistent with federal
12 reimbursement regulations. Payment of the professional services fee shall be
13 made in accordance with the State Plan adopted by the Department of Health
14 and Human Services, consistent with federal reimbursement regulations. The
15 professional services fee shall be five dollars and sixty cents (\$5.60) per
16 prescription for generic drugs and four dollars (\$4.00) per prescription for
17 brand-name drugs. Adjustments to the professional services fee shall be
18 established by the General Assembly. In addition to the professional services
19 fee, the Department may pay an enhanced fee for pharmacy services.

20 Limitations on quantity. – The Department of Health and Human
21 Services may establish authorizations, limitations, and reviews for specific
22 drugs, drug classes, brands, or quantities in order to manage effectively the
23 Medicaid pharmacy program, ~~except that the Department shall not impose~~
24 ~~limitations on brand name medications for which there is a generic~~
25 ~~equivalent in cases where the prescriber has determined, at the time the drug~~
26 ~~is prescribed, that the brand name drug is medically necessary and has~~
27 ~~written on the prescription order the phrase "medically necessary." program.~~
28 The Department may impose prior authorization requirements on
29 brand-name drugs in instances where the phrase "medically necessary" is
30 written on the prescription.

31 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through
32 G.S. 90-85.31, or any other law to the contrary, under the Medical
33 Assistance Program (Title XIX of the Social Security Act), and except as
34 otherwise provided in this subsection for drugs listed in the narrow
35 therapeutic index, a prescription order for a drug designated by a trade or
36 brand name shall be considered to be an order for the drug by its established
37 or generic name, except when the prescriber has determined, at the time the
38 drug is prescribed, that the brand-name drug is medically necessary and has
39 written on the prescription order the phrase "medically necessary." An initial
40 prescription order for a drug listed in the narrow therapeutic drug index that
41 does not contain the phrase "medically necessary" shall be considered an
42 order for the drug by its established or generic name, except that a pharmacy
43 shall not substitute a generic or established name prescription drug for
44 subsequent brand or trade name prescription orders of the same prescription
45 drug without explicit oral or written approval of the prescriber given at the
46 time the order is filled. Generic drugs shall be dispensed at a lower cost to
47 the Medical Assistance Program rather than trade or brand-name drugs.
48 Notwithstanding this subdivision to the contrary, the Secretary of Health and
49 Human Services may prevent substitution of a generic equivalent drug,
50 including a generic equivalent that is on the State maximum allowable cost
51 list, when the net cost to the State of the brand--name drug, after

1 consideration of all rebates, is less than the cost of the generic equivalent. As
2 used in this subsection, "brand name" means the proprietary name the
3 manufacturer places upon a drug product or on its container, label, or
4 wrapping at the time of packaging; and "established name" has the same
5 meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic
6 Act, as amended, 21 U.S.C. § 352(e)(3).

7 Prior authorization. – The Department of Health and Human Services
8 shall not impose prior authorization requirements or other restrictions under
9 the State Medical Assistance Program on medications prescribed for
10 Medicaid recipients for the treatment of (i) mental illness, including, but not
11 limited to, medications for schizophrenia, bipolar disorder, major depressive
12 disorder or (ii) HIV/AIDS, except that the Department of Health and Human
13 Services shall continually review utilization of medications under the State
14 Medical Assistance Program prescribed for Medicaid recipients for the
15 treatment of mental illness, including, but not limited to, medications for
16 schizophrenia, bipolar disorder, or major depressive disorder. The
17 Department may, however, with respect to drugs to treat mental illnesses,
18 develop guidelines and measures to ensure appropriate usage of these
19 medications, including FDA approved indications and dosage levels. (ii)
20 HIV/AIDS. Medications prescribed for the treatment of mental illness shall
21 be included on the Preferred Drug List (PDL). The Department of Health
22 and Human Services, Division of Medical Assistance, may initiate prior
23 authorization for the prescribing of drugs specified for the treatment of
24 mental illness for the purpose of identifying providers who fail to prescribe
25 those drugs in accordance with indications and dosage levels approved by
26 the federal Food and Drug Administration or in accordance with best
27 practices. The Department may also require retrospective clinical
28 justification for the use of multiple psychotropic drugs for a Medicaid
29 patient. For individuals 18 years of age and under who are prescribed three
30 or more psychotropic medications, the Department shall implement clinical
31 edits that target inefficient, ineffective, or potentially harmful prescribing
32 patterns. When such patterns are identified, the Medical Director for the
33 Division of Medical Assistance and the Chief of Clinical Policy for the
34 Division of Mental Health, Developmental Disabilities, and Substance
35 Abuse Services shall require a peer-to-peer consultation with the target
36 prescribers. Alternatives discussed during the peer-to-peer consultations
37 shall be based upon:

- 38 a. Evidence-based criteria available regarding efficacy or safety of the
39 covered treatments; and
40 b. Policy approval by a majority vote of the North Carolina Physicians
41 Advisory Group (NCPAG).

42 The target prescriber has final decision-making authority to determine which
43 prescription drug to prescribe or refill.

44 ...

45 (30) Experimental or trial procedures. – Coverage is limited to procedures that
46 are recognized or approved by a nationally recognized professional specialty
47 organization.

48 (31) Medicaid as secondary payer claims. – The Department shall apply
49 Medicaid medical policy to recipients who have primary insurance other
50 than Medicare, Medicare Advantage, and Medicaid. The Department shall
51 pay an amount up to the actual coinsurance or deductible or both, in

1 accordance with the State Plan, as approved by the Department of Health
2 and Human Services. The Department may disregard application of this
3 policy in cases where application of the policy would adversely affect
4 patient care."

5 **SECTION 10.22.(b)** Section 10.58.(e) of S.L. reads as rewritten:

6 **"SECTION 10.58.(e)** Provider Performance Bonds and Visits. –

7 (1) Subject to the provisions of this subdivision, the Department may require
8 Medicaid-enrolled providers to purchase a performance bond in an amount
9 not to exceed one hundred thousand dollars (\$100,000) naming as
10 beneficiary the Department of Health and Human Services, Division of
11 Medical Assistance, or provide to the Department a validly executed letter of
12 credit or other financial instrument issued by a financial institution or agency
13 honoring a demand for payment in an equivalent amount. The Department
14 may require the purchase of a performance bond or the submission of an
15 executed letter of credit or financial instrument as a condition of initial
16 enrollment, reenrollment, or reinstatement if:

- 17 a. The provider fails to demonstrate financial viability,
18 b. The Department determines there is significant potential for fraud
19 and abuse,
20 c. The Department otherwise finds it is in the best interest of the
21 Medicaid program to do so.

22 The Department shall specify the circumstances under which a performance
23 bond or executed letter of credit will be required.

24 (1a) The Department may waive or limit the requirements of this paragraph for
25 individual Medicaid-enrolled providers or for one or more classes of
26 Medicaid-enrolled providers based on the following:

- 27 a. The provider's or provider class's dollar amount of monthly billings
28 to Medicaid.
29 b. The length of time an individual provider has been licensed,
30 endorsed, certified, or accredited in this State to provide services.
31 c. The length of time an individual provider has been enrolled to
32 provide Medicaid services in this State.
33 d. The provider's demonstrated ability to ensure adequate record
34 keeping, staffing, and services.
35 e. The need to ensure adequate access to care.

36 In waiving or limiting requirements of this paragraph, the Department shall
37 take into consideration the potential fiscal impact of the waiver or limitation
38 on the State Medicaid Program. The Department shall provide to the affected
39 provider written notice of the findings upon which its action is based and
40 shall include the performance bond requirements and the conditions under
41 which a waiver or limitation apply. The Department may adopt temporary
42 rules in accordance with G.S. 150B-21.1 as necessary to implement this
43 provision.

44 (2) Reimbursement is available for up to 30 visits per recipient per fiscal year
45 for the following professional services: ~~hospital-outpatient providers,~~
46 physicians, nurse practitioners, nurse midwives, clinics, health departments,
47 optometrists, chiropractors, and podiatrists. The Department of Health and
48 Human Services shall adopt medical policies in accordance with
49 G.S. 108A-54.2 to distribute the allowable number of visits for each service
50 or each group of services consistent with federal law. In addition, the
51 Department shall establish a threshold of some number of visits for these

1 services. The Department shall ensure that primary care providers or the
2 appropriate CCNC network are notified when a patient is nearing the
3 established threshold to facilitate care coordination and intervention as
4 needed.

5 Prenatal services, all EPSDT children, emergency room visits, and
6 mental health visits subject to independent utilization review are exempt
7 from the visit limitations contained in this subdivision. Subject to
8 appropriate medical review, the Department may authorize exceptions when
9 additional care is medically necessary. Routine or maintenance visits above
10 the established visit limit will not be covered unless necessary to actively
11 manage a life threatening disorder or as an alternative to more costly care
12 options."
13

14 **SPECIALTY DRUG PROVIDER NETWORK**

15 **SECTION 10.23.** The Department of Health and Human Services shall create a
16 specialty drug provider network that requires best practices, prevents overutilization, and
17 allows for drug reimbursement rate negotiations for hemophilia, hepatitis C, and intravenous
18 immunoglobulin (IVIG) drugs.
19

20 **STATEWIDE EXPANSION OF CAPITATED 1915(B)/(C) BEHAVIORAL HEALTH 21 WAIVERS**

22 **SECTION 10.24.** The Division of Medical Assistance and the Division of Mental
23 Health, Developmental Disabilities, and Substance Abuse Services may expand the capitated
24 1915(b)/(c) waivers which have been operating in the Piedmont Behavioral Healthcare Local
25 Management Entity (LME) catchment area as a demonstration program since April 2005. The
26 Divisions shall add additional LMEs to the waiver program as they demonstrate readiness to
27 participate through a request for proposal process. The waiver program shall include all
28 Medicaid-covered mental health, developmental disabilities, and substance abuse services.
29 Expansion of the waiver to additional LMEs shall be contingent upon approval by the Centers
30 for Medicare and Medicaid Services.
31

32 **STUDY MEDICAID PROVIDER RATES**

33 **SECTION 10.25.(a)** The Department of Health and Human Services, Division of
34 Medical Assistance shall, initiate a study or contract out for a study of reimbursement rates for
35 Medicaid providers and program benefits. The study shall include the following information:

- 36 (1) A comparison of Medicaid reimbursement rates in North Carolina with
37 reimbursement rates in surrounding states and with rates in two additional
38 states; and
- 39 (2) A comparison of Medicaid program benefits in North Carolina with program
40 benefits provided in surrounding states and with rates in two additional
41 states. Selected provider rates shall be studied for the initial report.

42 **SECTION 10.25.(b)** The Department shall report its initial findings to the
43 Governor, the Senate Appropriations Committee on Health and Human Services, the House of
44 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal
45 Research Division by April 1, 2011.

46 **SECTION 10.25.(c)** Funds appropriated to the Department of Health and Human
47 Services may be used to complete this study.
48

49 **MEDICAID FRAUD PREVENTION**

50 **SECTION 10.26.(a)** The Department of Health and Human Services (Department)
51 is authorized to create a fraud prevention program that uses information, lawfully obtained,

1 from State and private databases to develop a fraud risk analysis of Medicaid providers and
2 recipients. This analysis would be used to prevent fraud before it takes place and to achieve
3 cost avoidance savings. While it is the intent that this initiative allow broad new access to
4 information and databases across State government, the plan shall comply with all necessary
5 security measures and restrictions to ensure that access to any specific information held
6 confidential under federal and State law shall be limited to authorized persons.

7 **SECTION 10.26.(b)** The information obtained by the Department pursuant to
8 subsection (a) of this section shall be privileged and confidential, is not a public record
9 pursuant to G.S. 132-1, and may only be used for investigative or evidentiary purposes related
10 to violations of State or federal law and regulatory activities. The Department shall release data
11 collected pursuant to this section to the following persons only:

- 12 (1) An individual who requests the individual's own Medicaid recipient
13 information.
- 14 (2) A provider who requests the provider's Medicaid provider information.
- 15 (3) Special agents of the North Carolina State Bureau of Investigation who are
16 assigned to the Medicaid Fraud Investigations Unit. The SBI shall notify the
17 Office of the Attorney General of North Carolina of each request for
18 inspection of records maintained by the Department.
- 19 (4) To a court pursuant to a lawful court order in a criminal action.

20 The Department may provide data to public or private entities for statistical,
21 research, or educational purposes only after removing information that could be used to identify
22 individual recipients or providers of Medicaid services.

23 **SECTION 10.26.(c)** Notwithstanding any other provision of law to the contrary,
24 the Department may modify or extend existing contracts to achieve Medicaid fraud prevention
25 savings in a timely manner, subject to review and approval by the Secretary of the Department
26 of Administration. The requirements of G.S. 143-59 apply to contracts entered into, modified,
27 or extended pursuant to this section.

28 **SECTION 10.26.(d)** The Department shall report on the activities conducted under
29 this section, including actions taken relating to compliance with G.S. 143-59 and any contract
30 modifications or extensions that are approved pursuant to this section to the House of
31 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
32 Appropriations Committee on Health and Human Services, the Office of State Budget and
33 Management, and the Fiscal Research Division on or before April 1, 2011.

34 **SECTION 10.26.(e)** The authority granted to the Department under this section
35 expires one year following the effective date of this section. The Department shall destroy all
36 records and information obtained pursuant to this section after five years. Any records or
37 information turned over to the State Bureau of Investigation or a court of competent jurisdiction
38 shall not be subject to the destruction requirements of this subsection.

39 **STUDY HIV MEDICAID WAIVER**

40 **SECTION 10.27.** By November 1, 2010, the Department of Health and Human
41 Services, Divisions of Medical Assistance and Public Health, shall jointly study and report to
42 the Senate Appropriations Committee on Health and Human Services, the House of
43 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal
44 Research Division on the financial and programmatic feasibility of reducing the waiting list for
45 the AIDS Drug Assistance Program (ADAP) by expanding eligibility for Medicaid to
46 HIV-positive individuals with incomes at or below one hundred thirty-three percent (133%) of
47 the federal poverty level. The study shall include an assessment of the cost-effectiveness of
48 using State dollars to expand Medicaid eligibility to this population as compared to using State
49 dollars for ADAP. The study may also consider any planning and coordination benefits the
50 State may derive from expanding Medicaid eligibility to HIV-positive individuals, in
51

1 preparation for the expansion of Medicaid eligibility in calendar year 2014 to all individuals
2 with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level.
3 If, as a result of the study, the Divisions of Medical Assistance and Public Health conclude that
4 expanding Medicaid eligibility to HIV-positive individuals with incomes at or below one
5 hundred thirty-three percent (133%) of the federal poverty level is a cost-effective means for
6 the State to eliminate its ADAP waiting list, then the Division of Medical Assistance shall
7 apply to the Centers for Medicare and Medicaid Services (CMS) for an appropriate waiver to
8 implement this expansion in Medicaid eligibility. If approved by CMS, the Division shall not
9 implement the waiver except as authorized by an act of the General Assembly appropriating
10 funds for this purpose.

11 12 **ELIMINATE REIMBURSEMENT OF "NEVER EVENTS"**

13 **SECTION 10.28.** The Department of Health and Human Services, Division of
14 Medical Assistance, shall modify its Medicaid State Plan, as detailed by the Centers for
15 Medicare and Medicaid Services in its July 31, 2008, letter to State Medicaid Directors, to
16 ensure that inpatient hospital reimbursement is not provided for Hospital-Acquired Conditions
17 (HACs) that are identified as nonpayable by Medicare. The State Plan Amendment addressing
18 this "Never Event" modification shall apply to all Medicaid reimbursement provisions in
19 section 4.19A of the North Carolina Medicaid State Plan governing inpatient hospital
20 reimbursement, including Medicaid supplemental or enhanced payments and Medicaid
21 disproportionate share hospital payments.

22 23 **AMEND MEDICAID PROVIDER APPEALS PROCESS**

24 **SECTION 10.29.(a)** Section 10.15A(e1) of S.L. 2008-107 reads as rewritten:

25 **"SECTION 10.15A.(e1)** For the purpose of expediting the resolution of appeals by
26 providers of community support services or provider appeals personal care services (PCS) and
27 thereby saving State and federal funds that are paid for services that are found to be
28 unnecessary or otherwise ineligible for payment, the Department shall implement ~~on a~~
29 ~~temporary basis~~ a community support ~~support/PCS~~ provider appeals process. The process shall
30 be a substitute for informal provider appeals at the Department level and formal provider
31 appeals by the Office of Administrative Hearings. The community support ~~support/PCS~~
32 provider appeals process shall apply to a provider of community support services ~~provider or~~
33 PCS:

- 34 (1) Who is aggrieved by a decision of the Department to reduce, deny, recoup,
35 or recover reimbursement for community support ~~services,~~ services or PCS,
36 or to deny, suspend, or revoke a provider agreement to provide community
37 support ~~services,~~ services or PCS.
38 (2) Whose endorsement has been withdrawn or whose application for
39 endorsement has been denied by a local management entity.

40 **SECTION 10.29.(b)** Section 10.15A(e2) of S.L. 2008-107, as amended by Section
41 1.1(c) of S.L. 2009-550, reads as rewritten:

42 **"SECTION 10.15A.(e2)** The appeals process for providers of community support ~~provider~~
43 ~~appeals process~~ services or PCS shall be developed and implemented as follows:

- 44 ...
45 (2) If there is a timely request for an appeal, the Department shall promptly
46 designate a hearing officer who shall hold an evidentiary hearing. The
47 hearing officer shall conduct the hearing according to applicable federal law
48 and regulations and shall ensure that:
49 a. Notice of the hearing is given not less than 15 days before the
50 hearing. The notice shall state the date, hour, and place of the hearing
51 and shall be deemed to have been given on the date that a copy of the

- 1 notice is mailed, via certified mail, to the address provided by the
 2 petitioner in the petition for hearing.
- 3 b. The hearing is held in Wake County, except that the hearing officer
 4 ~~may, after consideration of the numbers, locations, and convenience~~
 5 ~~of witnesses and in order to promote the ends of justice, hold the~~
 6 ~~hearing~~ may take testimony and receive evidence by telephone or
 7 other electronic ~~means or hold the hearing in a county in which the~~
 8 ~~petitioner resides.~~ means. The petitioner and the petitioner's legal
 9 representative may appear before the hearing officer in Wake
 10 County.
- 11 c. Discovery is no more extensive or formal than that required by
 12 federal law and regulations applicable to the hearings. Prior to and
 13 during the hearing, a provider representative shall have adequate
 14 opportunity to examine the provider's own case file. No later than
 15 five days before the date of the hearing, each party to a contested
 16 case shall provide to each other party a copy of any documentary
 17 evidence that the party intends to introduce at the hearing and shall
 18 identify each witness that the party intends to call.
- 19 (3) The hearing officer shall have the power to administer oaths and
 20 affirmations, subpoena the attendance of witnesses, rule on prehearing
 21 motions, and regulate the conduct of the hearing. The following shall apply
 22 to hearings held pursuant to this section:
- 23 a. At the hearing, the parties may present such sworn evidence, law,
 24 and regulations as are relevant to the issues in the case.
- 25 b. The petitioner and the respondent agency each have a right to be
 26 represented by a person of his choice, including an attorney obtained
 27 at the party's own expense.
- 28 c. The petitioner and the respondent agency shall each have the right to
 29 cross-examine witnesses as well as make a closing argument
 30 summarizing his view of the case and the law.
- 31 d. The appeal hearing shall be recorded. If a petition for judicial review
 32 is ~~filed pursuant to subsection (f) of this section, a transcript will be~~
 33 ~~prepared and made filed,~~ the Department shall include a copy of the
 34 recording of the hearing as part of the official report and shall be
 35 prepared at no cost to the appellant. In the absence of the filing of a
 36 petition for a judicial review, no transcript will be prepared unless
 37 requested by a party, in which case each party shall bear the cost of
 38 the transcript or part thereof or copy of the transcript or part thereof
 39 requested by the party. record. The recording of the appeal hearing
 40 may be erased or otherwise destroyed 180 days after the final
 41 decision is mailed as provided in G.S. 108A-79(i)(5).
- 42 ...
- 43 (8) In the event of a conflict between federal law or regulations and State law or
 44 regulations, federal law or regulations shall control. This section applies to
 45 all petitions that are filed by a Medicaid PCS provider on or after July 1,
 46 2010, and for all Medicaid PCS provider petitions that have been filed at the
 47 Office of Administrative Hearings previous to July 1, 2010, but for which a
 48 hearing on the merits has not been commenced prior to that date. The
 49 requirement that the agency decision must be rendered not more than 90
 50 days from the date of the filing of the petition for hearing shall not apply to
 51 (i) PCS provider petitions that were filed at the Office of Administrative

1 Hearings or (ii) requests for a hearing under the Department's informal
2 settlement process prior to the effective date of this act. The Office of
3 Administrative Hearings shall transfer all cases affected by this section to
4 the Department of Health and Human Services within 30 days of the
5 effective date of this section. This act preempts the existing informal appeals
6 process and reconsideration review process at the Department of Health and
7 Human Services and the existing appeal process at the Office of
8 Administrative Hearings with regard to all appeals filed by Medicaid PCS
9 providers under the Medical Assistance Program."

10 **SECTION 10.29.(c)** Sections 10.15A(e3) and 10.15A(e4) of S.L. 2008-107 read as
11 rewritten:

12 **"SECTION 10.15A.(e3)** Notwithstanding any other provision of law to the contrary, the
13 Department of Health and Human Services may, pursuant to its ~~statutory~~ authority or federal
14 Medicaid requirements, suspend the endorsement or Medicaid participation of a provider of
15 community support services or PCS pending a final agency decision based on a fair hearing of
16 the provider's appeal filed with the Department under its ~~community support~~ support/PCS
17 provider appeal process. A provider of community support services or PCS whose
18 ~~endorsement, endorsement or Medicaid participation, or services have~~ participation has been
19 suspended is not entitled to payment during the period the appeal is pending, and the
20 Department shall make no such payment to the provider during that period. If the final agency
21 decision is in favor of the provider, the Department shall remove the suspension, commence
22 payment for provider services, and reimburse the provider for payments withheld during the
23 period of appeal. ~~Contracts between the Department or a local management entity and the~~
24 ~~provider shall contain a provision indicating the circumstances under which a provider may~~
25 ~~appeal an agency decision and giving notice of the suspension of payments to the provider~~
26 ~~while the appeal is pending.~~ This subsection applies to community support provider appeals
27 pending in the Department of Health and Human Services or the Office of Administrative
28 Hearings, as applicable, on and after July 1, 2008. This subsection also applies to appeals by
29 providers of PCS pending in the Department of Health and Human Services or the Office of
30 Administrative Hearings, as applicable, on and after July 1, 2010.

31 ~~**"SECTION 10.15A.(e4)** The Department's community support provider appeals process~~
32 ~~established under this section shall expire July 1, 2010. The Department shall report to the~~
33 ~~House of Representatives Appropriations Subcommittee on Health and Human Services, the~~
34 ~~Senate Appropriations Committee on Health and Human Services, the Joint Legislative~~
35 ~~Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse~~
36 ~~Services, and the Fiscal Research Division on March 1, 2009, October 1, 2009, and March 1,~~
37 ~~2010, on the effectiveness and efficiency of the community support provider appeals process."~~

38 **SECTION 10.29.(d)** G.S. 122C-151.4(g) reads as rewritten:

39 "(g) This section does not apply to providers of community support services or personal
40 care services who appeal directly to the Department of Health and Human Services under the
41 Department's ~~community support~~ support/PCS provider appeal ~~process.~~ process."

42 **SECTION 10.29.(e)** G.S. 150B-1(e)(16) reads as rewritten:

43 "(16) The Department of Health and Human Services with respect to contested
44 cases commenced by (i) Medicaid providers appealing a ~~denial~~ denial,
45 recoupment, suspension, or reduction in reimbursement for community
46 support or personal care services, or a denial, suspension, or revocation of a
47 Medicaid provider agreement for community support or personal care
48 services, or a denial, suspension, or revocation of a Medicaid provider
49 agreement for community support or personal care services, and (ii)
50 providers of community support or personal care services ~~providers~~

1 appealing decisions by the LME to deny or withdraw the provider's
2 endorsement."
3

4 **AMEND MEDICAID RECIPIENT APPEALS PROCESS**

5 **SECTION 10.30.(a)** Section 10.15A.(h1) through (h6) of S.L. 2008-107, as
6 amended by Section 3.13.(b) of S.L. 2008-118, Section 2.(a) of S.L. 2009-526, Section 2.(b) of
7 S.L. 2009-526, and by ss. 1.1(a) and (b) of S.L. 2009-550 reads as rewritten:

8 **"SECTION 10.15A.(h1)**

- 9 (1) General Rule. – Notwithstanding any provision of State law or rules to the
10 contrary, this subsection shall govern the process used by a Medicaid
11 applicant or recipient to appeal a determination made by the Department of
12 Health and Human Services to deny, terminate, suspend, or reduce Medicaid
13 covered services. For purposes of this subsection, the phrase "adverse
14 determination" means a determination by the Department to deny, terminate,
15 suspend, or reduce Medicaid covered services. For purposes of this
16 subsection, all references to an applicant or recipient include the applicant or
17 recipient's parent, guardian, or legal representative; however, notice need
18 only be given to a parent, guardian, or legal representative who has
19 requested in writing to receive the notice.
- 20 (2) Notice. – Except as otherwise provided by federal law or regulation, at least
21 10 days before the effective date of an adverse determination, the
22 Department shall notify the applicant or recipient, and the provider, if
23 applicable, in writing of the determination and of the applicant's or
24 recipient's right to appeal the determination. The notice shall be mailed on
25 the date indicated on the notice as the date of the determination. The notice
26 shall include:
- 27 a. An identification of the applicant or recipient whose services are
28 being affected by the adverse determination, including full name and
29 Medicaid identification number.
 - 30 b. An explanation of what service is being denied, terminated,
31 suspended, or reduced and the reason for the determination.
 - 32 c. The specific regulation, statute, or medical policy that supports or
33 requires the adverse determination.
 - 34 d. The effective date of the adverse determination.
 - 35 e. An explanation of the applicant's or recipient's right to appeal the
36 Department's adverse determination in an evidentiary hearing before
37 an administrative law judge.
 - 38 f. An explanation of how the applicant or recipient can request a
39 hearing and a statement that the applicant or recipient may represent
40 himself or use legal counsel, a relative, or other spokesperson.
 - 41 g. A statement that the applicant or recipient will continue to receive
42 Medicaid services at the level provided on the day immediately
43 preceding the Department's adverse determination or the amount
44 requested by the applicant or recipient, whichever is less, if the
45 applicant or recipient requests a hearing before the effective date of
46 the adverse determination. The services shall continue until the
47 hearing is completed and a final decision is rendered.
 - 48 h. The name and telephone number of a contact person at the
49 Department to respond in a timely fashion to the applicant's or
50 recipient's questions.

- 1 i. The telephone number by which the applicant or recipient may
2 contact a Legal Aid/Legal Services office.
- 3 j. The appeal request form described in subdivision (4) of this
4 subsection that the applicant or recipient may use to request a
5 hearing.
- 6 (3) Appeals. – Except as provided by this subsection and subsection 10.15A(h2)
7 of this act, a request for a hearing to appeal an adverse determination of the
8 Department under this section is a contested case subject to the provisions of
9 Article 3 of Chapter 150B of the General Statutes. The applicant or recipient
10 must request a hearing within 30 days of the mailing of the notice required
11 by subdivision (2) of this subsection by sending an appeal request form to
12 the Office of Administrative Hearings and the Department. Where a request
13 for hearing concerns the reduction, modification, or termination of Medicaid
14 services, upon the receipt of a timely appeal, the Department shall reinstate
15 the services to the level or manner prior to action by the Department as
16 permitted by federal law or regulation. The Department shall immediately
17 forward a copy of the notice to the Office of Administrative Hearings
18 electronically. The information contained in the notice is confidential unless
19 the recipient appeals. The Office of Administrative Hearings may dispose of
20 the records after one year. The Department may not influence, limit, or
21 interfere with the applicant's or recipient's decision to request a hearing.
- 22 (4) Appeal Request Form. – Along with the notice required by subdivision (2)
23 of this subsection, the Department shall also provide the applicant or
24 recipient with an appeal request form which shall be no more than one side
25 of one page. The form shall include the following:
- 26 a. A statement that in order to request an appeal, the applicant or
27 recipient must send the form by mail or fax to the address or fax
28 number listed on the form within 30 days of mailing of the notice.
- 29 b. The applicant's or recipient's name, address, telephone number, and
30 Medicaid identification number.
- 31 c. A preprinted statement that indicates that the applicant or recipient
32 would like to appeal the specific adverse determination of which the
33 applicant or recipient was notified in the notice.
- 34 d. A statement informing the applicant or recipient that he or she may
35 choose to be represented by a lawyer, a relative, a friend, or other
36 spokesperson.
- 37 e. A space for the applicant's or recipient's signature and date.
- 38 (5) Final Decision. – After a hearing before an administrative law judge, the
39 judge shall return the decision and record to the Department in accordance
40 with subsection 10.15A(h2) of this act. The Department shall make a final
41 decision in the case within 20 days of receipt of the decision and record from
42 the administrative law judge and promptly notify the applicant or recipient
43 of the final decision and of the right to judicial review of the decision
44 pursuant to Article 4 of Chapter 150B of the General Statutes.

45 **"SECTION 10.15A.(h2)**

- 46 (1) Application. – This subsection applies only to contested Medicaid cases
47 commenced by Medicaid applicants or recipients under subsection
48 10.15A(h1) of this act. Except as otherwise provided by subsection
49 10.15A(h1) and this subsection governing time lines and procedural steps, a
50 contested Medicaid case commenced by a Medicaid applicant or recipient is
51 subject to the provisions of Article 3 of Chapter 150B. To the extent any

1 provision in this subsection or subsection 10.15A(h1) of this act conflicts
2 with another provision in Article 3 of Chapter 150B, this subsection and
3 subsection 10.15A(h1) controls.

4 (2) Simple Procedures. – Notwithstanding any other provision of Article 3 of
5 Chapter 150B of the General Statutes, the chief administrative law judge
6 may limit and simplify the procedures that apply to a contested Medicaid
7 case involving a Medicaid applicant or recipient in order to complete the
8 case as quickly as possible. To the extent possible, the Office of
9 Administrative Hearings shall schedule and hear all contested Medicaid
10 cases within 55 days of submission of a request for appeal. Hearings shall be
11 conducted telephonically or by video technology, however the recipient or
12 applicant, or the recipient's or applicant's representative may request that the
13 hearing be conducted before the administrative law judge in-person. An
14 in-person hearing shall be conducted in Wake County, however for good
15 cause shown, the in-person hearing may be conducted in the county of
16 residence of the recipient or applicant. Good cause shall include but is not
17 limited to the applicant's or recipient's impairments limiting travel or the
18 unavailability of the applicant's or recipient's treating professional witnesses.
19 The Department shall provide written notice to the recipient or applicant of
20 the use of telephonic hearings, hearings by video conference, and in-person
21 hearings before the administrative law judge, and how to request a hearing in
22 the recipient's or applicant's county of residence. The simplified procedure
23 may include requiring that all prehearing motions be considered and ruled on
24 by the administrative law judge in the course of the hearing of the case on
25 the merits. An administrative law judge assigned to a contested Medicaid
26 case shall make reasonable efforts in a case involving a Medicaid applicant
27 or recipient who is not represented by an attorney to assure a fair hearing and
28 to maintain a complete record of the hearing. The administrative law judge
29 may allow brief extensions of the time limits contained in this section for
30 good cause and to ensure that the record is complete. Good cause includes
31 delays resulting from untimely receipt of documentation needed to render a
32 decision and other unavoidable and unforeseen circumstances. Continuances
33 shall only be granted in accordance with rules adopted by the Office of
34 Administrative Hearings, and shall not be granted on the day of the hearing,
35 except for good cause shown. If a petitioner fails to make an appearance at a
36 hearing that has been properly noticed via certified mail by the Office of
37 Administrative Hearings, the Office of Administrative Hearings shall
38 immediately dismiss the contested case provision.

39 (3) Mediation. – Upon receipt of an appeal request form as provided by
40 subdivision 10.15A(h1)(4) of this act or other clear request for a hearing by a
41 Medicaid applicant or recipient, the Office of Administrative Hearings shall
42 immediately notify the Mediation Network of North Carolina which shall
43 within five days contact the petitioner to offer mediation in an attempt to
44 resolve the dispute. If mediation is accepted, the mediation must be
45 completed within 25 days of submission of the request for appeal. Upon
46 completion of the mediation, the mediator shall inform the Office of
47 Administrative Hearings and the Department within 24 hours of the
48 resolution by facsimile or electronic messaging. If the parties have resolved
49 matters in the mediation, the case shall be dismissed by the Office of
50 Administrative Hearings. The Office of Administrative Hearings shall not
51 conduct any contested Medicaid cases hearings until it has received notice

1 from the mediator assigned that either: (i) the mediation was unsuccessful, or
2 (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner
3 has failed to appear at a scheduled mediation. Nothing in this subdivision
4 shall restrict the right to a contested case hearing.

5 (4) Burden of Proof. – The petitioner has the burden of proof to show
6 entitlement to a requested benefit or the propriety of requested agency action
7 when the agency has denied the benefit or refused to take the particular
8 action. The agency has the burden of proof when the appeal is from an
9 agency determination to impose a penalty or reduce, terminate, or suspend a
10 benefit previously granted. The party with the burden of proof on any issue
11 has the burden of going forward, and the administrative law judge shall not
12 make any ruling on the preponderance of evidence until the close of all
13 evidence.

14 (4a) New Evidence.- The petitioner shall be permitted to submit evidence
15 regardless of whether obtained prior to or subsequent to the Department's
16 actions and regardless of whether the Department had an opportunity to
17 consider the evidence in making its determination to deny, reduce, terminate
18 or suspend a benefit. When such evidence is received, at the request of the
19 Department, the administrative law judge shall continue the hearing for a
20 minimum of 15 days and a maximum of 30 days to allow for the
21 Department's review of the evidence. Subsequent to review of the evidence,
22 if the Department reverses its original decision, it shall immediately inform
23 the administrative law judge.

24 (4b) Issue for Hearing.- For each penalty imposed or benefit reduced, terminated,
25 or suspended, the hearing shall determine whether the Department
26 substantially prejudiced the rights of the petitioner and if the Department,
27 based upon evidence at the hearing:

- 28 a. Exceeded its authority or jurisdiction;
- 29 b. Acted erroneously;
- 30 c. Failed to use proper procedure;
- 31 d. Acted arbitrarily or capriciously; or,
- 32 e. Failed to act as required by law or rule.

33 (5) Decision. – The administrative law judge assigned to a contested Medicaid
34 case shall hear and decide the case without unnecessary delay. The Office of
35 Administrative Hearings shall send a copy of the audiotape or diskette of the
36 hearing to the agency within five days of completion of the hearing. The
37 judge shall prepare a written decision and send it to the parties. The decision
38 must be sent together with the record to the agency within 20 days of the
39 conclusion of the hearing.

40 **"SECTION 10.15A.(h3)** From funds available to the Department of Health and Human
41 Services for the ~~2008-2009~~2010-2011 fiscal year, the sum of two million dollars (\$2,000,000)
42 shall be transferred by the Department of Health and Human Services to the Office of
43 Administrative Hearings. These funds shall be allocated by the Office of Administrative
44 Hearings for mediation services provided for Medicaid applicant and recipient appeals and to
45 contract for other services necessary to conduct the appeals process.

46 **"SECTION 10.15A.(h4)** Effective October 1, 2008, the Department of Health and Human
47 Services shall discontinue its current informal appeals process for Medicaid applicants and
48 recipients appealing a determination made by the Department to deny, terminate, suspend, or
49 reduce Medicaid covered services. All such informal appeals by Medicaid applicants or
50 recipients under the current system which are pending on that date and for which a hearing has
51 not been held shall be discontinued and the applicant or recipient offered an opportunity to

1 appeal to the Office of Administrative Hearings in accordance with the provisions of subsection
2 10.15A(h1) of this act. The Department shall make every effort to resolve or settle all of the
3 backlogged cases prior to the effective date of this act.

4 **"SECTION 10.15A.(h5)** Nothing in this act shall prevent the Department of Health and
5 Human Services from engaging in an informal review of the case with the applicant or recipient
6 prior to issuing a notice of adverse determination as provided by subsection 10.15A(h1) of this
7 act.

8 ~~**"SECTION 10.15A.(h6)** The appeals process for Medicaid applicants and recipients
9 established under this section shall expire July 1, 2010. The Department of Health and Human
10 Services and the Office of Administrative Hearings shall each report to the House of
11 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
12 Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight
13 Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and
14 the Fiscal Research Division on March 1, 2009, October 1, 2009, and March 1, 2010, on the
15 costs, effectiveness, and efficiency of the appeals process for Medicaid applicants and
16 recipients and make recommendations regarding the continuation of the process."~~

17 **SECTION 10.30.(b)** The Revisor of Statutes shall codify the statutes set forth in
18 Section #.(a).

19 **SECTION 10.30.(c)** Not later than October 1, 2011, the Office of Administrative
20 Hearings shall submit a report to the Joint Legislative Oversight Committee on Mental Health,
21 Developmental Disabilities, and Substance Abuse Services on the number, status, and outcome
22 of contested Medicaid cases handled by the Office pursuant to the appeals process established
23 in Section #.(a) of this act. The report shall include information on the number of contested
24 Medicaid cases resolved through mediations and through formal hearings, the outcome of
25 settled and withdrawn cases, and the number of incidences in which the Division of Medical
26 Assistance reverses the decision of an administrative law judge.

27 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

28 **SECTION 10.31.** Section 10.64.(b) of S.L. 2009-451 reads as rewritten:

29 **"SECTION 10.64.(b)** For the 2009-2010 fiscal year, the Department of Health and Human
30 Services shall deposit from its revenues one hundred twenty-four million nine hundred
31 ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of
32 State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the
33 Department of Health and Human Services shall deposit from its revenues ~~one hundred million~~
34 ~~dollars (\$100,000,000)~~ one hundred thirty-five million dollars (\$135,000,000) with the
35 Department of State Treasurer to be accounted for as nontax revenue. These deposits shall
36 represent the return of General Fund appropriations provided to the Department of Health and
37 Human Services to provide indigent care services at State-owned and operated mental
38 hospitals. The treatment of any revenue derived from federal programs shall be in accordance
39 with the requirements specified in the Code of Federal Regulations, Volume 2, Part 225."
40

41 **MEDICAID PREFERRED DRUG LIST**

42 **SECTION 10.32.** Section 10.66.(c) of S.L. 2009-451 reads as rewritten:

43 **"SECTION 10.66.(c)** The Department, in consultation with the PAG, shall adopt and
44 publish policies and procedures relating to the preferred drug list, including:

- 45 (1) Guidelines for the presentation and review of drugs for inclusion on the
46 preferred drug list,
- 47 (2) The manner and frequency of audits of the preferred drug list for
48 appropriateness of patient care and cost-effectiveness,
- 49 (3) An appeals process for the resolution of disputes, and
50

- 1 (4) Such other policies and procedures as the Department deems necessary and
2 appropriate.

3 The Department and the pharmaceutical and therapeutics committee shall consider all
4 therapeutic classes of prescription drugs for inclusion on the preferred drug list, ~~except~~
5 ~~medications for treatment of human immunodeficiency virus or acquired immune deficiency~~
6 ~~syndrome shall not be subject to consideration for inclusion on the preferred drug list.~~

7 The Department shall maintain an updated preferred drug list in electronic format and shall
8 make the list available to the public on the Department's Internet Web site.

9 The Department shall: (i) enter into a multistate purchasing pool; (ii) negotiate directly with
10 manufacturers or labelers; (iii) contract with a pharmacy benefit manager for negotiated
11 discounts or rebates for all prescription drugs under the medical assistance program; or (iv)
12 effectuate any combination of these options in order to achieve the lowest available price for
13 such drugs under such program.

14 The Department may negotiate supplemental rebates from manufacturers that are in
15 addition to those required by Title XIX of the federal Social Security Act. The committee shall
16 consider a product for inclusion on the preferred drug list if the manufacturer provides a
17 supplemental rebate. The Department may procure a sole source contract with an outside entity
18 or contractor to conduct negotiations for supplemental rebates."
19

20 **MEDICAID PREFERRED DRUG LIST (PDL) REVIEW PANEL**

21 **SECTION 10.33.(a)** The Secretary of the Department of Health and Human
22 Services shall establish a Preferred Drug List (PDL) Policy Review Panel within 60 days after
23 the effective date of this section. The purpose of the PDL Policy Review Panel is to review the
24 Medicaid PDL recommendations from the Department of Health and Human Services, Division
25 of Medical Assistance, and the Physician Advisory Group (PAG) Pharmacy and Therapeutics
26 (P&T) Committee.

27 **SECTION 10.33.(b)** The Secretary shall appoint the following individuals to the
28 review panel:

- 29 (1) The Director of Pharmacy for the Division of Medical Assistance.
30 (2) A representative from the PAG P&T Committee.
31 (3) A representative from the Old North State Medical Society.
32 (4) A representative from the North Carolina Association of Pharmacists.
33 (5) A representative from Community Care of North Carolina.
34 (6) A representative from the North Carolina Psychiatric Association.
35 (7) A representative from the North Carolina Pediatric Society.
36 (8) A representative from the North Carolina Academy of Family Physicians.
37 (9) A representative from the North Carolina Chapter of the American College
38 of Physicians.

39 Individuals appointed to the Review Panel, except for the Division's Director of
40 Pharmacy, shall only serve a two-year term.

41 **SECTION 10.33.(c)** Within 30 days after the Department, in consultation with the
42 PAG P&T Committee, publishes a proposed policy or procedure related to the Medicaid PDL,
43 the Review Panel shall hold an open meeting to review the recommended policy or procedure
44 along with any written public comments received as a result of the posting. The Review Panel
45 shall provide an opportunity for public comment at the meeting. After the conclusion of the
46 meeting, the Review Panel shall submit policy recommendations about the proposed Medicaid
47 PDL policy or procedure to the Department.
48

49 **LOCK NARCOTIC PRESCRIPTIONS INTO SINGLE PHARMACY/PROVIDER**

1 **SECTION 10.34.** The Department of Health and Human Services, Division of
2 Medical Assistance, shall lock narcotic prescription medications provided to Medicaid
3 enrollees into a single pharmacy and provider, as follows:

- 4 (1) Enrollees may be prescribed narcotic medications by only one prescribing
5 physician, and may not change the prescribing physician at any time without
6 prior approval or authorization by the Division.
7 (2) Enrollees may have prescriptions for narcotic medications filled at only one
8 pharmacy, and may not change to another pharmacy at any time without
9 prior approval or authorization by the Division. For the purposes of this
10 section, all locations of the same chain of pharmacies shall constitute one
11 pharmacy.
12

13 **AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN**
14 **STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN**
15 **THE MEDICAID PROGRAM**

16 **SECTION 10.35.** Section 10.68A.(a) of S.L. 2009-451, as amended by Section 5A
17 of S.L. 2009-575, reads as rewritten:

18 **"SECTION 10.68A.(a)** For the purpose of enabling the Department of Health and Human
19 Services, Division of Medical Assistance, to achieve the budget reductions enacted in this act
20 for the Medicaid program, the Department may take the following actions, notwithstanding any
21 other provision of this act or other State law or rule to the contrary and subject to the
22 requirements of subsection (e) of this section:

- 23 (1) Electronic transactions. –
24 a. Within 60 days of notification of its procedures via the DMA Web
25 site, Medicaid providers shall follow the Department's established
26 procedures for securing electronic payments. No later than
27 September 1, 2009, the Department shall cease routine provider
28 payments by check.
29 b. Effective September 1, 2009, all Medicaid providers shall file claims
30 electronically to the fiscal agent. Nonelectronic claims submission
31 may be required when it is in the best interest of the Department.
32 c. Effective September 1, 2009, enrolled Medicaid providers shall
33 submit Preadmission Screening and Annual Resident Reviews
34 (PASARR) through the Department's Web-based tool or through a
35 vendor with interface capability to submit data into the Web-based
36 PASARR.
37 (2) Clinical coverage. – The Department of Health and Human Services,
38 Division of Medical Assistance, shall amend applicable clinical policies and
39 submit applicable State Plan amendments to CMS to implement the budget
40 reductions authorized in the following clinical coverage areas in this act:
41 a. Consolidate and reduce Targeted Case Management and case
42 management functions bundled within other Medicaid services.
43 b. Take appropriate action to lower the cost of HIV case management,
44 including tightening service hours and limiting administrative costs.
45 The Department shall maintain HIV case management as a
46 stand-alone service outside of departmental efforts to consolidate
47 case management services.
48 c. Eliminate coverage of therapeutic camps. The Department shall
49 report on or before October 1, 2009, on the plan to transition children
50 out of mental health residential therapeutic camps. The Department
51 shall submit the report to the Joint Legislative Oversight Committee

on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(3) ~~Medicaid Personal Care Service provision.— Upon the enactment of this act, the Division of Medical Assistance shall implement the following new criteria for personal care services (PCS):~~

- ~~a. Independent assessment by an entity that does not provide direct PCS services for evaluation of the recipient prior to initiation of service. The independent assessment will determine the qualifying Activities of Daily Living (ADL), the level of assistance required, and the amount and scope of PCS to be provided, according to policy criteria.~~
- ~~b. Independent assessment or review from the assigned Community Care of North Carolina (CCNC) physician of the continued qualification for PCS services under the revised PCS policy criteria.~~
- ~~e. Establishment of time limits on physician service orders and reauthorization in accordance with the recipient's diagnosis and acuity of need.~~
- ~~d. Add the following items to the list of tasks that are not covered by this service: nonmedical transportation, errands and shopping, money management, cueing, and prompting, guiding, or coaching.~~
- ~~e. Online physician attestation of medical necessity.~~
- ~~f. If sufficient reduction in cost is not achieved with the revised policy, the Secretary shall direct the Division of Medical Assistance to further modify the policy to achieve targeted cost savings.~~

~~Recipients currently receiving PCS services shall be reviewed under the above criteria, and those recipients not meeting the new criteria shall be terminated from the service within 30 days of the review. The Department shall review usage of personal care services in adult care homes to determine if overuse is occurring and shall report its findings 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 December 1, 2009.~~

(3) Medicaid Personal Care Service provision. – The Department of Health and Human Services, Division of Medical Assistance, shall reform the Personal Care Services (PCS) and Personal Care Services-Plus (PCS-Plus) programs provided under the State Medicaid plan as follows:

- a. Terminate all services provided under these two PCS programs and implement two new PCS programs, PCS-C and PCS-ADE, effective January 1, 2011, or whenever approval is received from CMS.
- b. Determine the most effective and efficient means for Medicaid to manage the cost, quality, and utilization of personal care services through one of the available funding options, including revised Medicaid plan optional services, a §1915(c) home and community-based services (HCBS) waiver, or through a §1915(i) option that allows states to establish home- and community-based services that can target specific populations.
- c. Submit applications or State plan amendments to CMS as required to obtain approval for two PCS programs, as follows:
 - 1. PCS for Children (PCS-C) – To assist families to meet their needs for personal care assistance for children, including individuals under the age of 21 receiving comprehensive and

- 1 (4) MH/DD/SA Personal Care and Personal Assistance Services Provision. – A
2 denial, reduction, or termination of Medicaid-funded personal care services
3 shall result in a similar denial, reduction, or termination of State-funded
4 MH/DD/SA personal care and personal assistance services.
- 5 (5) Community Support and other MH/DD/SA services. – The Department of
6 Health and Human Services shall transition community support child and
7 adult, individual and group services to other defined services on or before
8 June 30, 2010. The Division of Medical Assistance and the Division of
9 MH/DD/SA shall take the steps necessary for the Medicaid and the
10 State-funded community support program to provide for transition and
11 discharge planning to recipients currently receiving community support
12 services. The following shall occur:
- 13 a. The Department shall submit to CMS: (i) revised service definitions
14 that separate case management functions from the Community
15 Support definition and (ii) a new service definition for peer support
16 services for adults with mental illness and/or substance abuse
17 ~~disorders.~~ disorders, for implementation no sooner than January 1,
18 2011.
- 19 b. No new admissions for community support individual or group shall
20 be allowed during this transition period unless the Department
21 determines appropriate alternative services are not available, in
22 which case limited community support services may be provided
23 during the transition period. LMEs will be responsible for referring
24 eligible consumers to appropriate alternative services.
- 25 c. Authorizations currently in effect as of the date of enactment of this
26 act remain valid. Any new authorization or subsequent
27 reauthorization is subject to the provisions of this act.
- 28 d. No community support services shall be provided in conjunction
29 with other enhanced services. Until CMS approves the new case
30 management definition, professional level community support may
31 be provided in conjunction with residential Level III and IV to assist
32 in recipient discharge planning. Up to a maximum of 24 hours of
33 case management (professional level) functions may be provided
34 over a 90-day authorization period as approved by the prior
35 authorization vendor.
- 36 e. The current moratorium on community support provider
37 endorsement shall remain in effect.
- 38 f. A provider of community support services whose endorsement has
39 been withdrawn or whose Medicaid participation has been terminated
40 is not entitled to payment during the period the appeal is pending,
41 and the Department shall make no payment to the provider during
42 that period. If the final agency decision is in favor of the provider,
43 the Department shall remove the suspension, commence payment for
44 valid claims, and reimburse the provider for payments withheld
45 during the period of appeal.
- 46 g. Effective 60 days from the enactment of this act, the paraprofessional
47 level of community support shall be eliminated, and from this date
48 the Department shall not use any Medicaid or State funds to pay for
49 this level of service.
- 50 h. Thirty days after the enactment of this act, any concurrent request
51 shall be accompanied with a discharge plan. Submission of the

- 1 discharge plan will be a required document for a request to be
2 considered complete. Failure to submit the discharge plan will result
3 in the request being returned as "unable to process." Discharge from
4 the service must occur within 90 days after the submission of the
5 discharge plan.
- 6 i. Any community support provider that ceases to function as a
7 provider shall provide written notification to DMA, the Local
8 Management Entity, recipients, and the prior authorization vendor 30
9 days prior to closing of the business.
- 10 j. Medical and financial record retention is the responsibility of the
11 provider and shall be in compliance with the record retention
12 requirements of their Medicaid provider agreement or State-funded
13 services contract. Records shall also be available to State, federal,
14 and local agencies.
- 15 k. Failure to comply with notification, recipient transition planning, or
16 record maintenance shall result in suspension of further payment
17 until such failure is corrected. In addition, failure to comply shall
18 result in denial of enrollment as a provider for any Medicaid or
19 State-funded service. A provider (including its officers, directors,
20 agents, or managing employees or individuals or entities having a
21 direct or indirect ownership interest or control interest of five percent
22 (5%) or more as set forth in Title XI of the Social Security Act) that
23 fails to comply with the required record retention may be subject to
24 sanctions, including exclusion from further participation in the
25 Medicaid program, as set forth in Title XI.
- 26 (6) Community Support Team. – Authorization for a Community Support Team
27 shall be based upon medical necessity as defined by the Department and
28 shall not exceed 18 hours per week. The Division of Medical Assistance
29 shall do an immediate rate study of the Community Support Team to bring
30 the average cost of service per recipient in line with Assertive Community
31 Treatment Team (ACTT) services. The Division shall also revise provider
32 qualifications and tighten the service definition to contain costs in this line
33 item. Not later than December 1, 2009, the Division of Medical Assistance
34 shall report its findings on the rate study and any actions it has taken to
35 conform with this subdivision to the Joint Legislative Oversight Committee
36 on Mental Health, Developmental Disabilities, and Substance Abuse
37 Services.
- 38 (7) MH Residential. – The Department of Health and Human Services shall
39 restructure the Medicaid child mental health, developmental disabilities, and
40 substance abuse residential services to ensure that total expenditures are
41 within budgeted levels. All restructuring activities shall be in compliance
42 with federal and State law or rule. The Divisions of Medical Assistance and
43 Mental Health, Developmental Disabilities, and Substance Abuse Services
44 shall establish a team inclusive of providers, LMEs, and other stakeholders
45 to assure effective transition of recipients to appropriate treatment options.
46 The restructuring shall address all of the following:
- 47 a. Submission of the therapeutic family service definition to CMS.
- 48 b. The Department shall reexamine the entrance and continued stay
49 criteria for all residential services. The revised criteria shall promote
50 least restrictive services in the home prior to residential placement.

- 1 During treatment, there must be inclusion in community activities
2 and parent or legal guardian participation in treatment.
- 3 c. Require all existing residential providers or agencies to be nationally
4 accredited within one year of enactment of this act. Any providers
5 enrolled after the enactment of this act shall be subject to existing
6 endorsement and nationally accrediting requirements. In the interim,
7 providers who are nationally accredited will be preferred providers
8 for placement considerations.
- 9 d. Before a child can be admitted to Level III or Level IV placement,
10 one or more of the following shall apply:
- 11 1. Placement shall be a step down from a higher level placement
12 such as a psychiatric residential treatment facility or inpatient.
 - 13 2. Multisystemic therapy or intensive in-home therapy services
14 have been unsuccessful.
 - 15 3. The Child and Family Team has reviewed all other
16 alternatives and recommendations and recommends Level III
17 or IV placement due to maintaining health and safety.
 - 18 4. Transition or discharge plan shall be submitted as part of the
19 initial or concurrent request.
- 20 e. Length of stay is limited to no more than 120 days. Any exceptions
21 granted will require an independent psychiatric assessment, Child
22 and Family Team review of goals and treatment progress, family or
23 discharge placement setting are actively engaged in treatment goals
24 and objectives and active participation of the prior authorization of
25 vendor.
- 26 f. Submission of discharge plan is required in order for the request to
27 be considered complete. Failure to submit a complete discharge plan
28 will result in the request being returned as unable to process.
- 29 g. Any residential provider that ceases to function as a provider shall
30 provide written notification to DMA, the Local Management Entity,
31 recipients, and the prior authorization vendor 30 days prior to closing
32 of the business.
- 33 h. Record maintenance is the responsibility of the provider and must be
34 in compliance with record retention requirements. Records shall also
35 be available to State, federal, and local agencies.
- 36 i. Failure to comply with notification, recipient transition planning, or
37 record maintenance shall be grounds for withholding payment until
38 such activity is concluded. In addition, failure to comply shall be
39 conditions that prevent enrollment for any Medicaid or State-funded
40 service. A provider (including its officers, directors, agents, or
41 managing employees or individuals or entities having a direct or
42 indirect ownership interest or control interest of five percent (5%) or
43 more as set forth in Title XI of the Social Security Act) that fails to
44 comply with the required record retention may be subject to
45 sanctions, including exclusion from further participation in the
46 Medicaid program, as set forth in Title XI.
- 47 j. On or before October 1, 2009, the Department shall report on its plan
48 for transitioning children out of Level III and Level IV group homes.
49 The Department shall submit the reports to the Joint Legislative
50 Oversight Committee on Mental Health, Developmental Disabilities,
51 and Substance Abuse Services.

- 1 (8) Reduce Medicaid rates. – Subject to the prior approval of the Office of State
2 Budget and Management, the Secretary shall reduce Medicaid provider rates
3 to accomplish the reduction in funds for this purpose enacted in this act. The
4 Secretary shall consider the impact on access to care through primary care
5 providers and critical access hospitals and may adjust the rates accordingly.
6 The rate reduction applies to all Medicaid private and public providers with
7 the following exceptions: federally qualified health clinics, rural health
8 centers, State institutions, hospital outpatient, pharmacies, and the
9 noninflationary components of the case-mix reimbursement system for
10 nursing facilities. Medicaid rates predicated upon Medicare fee schedules
11 shall follow Medicare reductions but not Medicare increases unless federally
12 required. Inflationary increases for Medicaid providers paying provider fees
13 (private ICF-MRs and nursing facilities) can occur if the State share of the
14 increases can be funded with provider fees.
- 15 (9) Medicaid identification cards. – The Department shall issue Medicaid
16 identification cards to recipients on an annual basis with quarterly updates.
- 17 (10) The Department of Health and Human Services shall develop a plan for the
18 consolidation of case management services. The plan shall address the time
19 line and process for implementation, the vendors involved, the identification
20 of savings, and the Medicaid recipients affected by the consolidation.
21 Consolidation under this subdivision does not apply to HIV case
22 management. By December 1, 2009, the Department shall report on the plan
23 to the House of Representatives Appropriations Subcommittee on Health
24 and Human Services, the Senate Appropriations Committee on Health and
25 Human Services, and the Fiscal Research Division.
- 26 (11) For the purpose of promoting cost-effective utilization of outpatient mental
27 health services for children, DMA shall require prior authorization for
28 services following the 16th visit.
- 29 (12) Provision of Medicaid Private Duty Nursing (PDN) – DMA shall change the
30 Medicaid Private Duty Nursing Program provided under the State Medicaid
31 Plan, as follows:
- 32 a. Restructure the current PDN Program to provide services that are:
- 33 1. Provided only to qualified recipients under the age of 21;
 - 34 2. Authorized by the recipient's primary care or attending
35 physician;
 - 36 3. Limited to 16 hours of service per day, unless additional
37 services are required to correct or ameliorate defects and
38 physical and mental illnesses and conditions as defined in 42
39 U.S.C. § 1396d(r)(5);
 - 40 4. Approved based on an initial assessment and continuing need
41 reassessments performed by an Independent Assessment
42 Entity (IAE) that does not provide PDN services and
43 authorized in amounts that are medically necessary based on
44 the recipient's medical condition, amount of family assistance
45 available, and other relevant conditions and circumstances, as
46 defined by the Medicaid Clinical Coverage Policy for this
47 service.
 - 48 5. Provided in accordance with a plan of care approved by DMA
49 or its designee.

- b. Develop and submit to CMS a § 1915(c) Home and Community-Based Services Waiver for individuals dependent on technology to substitute for a vital body function.
- c. Once approved by CMS and upon approval of the Medicaid Clinical Coverage Policy, transition all qualified recipients age 21 and older currently receiving PDN to waiver services provided under the Technology Dependent Waiver."

IMPLEMENT INDEPENDENT ASSESSMENTS ON MENTAL HEALTH SERVICES

SECTION 10.36.(a) The Department of Health and Human Services, Division of Medical Assistance, shall require that, prior to the delivery of enhanced mental health services in the Medicaid program, an independent assessment be conducted that meets all of the following criteria:

- (1) An initial assessment or a continuing need reassessment is performed by an Independent Assessment Entity (IAE) that is not the provider of the services in question.
- (2) The IAE authorizes the type and amount of service to be provided based on the specific health condition and needs of the intended recipient of the service.

SECTION 10.36.(b) The Department of Health and Human Services, Division of Medical Assistance, shall provide a report of savings generated and other findings relating to the implementation of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before April 1, 2011.

DHHS BLOCK GRANTS

SECTION 10.37.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2011, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	\$41,435,452
02.	Work First County Block Grants	94,453,315
03.	Work First Electing Counties	2,378,213
04.	Work First – Boys and Girls Clubs	2,500,000
05.	Work First – After-School Services for At-Risk Children	1,639,714
06.	Work First – After-School Programs for At-Risk Youth in Middle Schools	400,000
07.	Work First – Connect, Inc. (Work Central)	440,000

1			
2	08.	Work First – Citizens Schools Program	360,000
3			
4	09.	Adoption Services – Special Children's Adoption Fund	3,000,000
5			
6	10.	Family Violence Prevention	2,200,000
7			
8	11.	Child Protective Services – Child Welfare	
9		Workers for Local DSS	14,452,391
10			
11	12.	Child Welfare Collaborative	1,129,115
12			
13		Division of Child Development	
14			
15	13.	Subsidized Child Care Program	65,843,377
16			
17		Division of Public Health	
18			
19	14.	Teen Pregnancy Initiatives	450,000
20			
21		Department of Public Instruction	
22			
23	15.	More at Four	16,176,036
24			
25		DHHS Programs	
26			
27	16.	Community Services	17,000,000
28			
29		DHHS Administration	
30			
31	17.	Division of Social Services	1,093,176
32			
33	18.	Office of the Secretary	75,392
34			
35		Transfers to Other Block Grants	
36			
37		Division of Child Development	
38			
39	19.	Transfer to the Child Care and	
40		Development Fund	84,330,900
41			
42		Division of Social Services	
43			
44	20.	Transfer to Social Services Block Grant for Child	
45		Protective Services – Child Welfare Training in	
46		Counties	1,750,000
47			
48	21.	Transfer to Social Services Block Grant for	
49		Maternity Homes	943,002
50			
51	22.	Transfer to Social Services Block Grant for Teen	

1	Pregnancy Prevention Initiatives	2,500,000
2		
3	23. Transfer to Social Services Block Grant for County	
4	Departments of Social Services for Children's Services	4,500,000
5		
6	24. Transfer to Social Services Block Grant for	
7	Foster Care Services	390,000
8		
9	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
10	(TANF) FUNDS	\$359,440,083
11		
12	TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
13	EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH	
14	THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
15		
16	Local Program Expenditures	
17		
18	Division of Social Services	
19		
20	01. Work First Family Assistance	\$46,392,544
21		
22	Division of Child Development	
23		
24	02. Subsidized Child Care	20,000,000
25		
26	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
27	EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE	
28	AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	\$66,392,544
29		
30	SOCIAL SERVICES BLOCK GRANT	
31		
32	Local Program Expenditures	
33		
34	Divisions of Social Services and Aging and Adult Services	
35		
36	01. County Departments of Social Services	\$ 28,868,189
37	(Transfer from TANF – \$4,500,000)	
38		
39	02. State In-Home Services Fund	2,101,113
40		
41	03. State Adult Day Care Fund	2,155,301
42		
43	04. Child Protective Services/CPS Investigative	
44	Services-Child Medical Evaluation Program	609,455
45		
46	05. Foster Care Services	1,997,619
47	(Transfer from TANF – \$390,000)	
48		
49	06. Maternity Homes (Transfer from TANF)	943,002
50		
51	07. Special Children Adoption Incentive Fund	500,000

1		
2	08.	Child Protective Services-Child Welfare Training
3		for Counties
4		(Transfer from TANF)
5		1,750,000
6	09.	Home and Community Care Block Grant (HCCBG)
7		1,834,077
8	10.	Child Advocacy Centers
9		375,000
10		Division of Mental Health, Developmental Disabilities, and Substance
11		Abuse Services
12		
13	11.	Mental Health Services Program
14		422,003
15	12.	Developmental Disabilities Services Program
16		5,000,000
17	13.	Mental Health Services-Adult and
18		Child/Developmental Disabilities Program/
19		Substance Abuse Services-Adult
20		3,234,601
21		Division of Child Development
22		
23	14.	Subsidized Child Care Program
24		1,156,744
25		Division of Vocational Rehabilitation
26		
27	15.	Vocational Rehabilitation Services – Easter Seal Society/UCP
28		Community Health Program
29		188,263
30		Division of Public Health
31		
32	16.	Teen Pregnancy Prevention Initiatives
33		(Transfer from TANF)
34		2,500,000
35		DHHS Program Expenditures
36		
37		Division of Aging and Adult Services
38		
39	17.	UNC-CARES Training Contract
40		247,920
41		Division of Services for the Blind
42		
43	18.	Independent Living Program
44		3,633,077
45		Division of Health Service Regulation
46		
47	19.	Adult Care Licensure Program
48		411,897
49	20.	Mental Health Licensure and Certification Program
50		205,668
51		DHHS Administration

1			
2	21.	Division of Aging and Adult Services	688,436
3			
4	22.	Division of Social Services	892,624
5			
6	23.	Office of the Secretary/Controller's Office	138,058
7			
8	24.	Office of the Secretary/DIRM	87,483
9			
10	25.	Division of Child Development	15,000
11			
12	26.	Division of Mental Health, Developmental	
13		Disabilities, and Substance Abuse Services	29,665
14			
15	27.	Division of Health Service Regulation	235,625
16			
17	28.	Office of the Secretary-NC Inter-Agency Council	
18		for Coordinating Homeless Programs	250,000
19			
20	29.	Office of the Secretary	48,053
21			
22	Transfers to Other State Agencies		
23			
24	Department of Administration		
25			
26	30.	NC Commission of Indian Affairs In-Home	
27		Services for the Elderly	203,198
28			
29	Transfers to Other Block Grants		
30			
31	Division of Public Health		
32			
33	31.	Transfer to Preventive Health Services Block Grant	
34		for HIV/STD Prevention and Community Planning	145,819
35			
36	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 60,867,890
37			
38	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		
39			
40	Local Program Expenditures		
41			
42	Division of Social Services		
43			
44	01.	Low-Income Energy Assistance Program (LIEAP)	\$ 70,909,401
45			
46	02.	Crisis Intervention Program (CIP)	40,373,328
47			
48	Local Administration		
49			
50	Division of Social Services		
51			

1	03. County DSS Administration	6,362,505
2		
3	DHHS Administration	
4		
5	04. Division of Social Services	275,000
6		
7	05. Division of Mental Health, Developmental	
8	Disabilities, and Substance Abuse Services	8,128
9		
10	06. Office of the Secretary/DIRM	276,784
11		
12	07. Office of the Secretary/Controller's Office	12,332
13		
14	Transfers to Other State Agencies	
15		
16	Department of Commerce	
17		
18	08. Weatherization Program	500,000
19		
20	09. Heating Air Repair and Replacement	
21	Program (HARRP)	8,103,157
22		
23	10. Local Residential Energy Efficiency Service	
24	Providers – Weatherization	25,000
25		
26	11. Local Residential Energy Efficiency Service	
27	Providers – HARRP	266,375
28		
29	12. Department of Commerce Administration –	
30	Weatherization	25,000
31		
32	13. Department of Commerce Administration –	
33	HARRP	266,375
34		
35	14. Department of Administration –	
36	N.C. State Commission of Indian Affairs	129,807
37		
38		
39	TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
40	BLOCK GRANT	\$ 127,533,192
41		
42	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
43		
44	Local Program Expenditures	
45		
46	Division of Child Development	
47		
48	01. Subsidized Child Care Services (CCDF)	\$153,889,889
49		
50	02. Contract Subsidized Child Care Services Support	547,600
51		

1	03.	Subsidized Child Care Services	
2		(Transfer from TANF)	84,330,900
3			
4	04.	Quality and Availability Initiatives	23,726,564
5			
6	05.	TEACH	3,800,000
7			
8		Division of Social Services	
9			
10	06.	Local Subsidized Child Care Services Support	\$19,340,596
11			
12		DHHS Administration	
13			
14		Division of Child Development	
15			
16	07.	DCD Administrative Expenses	6,539,277
17			
18		Division of Central Administration	
19			
20	08.	DHHS Central Administration – DIRM	
21		Technical Services	774,317
22			
23		TOTAL CHILD CARE AND DEVELOPMENT FUND	
24		BLOCK GRANT	\$292,949,143
25			
26		CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH	
27		THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
28			
29		Local Program Expenditures	
30			
31		Division of Child Development	
32			
33	01.	Subsidized Child Care Services (CCDF)	\$5,980,997
34			
35	02.	Electronic Benefits Transfer System	4,000,000
36			
37		DHHS Program Expenditures	
38			
39		Division of Child Development	
40			
41	03.	Quality and Availability Initiatives	2,904,787
42			
43		TOTAL CHILD CARE AND DEVELOPMENT FUND	
44		BLOCK GRANT RECEIVED THROUGH THE AMERICAN	
45		RECOVERY AND REINVESTMENT ACT (ARRA)	\$12,885,784
46			
47		MENTAL HEALTH SERVICES BLOCK GRANT	
48			
49		Local Program Expenditures	
50			
51	01.	Mental Health Services – Adult	\$ 5,124,810

1			
2	02.	Mental Health Services	1,731,432
3			
4	03.	Mental Health Services – Child	5,421,991
5			
6	04.	Administration	100,000
7			
8		TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,378,233
9			
10		SUBSTANCE ABUSE PREVENTION	
11		AND TREATMENT BLOCK GRANT	
12			
13		Local Program Expenditures	
14			
15		Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
16			
17	01.	Substance Abuse Services – Adult	\$ 19,278,310
18			
19	02.	Substance Abuse Services	2,729,770
20			
21	03.	Substance Abuse Treatment Alternative for	
22		Women	8,107,303
23			
24	04.	Substance Abuse – HIV and IV Drug	5,116,378
25			
26	05.	Substance Abuse Prevention – Child	7,186,857
27			
28	06.	Substance Abuse Services – Child	4,940,500
29			
30	07.	Institute of Medicine	250,000
31			
32	08.	Administration	250,000
33			
34		Division of Public Health	
35			
36	09.	Risk Reduction Projects	633,980
37			
38	10.	Aid-to-Counties	209,576
39			
40		TOTAL SUBSTANCE ABUSE PREVENTION	
41		AND TREATMENT BLOCK GRANT	\$ 48,702,674
42			
43		MATERNAL AND CHILD HEALTH BLOCK GRANT	
44			
45		Local Program Expenditures	
46			
47		Division of Public Health	
48			
49	01.	Children's Health Services	7,534,865
50			
51	02.	Women's Health	7,701,691

1			
2	03.	Oral Health	38,041
3			
4		DHHS Program Expenditures	
5			
6		Division of Public Health	
7			
8	04.	Children's Health Services	1,368,778
9			
10	05.	Women's Health	135,452
11			
12	06.	State Center for Health Statistics	179,483
13			
14	07.	Quality Improvement in Public Health	14,646
15			
16	08.	Health Promotion	88,746
17			
18	09.	Office of Minority Health	55,250
19			
20	10.	Immunization Program – Vaccine Distribution	382,648
21			
22		DHHS Administration	
23			
24		Division of Public Health	
25			
26	11.	Division of Public Health Administration	631,966
27			
28		TOTAL MATERNAL AND CHILD	
29		HEALTH BLOCK GRANT	\$ 18,131,566
30			
31		PREVENTIVE HEALTH SERVICES BLOCK GRANT	
32			
33		Local Program Expenditures	
34			
35		Division of Public Health	
36			
37	01.	NC Statewide Health Promotion	\$1,730,653
38			
39	02.	Services to Rape Victims	197,112
40			
41	03.	HIV/STD Prevention and Community Planning	
42		(Transfer from Social Services Block Grant)	145,819
43			
44		DHHS Program Expenditures	
45			
46		Division of Public Health	
47			
48	04.	NC Statewide Health Promotion	1,623,117
49			
50	05.	Oral Health	70,000
51			

1	06. State Laboratory of Public Health	16,600
2		
3	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$3,783,301
4		
5	COMMUNITY SERVICES BLOCK GRANT	
6		
7	Local Program Expenditures	
8		
9	Office of Economic Opportunity	
10		
11	01. Community Action Agencies	\$ 17,968,944
12		
13	02. Limited Purpose Agencies	998,275
14		
15	DHHS Administration	
16		
17	03. Office of Economic Opportunity	998,274
18		
19	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 19,965,493
20		
21	COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH	
22	THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
23		
24	Local Program Expenditures	
25		
26	Office of Economic Opportunity	
27		
28	01. Community Action Agencies	\$ 10,000,000
29		
30	TOTAL COMMUNITY SERVICES BLOCK GRANT	
31	RECEIVED THROUGH THE AMERICAN RECOVERY	
32	AND REINVESTMENT ACT (ARRA)	\$ 10,000,000
33		

GENERAL PROVISIONS

SECTION 10.37.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 10.37.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing block grants administered by the Department of

1 Health and Human Services from the amounts appropriated in this section, the Department
2 shall allocate the increase proportionally across the program and activity appropriations
3 identified for that Block Grant in this section. In allocating an increase in federal fund
4 availability, the Office of State Budget and Management shall not approve funding for new
5 programs or activities not appropriated in this section.

6 If the Congress of the United States decreases the federal fund availability for any of
7 the Block Grants or contingency funds and other grants related to existing block grants
8 administered by the Department of Health and Human Services from the amounts appropriated
9 in this section, the Department shall reduce State administration by at least the percentage of
10 the reduction in federal funds. After determining the State administration, the remaining
11 reductions shall be allocated proportionately across the program and activity appropriations
12 identified for that Block Grant in this section. The Office of State Budget and Management
13 shall report on these changes.

14 Prior to allocating the change in federal fund availability, the proposed allocation
15 must be approved by the Office of State Budget and Management. If the Department adjusts the
16 allocation of any Block Grant due to changes in federal fund availability, then a report shall be
17 made to the Joint Legislative Commission on Governmental Operations, the House of
18 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
19 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

20 **SECTION 10.37.(d)** Appropriations from federal Block Grant funds are made for
21 the fiscal year ending June 30, 2011, according to the schedule enacted for State fiscal year
22 2010-2011 or until a new schedule is enacted by the General Assembly.

23 **SECTION 10.37.(e)** All changes to the budgeted allocations to the Block Grants or
24 contingency funds and other grants related to existing block grants administered by the
25 Department of Health and Human Services that are not specifically addressed in this section
26 shall be approved by the Office of State Budget and Management, and the Office of State
27 Budget and Management shall consult with the Joint Legislative Commission on Governmental
28 Operations for review prior to implementing the changes. The report shall include an itemized
29 listing of affected programs, including associated changes in budgeted allocations. All changes
30 to the budgeted allocations to the Block Grants shall be reported immediately to the House of
31 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
32 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.
33 This subsection does not apply to Block Grant changes caused by legislative salary increases
34 and benefit adjustments.

35 36 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

37 **SECTION 10.37.(f)** The sum of one million ninety-three thousand one hundred
38 seventy-six dollars (\$1,093,176) appropriated in this section in TANF funds to the Department
39 of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall
40 be used to support administration of TANF-funded programs.

41 **SECTION 10.37.(g)** The sum of two million two hundred thousand dollars
42 (\$2,200,000) appropriated under this section in TANF funds to the Department of Health and
43 Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to
44 provide domestic violence services to Work First recipients. These funds shall be used to
45 provide domestic violence counseling, support, and other direct services to clients. These funds
46 shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts.
47 The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in
48 TANF funds to support one administrative position within the Division of Social Services to
49 implement this subsection.

50 Each county department of social services and the local domestic violence shelter
51 program serving the county shall develop jointly a plan for utilizing these funds. The plan shall

1 include the services to be provided and the manner in which the services shall be delivered. The
2 county plan shall be signed by the county social services director or the director's designee and
3 the domestic violence program director or the director's designee and submitted to the Division
4 of Social Services by December 1, 2010. The Division of Social Services, in consultation with
5 the Council for Women, shall review the county plans and shall provide consultation and
6 technical assistance to the departments of social services and local domestic violence shelter
7 programs, if needed.

8 The Division of Social Services shall allocate these funds to county departments of
9 social services according to the following formula: (i) each county shall receive a base
10 allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of
11 the remaining funds based on the county's proportion of the statewide total of the Work First
12 caseload as of July 1, 2010, and the county's proportion of the statewide total of the individuals
13 receiving domestic violence services from programs funded by the Council for Women as of
14 July 1, 2010. The Division of Social Services may reallocate unspent funds to counties that
15 submit a written request for additional funds.

16 **SECTION 10.37.(h)** The sum of one million six hundred thirty-nine thousand
17 seven hundred fourteen dollars (\$1,639,714) appropriated in this section in TANF funds to the
18 Department of Health and Human Services, Division of Social Services, for the 2010-2011
19 fiscal year shall be used to expand after-school programs and services for at-risk children. The
20 Department shall develop and implement a grant program to award grants to community-based
21 programs that demonstrate the ability to reach children at risk of teen pregnancy, school
22 dropout, and gang participation. The Department shall award grants to community-based
23 organizations that demonstrate the ability to develop and implement linkages with local
24 departments of social services, area mental health programs, schools, and other human services
25 programs in order to provide support services and assistance to the child and family. These
26 funds may be used to fund one position within the Division of Social Services to coordinate
27 at-risk after-school programs and shall not be used for other State administration.

28 **SECTION 10.37.(i)** The sum of fourteen million four hundred fifty-two thousand
29 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department
30 of Health and Human Services, Division of Social Services, in TANF funds for the 2010-2011
31 fiscal year for child welfare improvements shall be allocated to the county departments of
32 social services for hiring or contracting staff to investigate and provide services in Child
33 Protective Services cases; to provide foster care and support services; to recruit, train, license,
34 and support prospective foster and adoptive families; and to provide interstate and postadoption
35 services for eligible families.

36 **SECTION 10.37.(j)** The sum of three million dollars (\$3,000,000) appropriated in
37 this section in TANF funds to the Department of Health and Human Services, Special Children
38 Adoption Fund, for the 2010-2011 fiscal year shall be used in accordance with G.S. 108A-50.2,
39 as enacted in Section 10.48 of S.L. 2009-451. The Division of Social Services, in consultation
40 with the North Carolina Association of County Directors of Social Services and representatives
41 of licensed private adoption agencies, shall develop guidelines for the awarding of funds to
42 licensed public and private adoption agencies upon the adoption of children described in
43 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund
44 by participating agencies shall be used exclusively to enhance the adoption services program.
45 No local match shall be required as a condition for receipt of these funds.

46 **SECTION 10.37.(k)** The sum of four hundred thousand dollars (\$400,000)
47 appropriated in this section to the Department of Health and Human Services, Division of
48 Social Services, in TANF funds for the 2010-2011 fiscal year shall be used to expand
49 after-school programs for at-risk children attending middle school. The Department shall
50 develop and implement a grant program to award funds to community-based programs
51 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and

1 gang participation. These funds shall not be used for training or administration at the State
2 level. All funds shall be distributed to community-based programs, focusing on those
3 communities where similar programs do not exist in middle schools.

4 **SECTION 10.37.(l)** In implementing the use of TANF funds, the Department of
5 Health and Human Services shall review policies, programs, and initiatives to ensure that they
6 support men in their role as fathers and strengthen fathers' involvement in their children's lives.
7 The Department shall encourage county departments of social services to ensure their Work
8 First programs emphasize responsible fatherhood and increased participation by noncustodial
9 fathers.

10 **SECTION 10.37.(m)** The sum of four hundred forty thousand dollars (\$440,000)
11 appropriated in this section to the Department in TANF funds for the 2010-2011 fiscal year
12 shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of people served
13 and the services received as a result of the receipt of funds. The report shall contain expenditure
14 data, including the amount of funds used for administration and direct training. The report shall
15 also include the number of people who have been employed as a direct result of services
16 provided by Connect, Inc., including the length of employment in the new position. The
17 Department of Health and Human Services shall evaluate the program and ensure that services
18 provided are not duplicative of local employment security commissions in the nine counties
19 served by Connect, Inc. The evaluation report shall be submitted to the House of
20 Representatives Appropriations Subcommittee on Health and Human Services, the Senate
21 Appropriations Committee on Health and Human Services, and the Fiscal Research Division no
22 later than May 1, 2011.

23 **SECTION 10.37.(n)** The sum of two million five hundred thousand dollars
24 (\$2,500,000) appropriated in this section to the Department in TANF funds for Boys and Girls
25 Clubs for the 2010-2011 fiscal year shall be used to make grants for approved programs. The
26 Department of Health and Human Services, in accordance with federal regulations for the use
27 of TANF funds, shall administer a grant program to award funds to the Boys and Girls Clubs
28 across the State in order to implement programs that improve the motivation, performance, and
29 self-esteem of youths and to implement other initiatives that would be expected to reduce gang
30 participation, school dropout, and teen pregnancy rates. The Department shall encourage and
31 facilitate collaboration between the Boys and Girls Clubs and Support Our Students,
32 Communities in Schools, and similar programs to submit joint applications for the funds if
33 appropriate.

34 **SECTION 10.37.(o)** The sum of one million one hundred twenty-nine thousand
35 one hundred fifteen dollars (\$1,129,115) appropriated in this section to the Department of
36 Health and Human Services in TANF funds for the 2010-2011 fiscal year shall be used to
37 continue support for the Child Welfare Collaborative.

38 **SECTION 10.37.(p)** The sum of three hundred sixty thousand dollars (\$360,000)
39 appropriated to the Department of Health and Human Services, Division of Social Services,
40 under this section in TANF funds for the 2010-2011 fiscal year shall be used to continue
41 support for the Citizens Schools Program, a three-year urban/rural dropout prevention pilot
42 program in the Durham and Vance County public school systems.

43 **SECTION 10.37.(q)** The sum of seventeen million dollars (\$17,000,000)
44 appropriated in this section to the Department of Health and Human Services in TANF funds
45 for the 2010-2011 fiscal year for community services shall be used to support TANF-eligible
46 programs. The Department, upon review and approval of the Office of State Budget and
47 Management, shall implement an equivalent reduction of General Fund appropriations and
48 shall transfer the appropriations to support community services.

49
50 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY**
51 **CONTINGENCY FUNDS**

1 **SECTION 10.37.(r)** The sum of twenty million dollars (\$20,000,000) appropriated
2 under this section from TANF Emergency Contingency funds to the Department of Health and
3 Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used for
4 subsidized child care services. Payment for subsidized child care services provided with TANF
5 Emergency Contingency funds shall comply with all regulations and policies issued by the
6 Division of Child Development for the subsidized child care program.

7 **SECTION 10.37.(s)** The sum of forty-six million three hundred ninety-two
8 thousand five hundred forty-four dollars (\$46,392,544) appropriated under this section from
9 TANF Emergency Contingency funds to the Department of Health and Human Services,
10 Division of Social Services, for the 2010-2011 fiscal year shall be used to support assistance
11 payments provided under the Work First Family Assistance program.
12

13 **SOCIAL SERVICES BLOCK GRANT**

14 **SECTION 10.37.(t)** Social Services Block Grant funds appropriated to the North
15 Carolina Inter-Agency Council for coordinating homeless programs, child medical evaluations,
16 and community services provided by Children's Advocacy Centers are exempt from the
17 provisions of 10A NCAC 71R .0201(3).

18 **SECTION 10.37.(u)** The sum of one million seven hundred fifty thousand dollars
19 (\$1,750,000) appropriated in this section in the Social Services Block Grant to the Department
20 of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall
21 be used to support various child welfare training projects as follows:

- 22 (1) Provide a regional training center in southeastern North Carolina.
- 23 (2) Provide training for residential child caring facilities.
- 24 (3) Provide for various other child welfare training initiatives.

25 **SECTION 10.37.(v)** The sum of nine hundred forty-three thousand two dollars
26 (\$943,002) appropriated in this section to the Department of Health and Human Services in the
27 Social Services Block Grant for the 2010-2011 fiscal year shall be used to support maternity
28 home services.

29 **SECTION 10.37.(w)** The sum of one million nine hundred ninety-seven thousand
30 six hundred nineteen dollars (\$1,997,619) appropriated in this section in the Social Services
31 Block Grant for child caring agencies for the 2010-2011 fiscal year shall be allocated in support
32 of State foster home children.

33 **SECTION 10.37.(x)** The Department of Health and Human Services is authorized,
34 subject to the approval of the Office of State Budget and Management, to transfer Social
35 Services Block Grant funding allocated for departmental administration between divisions that
36 have received administrative allocations from the Social Services Block Grant.

37 **SECTION 10.37.(y)** Social Services Block Grant funds appropriated for the
38 Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

39 **SECTION 10.37.(z)** The sum of three hundred seventy-five thousand dollars
40 (\$375,000) appropriated in this section in the Social Services Block Grant for the 2010-2011
41 fiscal year shall be allocated to the Division of Social Services to support community services
42 provided by Children's Advocacy Centers on behalf of children who are victims of child abuse.

43 **SECTION 10.37.(aa)** The sum of four hundred twenty-two thousand three dollars
44 (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of
45 Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be
46 used to continue a Mental Health Services Program for children.
47

48 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

49 **SECTION 10.37.(bb)** Additional emergency contingency funds received may be
50 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
51 consultation with the Joint Legislative Commission on Governmental Operations. Additional

1 funds received shall be reported to the Joint Legislative Commission on Governmental
2 Operations and the Fiscal Research Division upon notification of the award. The Department of
3 Health and Human Services shall not allocate funds for any activities, including increasing
4 administration, other than assistance payments, without prior consultation with the Joint
5 Legislative Commission on Governmental Operations.

6 7 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

8 **SECTION 10.37.(cc)** Payment for subsidized child care services provided with
9 federal TANF funds shall comply with all regulations and policies issued by the Division of
10 Child Development for the subsidized child care program.

11 **SECTION 10.37.(dd)** If funds appropriated through the Child Care and
12 Development Fund Block Grant for any program cannot be obligated or spent in that program
13 within the obligation or liquidation periods allowed by the federal grants, the Department may
14 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the
15 grant, in order to use the federal funds fully.

16 **SECTION 10.37.(ee)** If American Recovery and Reinvestment Act of 2009 funds
17 appropriated through the Child Care and Development Fund Block Grant for any program
18 cannot be obligated or spent in that program within the obligation or liquidation periods
19 allowed by the federal grants, the Department may move funds to child care subsidies, unless
20 otherwise prohibited by federal requirements of the grant, in order to use the federal funds
21 fully.

22 23 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

24 **SECTION 10.37.(ff)** The sum of two hundred fifty thousand dollars (\$250,000)
25 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to
26 the Department of Health and Human Services, Division of Mental Health, Developmental
27 Disabilities, and Substance Abuse Services, for the 2010-2011 fiscal year for the North
28 Carolina Institute of Medicine (NCIOM) shall be used to study the following:

- 29 (1) The availability of Medicaid and State-funded mental health, developmental
30 disabilities, and substance abuse services to active duty, reserve, and veteran
31 members of the military and National Guard. The study should discuss the
32 current availability of services, the extent of use, and any gaps in services.
- 33 (2) Issues related to cost, quality, and access to appropriate and affordable
34 health care for all North Carolinians. The North Carolina Institute of
35 Medicine (NCIOM) may use funds appropriated for the 2007-2009 fiscal
36 biennium to continue the work of its Health Access Study Group to study
37 these issues. The Health Access Study Group may include in its study the
38 matters contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also
39 may monitor federal health-related legislation to determine how the
40 legislation would impact costs, quality, and access to health care.
- 41 (3) Short-term and long-term strategies to address issues within adult care
42 homes that provide residence to persons who are frail and elderly and to
43 persons suffering from mental illness.

44 The Institute shall make an interim report to the Governor's Office, the Joint
45 Legislative Health Care Oversight Committee, and the Joint Legislative Oversight Committee
46 on Mental Health, Developmental Disabilities, and Substance Abuse Services no later than
47 January 15, 2010, which may include recommendations and proposed legislation, and shall
48 issue its final report with findings, recommendations, and suggested legislation to the 2011
49 General Assembly upon its convening. In the event members of the General Assembly serve on
50 the NCIOM Health Access Study Group, they shall receive per diem, subsistence, and travel
51 allowances in accordance with G.S. 120-3.1. The Health Access Study Group may include in

1 its study the matters contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may
2 monitor federal health-related legislation to determine how the legislation would impact costs,
3 quality, and access to health care.
4

5 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

6 **SECTION 10.37.(gg)** If federal funds are received under the Maternal and Child
7 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193
8 (42 U.S.C. § 710), for the 2010-2011 fiscal year, then those funds shall be transferred to the
9 State Board of Education to be administered by the Department of Public Instruction. The
10 Department of Public Instruction shall use the funds to establish an abstinence until marriage
11 education program and shall delegate to one or more persons the responsibility of
12 implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public
13 Instruction shall carefully and strictly follow federal guidelines in implementing and
14 administering the abstinence education grant funds.

15 **SECTION 10.37.(hh)** The Department of Health and Human Services shall ensure
16 that there will be follow-up testing in the Newborn Screening Program.
17

18 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

19 20 **FEE INCREASES FOR PESTICIDE DEALERS, PESTICIDE APPLICATORS, AND** 21 **PEST CONTROL CONSULTANTS**

22 **SECTION 11.1.(a)** G.S. 143-440 reads as rewritten:

23 **"§ 143-440. Restricted use pesticides regulated.**

24 (a) The Board may, by regulation after a public hearing, adopt and from time to time
25 revise a list of restricted use pesticides for the State or for designated areas within the State.
26 The Board may designate any pesticide or device as a "restricted use pesticide" upon the
27 grounds that, in the judgment of the Board (either because of its persistence, its toxicity, or
28 otherwise) it is so hazardous or injurious to persons, pollinating insects, animals, crops,
29 wildlife, lands, or the environment, other than the pests it is intended to prevent, destroy,
30 control, or mitigate that additional restriction on its sale, purpose, use or possession are
31 required.

32 (b) The Board may include in any such restricted use regulation the time and conditions
33 of sale, distribution, or use of such restricted use pesticides, may prohibit the use of any
34 restricted use pesticide for designated purposes or at designated times; may require the
35 purchaser or user to certify that restricted use pesticides will be used only as labeled or as
36 further restricted by regulation; may require the certification and recertification of private
37 applicators and, charge a fee of up to ten dollars (\$10.00), with the fee set at a level to make the
38 certification/recertification program self-supporting, and, after opportunity for a hearing, may
39 suspend, revoke or modify the certification for violation of any provision of this Article, or any
40 rule or regulation adopted thereunder; and may, if it deems it necessary to carry out the
41 provisions of this Part, require that any or all restricted use pesticides shall be purchased,
42 possessed, or used only under permit of the Board and under its direct supervision in certain
43 areas and/or under certain conditions or in certain quantities or concentrations except that any
44 person licensed to sell such pesticides may purchase and possess such pesticides without a
45 permit. The Board may require all persons issued such permits to maintain records as to the use
46 of the restricted use pesticides. The Board may authorize the use of restricted use pesticides by
47 persons licensed under the North Carolina Structural Pest Control Act without a permit. A
48 nonrefundable fee of ten dollars (\$10.00) shall be charged for each examination required by
49 this section. This examination fee is in addition to the certification or recertification fee, and
50 any other fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the
51 General Statutes.

1 (c) A fee of fifty dollars (\$50.00) shall be charged for examination of individuals
2 seeking to be designated as Worker Protection Designated Trainers, in accordance with
3 provisions of the Federal Worker Protection Standard set forth in 40 C.F.R. Part 170, and
4 subsequent amendments to those regulations."

5 **SECTION 11.1.(b)** G.S. 143-448(b) reads as rewritten:

6 **"§ 143-448. Licensing of pesticide dealers; fees.**

7 ...

8 (b) Applications for a pesticide dealer license shall be in the form and shall contain the
9 information prescribed by the Board. Each application shall be accompanied by a
10 non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00). All licenses issued
11 under this Part shall expire on December 31 of the year for which they are issued.

12 "

13 **SECTION 11.1.(c)** G.S. 143-449(b) reads as rewritten:

14 **"§ 143-449. Qualifications for pesticide dealer license; examinations.**

15 ...

16 (b) Each applicant shall satisfy the Board as to his responsibility in carrying on the
17 business of a pesticide dealer. Each applicant for an original license must demonstrate upon
18 written, or written and oral, examination to be prescribed by the Board his knowledge of
19 pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his
20 knowledge of the laws and regulations governing the use and sale of pesticides. A
21 nonrefundable fee of fifty dollars (\$50.00) shall be charged for each examination required by
22 this section. This examination fee is in addition to any fee authorized pursuant to any other
23 provision of Article 4C of Chapter 106 of the General Statutes.

24 "

25 **SECTION 11.1.(d)** G.S. 143-452(b) reads as rewritten:

26 **"§ 143-452. Licensing of pesticide applicators; fees.**

27 ...

28 (b) Applications for pesticide applicator license shall be in the form and shall contain
29 the information prescribed by the Board. Each application shall be accompanied by a
30 non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for each pesticide
31 applicator's license. In addition, an annual inspection fee of twenty-five dollars (\$25.00) shall
32 be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making
33 it necessary for a second inspection to be made, the Board shall require an additional
34 twenty-five-dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced
35 inspections may be made without charge to determine if equipment is properly calibrated and
36 maintained in conformance with the laws and regulations. All aircraft licensed to apply
37 pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the
38 licensee, which plate or decal shall be affixed on the aircraft in a location and manner
39 prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be
40 charged to State agencies or local governments or their employees. Inspections of ground
41 pesticide application equipment may be made. Any such equipment determined to be faulty or
42 unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper
43 repairs and/or alterations are made."

44 **SECTION 11.1.(e)** G.S. 143-453 reads as rewritten:

45 **"§ 143-453. Qualifications for pesticide applicator's license; examinations.**

46 (a) An applicant for a license must present satisfactory evidence to the Board
47 concerning his qualifications for a pesticide applicator license. The contractor and each pilot
48 involved in aerial application of pesticides shall be licensed.

49 Those qualifications, in the case of a pilot, shall include at least 125 hours and one year's
50 flying experience as a pilot in the field of aerial pesticide application. A pilot lacking 125 hours
51 and one year's experience as a pilot in the field of aerial pesticide application shall be licensed

1 as an apprentice aerial pesticide applicator pilot. All aerial applications of pesticides by a
2 licensed apprentice shall be conducted under the direct supervision of a licensed pesticide
3 applicator pilot. The supervising pilot, while directly supervising an apprentice, shall operate
4 out of the same airstrip as the apprentice and shall be available periodically throughout each
5 day to provide advice and assistance to the apprentice. A nonrefundable fee of fifty dollars
6 (\$50.00) shall be charged for the examination required by this subsection. Such examination
7 fee shall be charged in addition to the fees authorized pursuant to subsection (b) of this section
8 or any other provision of Article 4C of Chapter 106 of the General Statutes.

9 (b) Each applicant shall satisfy the Board as to his knowledge of the laws and
10 regulations governing the use and application of pesticides in the classifications he has applied
11 for (manually or with various equipment that he may have applied for a license to operate), and
12 as to his responsibility in carrying on the business of a pesticide applicator. Each applicant for
13 an original license must demonstrate upon written, or written and oral, examination to be
14 prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his
15 competence as a pesticide applicator; and his knowledge of the laws and regulations governing
16 the use and application of pesticides in the classification for which he has applied. A
17 nonrefundable fee of fifty dollars (\$50.00) shall be charged for the core examination, and an
18 additional twenty dollars (\$20.00) shall be charged for each additional specific classification
19 licensure. Such examination fees shall be charged in addition to the fees authorized pursuant to
20 subsection (a) of this section or any other provision of Article 4C of Chapter 106 of the General
21 Statutes.

22"

23 **SECTION 11.1.(f)** G.S. 143-455 reads as rewritten:

24 "**§ 143-455. Pest control consultant license.**

25 (a) No person shall perform services as a pest control consultant without first procuring
26 from the Board a license. Applications for a consultant license shall be in the form and shall
27 contain the information prescribed by the Board. The application for a license shall be
28 accompanied by a non-refundable annual fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars
29 (\$75.00).

30 (b) An applicant for a consultant license must present satisfactory evidence to the Board
31 concerning his qualifications for such license. The Board may classify consultant licenses into
32 one or more classifications or subclassifications based upon types of consulting services
33 performed or to be performed. Such classifications and subclassifications may reflect the crops
34 involved in the consulting service, the discipline or training of consultant, the discretion or lack
35 of discretion involved in the consulting service, and the site or location of the service. Each
36 classification and subclassification may be subject to separate testing procedures and
37 requirements, and may be subject to its own minimum standards of training in specialized
38 subject matter from a recognized college or university, or equivalent specialized consulting
39 experience or training. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the
40 consultant examination, and an additional twenty dollars (\$20.00) shall be charged for each
41 additional specific classification licensure permitted by this subsection. Such examination fee
42 shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or
43 any other provision of Article 4C of Chapter 106 of the General Statutes. Qualifications for
44 licensing may be less stringent if the licensee is restricted to making recommendations
45 contained in publications recognized by the Board as appropriate for a specific consulting
46 classification or subclassification.

47"

48
49 **STRUCTURAL PEST CONTROL ACT FEE INCREASES**

50 **SECTION 11.2.(a)** G.S. 106-65.27 reads as rewritten:

51 "**§ 106-65.27. Examinations of applicants; fee; license not transferable.**

1 (a) Certified Applicator. – All applicants for a certified applicator's identification card
2 shall demonstrate practical knowledge of the principles and practices of pest control and safe
3 use of pesticides. Competency shall be determined on the basis of written examinations to be
4 provided and administered by the Committee and, as appropriate, performance testing. Testing
5 shall be based upon examples of problems and situations appropriate to the particular phase or
6 subphase of structural pest control for which application is made and shall include, where
7 relevant, the following areas of competency:

- 8 (1) Label and labeling comprehension.
- 9 (2) Safety factors associated with pesticides – toxicity, precautions, first aid,
10 proper handling, etc.
- 11 (3) Influence of and on the environment.
- 12 (4) Pests – identification, biology, and habits.
- 13 (5) Pesticides – types, formulations, compatibility, hazards, etc.
- 14 (6) Equipment – types and uses.
- 15 (7) Application techniques.
- 16 (8) Laws and regulations.

17 An applicant for a certified applicator's identification card shall submit an examination fee
18 of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) for each phase or subphase of structural pest
19 control in which the applicant chooses to be examined. An examination for more than one
20 phase or subphase may be taken at the same time at any regularly scheduled examination.
21 Frequency of such examinations shall be at the discretion of the Committee, provided that a
22 minimum of two examinations be given annually. The examination will cover each phase or
23 subphase of structural pest control for which application is being made.

24 (b) License. – Each applicant for an original license must demonstrate upon written
25 examination, to be provided and administered by the Committee, his competency as a structural
26 pest control operator for the phase or subphase in which he is applying for a license. Frequency
27 of such examinations shall be at the discretion of the Committee, provided that a minimum of
28 two examinations shall be given annually. The examination will cover each phase or subphase
29 of structural pest control for which application is being made. All applicants for a license shall
30 register with the Division on a prescribed form. A license examination fee of ~~twenty-five~~
31 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) shall be charged for each phase or subphase of structural
32 pest control in which the applicant chooses to be examined. An examination for more than one
33 phase or subphase of structural pest control may be taken at the same time.

34"

35 **SECTION 11.2.(b)** G.S. 106-65.31 reads as rewritten:

36 **"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen,**
37 **salesmen, solicitors, and estimators; identification cards.**

38 (a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a
39 certified applicator's identification card shall be ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00).
40 Within 75 days after the employment of a certified applicator, the licensee shall apply to the
41 Division for the issuance of a certified applicator's identification card. A certified applicator's
42 identification card shall expire on June 30 of each year and shall be renewed annually. All
43 certified applicators who fail or neglect to renew their card on or before June 30 but make
44 application before January 1 of the following year may have their card renewed without having
45 to be reexamined unless the applicant is scheduled for periodic reexamination under regulations
46 adopted pursuant to G.S. 106-65.27(d)(3). All applicants submitting applications for the
47 renewal of their cards after June 30 shall not use or supervise the use of restricted use pesticides
48 until a new card has been issued.

49 Any certified applicator whose employment is terminated with a licensee or agent prior to
50 the end of any license year may at any time prior to the end of the license year be reissued a
51 certified applicator's identification card for the remainder of the license year as an employee of

1 another licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee
2 shall notify the Division of the termination or change in status of any certified applicator.

3 Any certified applicator whose identification card is lost or destroyed or changed in any
4 way may be reissued a new card for the remainder of the license year for a fee of five dollars
5 (\$5.00).

6 (b) License. – The fee for the issuance or renewal of a license for any one phase of
7 structural pest control shall be ~~one hundred fifty dollars (\$150.00)~~ two hundred dollars
8 (\$200.00). Each additional phase shall be ~~sixty five dollars (\$65.00)~~ seventy-five dollars
9 (\$75.00). The fee for each subphase shall be fifteen dollars (\$15.00). Licenses shall expire on
10 June 30 of each year and shall be renewed annually. All licensees who fail or neglect to renew
11 their license on or before June 30, but who make application before January 1 of the following
12 year, may have their license renewed without having to be reexamined, unless the applicant is
13 scheduled for periodic reexamination under regulations adopted pursuant to
14 G.S. 106-65.27(d)(3). No structural pest control work may be performed until the license has
15 been renewed or until a new license has been issued.

16 Any licensee whose employment is terminated by his employer or any licensee who is
17 transferred to another company or location other than the company or location shown on his
18 license certificate, may at any time, have his license reissued for the remainder of the license
19 year for a fee of ten dollars (\$10.00).

20 Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of
21 ten dollars (\$10.00).

22 (b1) Registration. – Within 75 days after the hiring of an employee who is either an
23 estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the
24 issuance of an identification card for such employee. The application must be accompanied by
25 a fee of ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for each card. The card shall be
26 issued in the name of the employee and shall bear the name of the employing licensee, the
27 employer's license number and phases, the name and address of the employer's business, and
28 such other information as the Committee may specify. The identification card shall be carried
29 by the employee on his person at all times while performing any phase of structural pest control
30 work. The card must be displayed upon demand by the Commissioner, the Committee, the
31 Division, or any representative thereof, or the person for whom any phase of structural pest
32 control work is being performed. A registered technician's identification card must be renewed
33 annually on or before June 30 by payment of a renewal fee of twenty-five dollars (\$25.00). If a
34 card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars (\$5.00). The
35 licensee shall notify the Division of the termination or change in status of any registered
36 technician. All identification cards expire when a license expires.

37 When a license is reissued, the licensee shall be responsible for registering and securing
38 identification cards for all existing employees who engage in structural pest control within 10
39 days of the reissuance of the license.

40 A certified applicator who is not an employee of a licensed individual shall register the
41 names of all employees under his supervision who are engaged in the performance of structural
42 pest control with the Division and shall purchase a registered technician's identification card for
43 each such employee.

44"

45 46 **CONSOLIDATE GRADE "A" MILK PROGRAM INTO DAIRY PROGRAM AND** 47 **STUDY FEE STRUCTURE**

48 **SECTION 11.3.(a)** All functions, powers, duties, and obligations previously vested
49 in the Grade "A" Milk Sanitation Program within the Division of Environmental Health of the
50 Department of Environment and Natural Resources are transferred to and vested in the Food

1 and Drug Protection Division of the Department of Agriculture and Consumer Services by a
2 Type I transfer, as defined in G.S. 143A-6.

3 **SECTION 11.3.(b)** The Department of Agriculture and Consumer Services shall
4 study the development of a schedule of fees for the Grade "A" Milk Sanitation Program
5 consistent with the existing fee schedule for the Dairy Program. In its study under this
6 subsection, the Department of Agriculture and Consumer Services shall consider the costs
7 associated with operating the Grade "A" Milk Program.

8 **SECTION 11.3.(c)** The Department of Agriculture and Consumer Services shall
9 report not later than January 15, 2011, to the House and Senate Appropriation Subcommittees
10 on Natural and Economic Resources and the Fiscal Research Division on the results of its study
11 under subsection (b) of this section. The Department of Agriculture and Consumer Services
12 shall include in this report what fee schedule the Department recommends as well as any
13 findings, other recommendations, or legislative proposals.

14 **SECTION 11.3.(d)** Part 9 of Article 8 of Chapter 130A of the General Statutes is
15 recodified as Article 28C of Chapter 106 of the General Statutes, to be entitled "Grade 'A' Milk
16 Sanitation"; G.S. 130A-274 is recodified as G.S. 106-266.30; G.S. 130A-275 is recodified as
17 G.S. 106-266.31; G.S. 130A-276 is recodified as G.S. 106-266.32; G.S. 130A-277 is recodified
18 as G.S. 106-266.33; G.S. 130A-278 is recodified as G.S. 106-266.34; and G.S. 130A-279 is
19 recodified as G.S. 106-266.35.

20 **SECTION 11.3.(e)** G.S. 106-266.30, as recodified under subsection (d) of this
21 section, reads as rewritten:

22 **"§ 106-266.30. Definitions.**

23 The following definitions shall apply throughout this ~~Part~~Article:

- 24 (1) "Grade 'A' milk" means fluid milk and milk products which have been
25 produced, transported, handled, processed and distributed in accordance with
26 the provisions of the rules adopted by the ~~Commission~~Board of Agriculture.
27 (2) "Milk" means the lacteal secretion practically free from colostrum obtained
28 by the milking of one or more cows, goats, or other lactating animals."

29 **SECTION 11.3.(f)** G.S. 106-266.31, as recodified under subsection (d) of this
30 section, reads as rewritten:

31 **"§ 106-266.31. ~~Commission Board to adopt rules.~~**

32 ~~Notwithstanding the provisions of G.S. 106-267 et seq., the Commission is authorized and~~
33 ~~directed to~~The Board of Agriculture shall adopt rules relating to the sanitary production,
34 transportation, processing and distribution of Grade "A" milk. The rules, in order to protect and
35 promote the public health, shall provide definitions and requirements for: (i) the sanitary
36 production and handling of milk on Grade "A" dairy farms; (ii) the sanitary transportation of
37 Grade "A" raw milk for processing; (iii) the sanitary processing of Grade "A" milk; (iv) the
38 sanitary handling and distribution of Grade "A" milk; (v) the requirements for the issuance,
39 suspension and revocation of permits; and (vi) the establishment of quality standards for Grade
40 "A" milk. The rules shall be no less stringent than the 1978 Pasteurized Milk Ordinance
41 recommended by the U.S. Public Health Service/Food and Drug Administration as amended
42 effective January 1, 1982. The ~~Commission~~Board of Agriculture may adopt by reference the
43 U.S. Public Health Service/Food and Drug Administration 1978 Pasteurized Milk ~~Ordinance.~~
44 ~~and any amendment thereto~~Ordinance, as amended."

45 **SECTION 11.3.(g)** G.S. 106-266.32, as recodified under subsection (d) of this
46 section, reads as rewritten:

47 **"§ 106-266.32. Permits required.**

48 No person shall produce, transport, process, or distribute Grade "A" milk without first
49 having obtained a valid permit from the ~~Department~~Department of Agriculture and Consumer
50 Services."

1 **SECTION 11.3.(h)** G.S. 106-266.33, as recodified under subsection (d) of this
2 section, reads as rewritten:

3 **"§ 106-266.33. Duties of the Department.**

4 The Department of Agriculture and Consumer Services shall enforce the rules of the
5 ~~Commission-Board of Agriculture~~ governing Grade "A" milk by making sanitary inspections of
6 Grade "A" dairy farms, Grade "A" processing plants, Grade "A" milk haulers and Grade "A"
7 distributors; by determining the quality of Grade "A" milk; and by evaluating methods of
8 handling Grade "A" milk to insure compliance with the provisions of the rules of the
9 ~~Commission-Board of Agriculture~~. The Department of Agriculture and Consumer Services
10 shall issue permits for the operation of Grade "A" dairy farms, processing plants and haulers in
11 accordance with the provisions of the rules of the ~~Commission-Board of Agriculture~~ and shall
12 suspend or revoke permits for violations in accordance with the rules."

13 **SECTION 11.3.(i)** G.S. 106-266.34, as recodified under subsection (d) of this
14 section, reads as rewritten:

15 **"§ 106-266.34. Certain other authorities of Department of Agriculture and Consumer
16 Services not replaced.**

17 This ~~Part~~ Article shall not repeal or limit the Department of Agriculture and Consumer
18 Services' authority to carry out labeling requirements, required butterfat testing, aflatoxin
19 testing, pesticide testing, other testing performed by the Department of Agriculture and
20 Consumer ~~Services~~ Services, and any other function of the Department of Agriculture and
21 Consumer Services concerning Grade "A" milk ~~which~~ under any other Article under this
22 Chapter that is not inconsistent with this Article."

23 **SECTION 11.3.(j)** G.S. 106-266.35 as recodified under subsection (d) of this
24 section, reads as rewritten:

25 **"§ 106-266.35. Sale or dispensing of milk.**

26 Only milk that is Grade "A" pasteurized milk may be sold or dispensed directly to
27 consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed
28 only to a permitted milk hauler or to a processing facility at which the processing of milk is
29 permitted, graded, or regulated by a local, State, or federal agency. The ~~Commission-Board of~~
30 Agriculture may adopt rules to provide exceptions for dispensing raw milk and raw milk
31 products for nonhuman consumption. Any raw milk or raw milk product dispensed as animal
32 feed shall include on its label the statement "NOT FOR HUMAN CONSUMPTION" in letters
33 at least one-half inch in height. Any raw milk or raw milk product dispensed as animal feed
34 shall also include on its label the statement "IT IS NOT LEGAL TO SELL RAW MILK FOR
35 HUMAN CONSUMPTION IN NORTH CAROLINA." "Sale" or "sold" shall mean any
36 transaction that involves the transfer or dispensing of milk and milk products or the right to
37 acquire milk and milk products through barter or contractual arrangement or in exchange for
38 any other form of compensation including, but not limited to, the sale of shares or interest in a
39 cow, goat, or other lactating animal or herd."

40 **SECTION 11.3.(k)** G.S. 130A-21(b) is repealed.

41 **SECTION 11.3.(l)** G.S. 106-143 reads as rewritten:

42 **"§ 106-143. Article construed supplementary.**

43 Nothing in this Article shall be construed as in any way amending, abridging, or otherwise
44 affecting the validity of any law or ordinance relating to the Commission for Public Health or
45 the Department of Environment and Natural Resources or any local health department in their
46 sanitary work in connection with public and private water supplies, sewerage, meat, ~~milk~~, milk
47 products, shellfish, finfish, or other foods, or food products, or the production, handling, or
48 processing of these items."

49
50 **CONSOLIDATE SPAY/NEUTER PROGRAM INTO ANIMAL WELFARE PROGRAM**
51 **AND PROVIDE ADDITIONAL FUNDING**

1 **SECTION 11.4.(a)** All functions, powers, duties, and obligations previously vested
2 in the Spay/Neuter Program within the Department of Health and Human Services are
3 transferred to and vested in the Animal Welfare Section of the Animal Health Division of the
4 Department of Agriculture and Consumer Services by a Type I transfer, as defined in
5 G.S. 143A-6.

6 **SECTION 11.4.(b)** Of the funds appropriated in this act to the Department of
7 Agriculture and Consumer Services for the 2010-2011 fiscal year, including those in special
8 funds, the sum of one hundred thousand dollars (\$100,000) shall be used to fund the
9 Spay/Neuter Program under Article 5 of Chapter 19A of the General Statutes.

10 **SECTION 11.4.(c)** Article 9 of Chapter 105 of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 105-269.7. Contribution by individual for spaying and neutering of dogs and cats.**

13 An individual entitled to a refund of income taxes under Part 2 of Article 4 of this Chapter
14 may elect to contribute all or part of the refund to be used for the spaying and neutering of dogs
15 and cats through the Spay/Neuter Account established in the Department of Agriculture and
16 Consumer Services by G.S. 19A-62. The Secretary shall provide appropriate language and
17 space on the individual income tax form in which to make the election. The Secretary shall
18 include in the income tax instructions an explanation that the contributions will be used for the
19 spaying and neutering of dogs and cats in order to reduce the population of unwanted animals
20 in the State. The election becomes irrevocable upon filing the individual's income tax return for
21 the taxable year. The Secretary shall transmit the contributions made pursuant to this section to
22 the State Treasurer to be deposited in the Spay/Neuter Account established in G.S. 19A-62."

23 **SECTION 11.4.(d)** The General Assembly finds that the funds generated by
24 subsection (c) of this section are intended to be additional funding for the spaying and
25 neutering of dogs and cats through the Spay/Neuter Account established in G.S. 19A-62 and
26 are not intended to replace current appropriations for the spaying and neutering of dogs and
27 cats.

28 **SECTION 11.4.(e)** G.S. 90A-61 reads as rewritten:

29 **"§ 19A-61. Spay/Neuter Program established.**

30 There is established in the Department of ~~Health and Human Services~~Agriculture and
31 Consumer Services a statewide program to foster the spaying and neutering of dogs and cats for
32 the purpose of reducing the population of unwanted animals in the State. The program shall
33 consist of the following components:

- 34 (1) Education Program. – The Department shall establish a statewide program to
35 educate the public about the benefits of having cats and dogs spayed and
36 neutered. The Department may work cooperatively on the program with the
37 North Carolina School of Veterinary Medicine, other State agencies and
38 departments, county and city health departments and animal control
39 agencies, and statewide and local humane organizations. The Department
40 may employ outside consultants to assist with the education program.
- 41 (2) Local Spay/Neuter Assistance Program. – The Department shall administer
42 the Spay/Neuter Account established in G.S. 19A-62. Monies deposited in
43 the account shall be available to reimburse eligible counties and cities for the
44 direct costs of spay/neuter surgeries for cats and dogs made available to
45 low-income persons."

46 **SECTION 11.4.(f)** G.S. 19A-62 reads as rewritten:

47 **"§ 19A-62. Spay/Neuter Account established.**

48 (a) Creation. – The Spay/Neuter Account is established as a nonreverting special
49 revenue account in the Department of ~~Health and Human Services~~Agriculture and Consumer
50 Services. The Account consists of the following:

- 1 (1) The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a
2 rabies vaccination tag from the Department of ~~Health and Human~~
3 ~~Services~~ Agriculture and Consumer Services.
- 4 (2) Ten dollars (\$10.00) of the additional fee imposed by G.S. 20-79.7 for an
5 Animal Lovers special license plate.
- 6 (3) Any other funds available from appropriations by the General Assembly or
7 from contributions and grants from public or private sources.
- 8 (b) Use. – The revenue in the Account shall be used by the Department of ~~Health and~~
9 ~~Human Services~~ Agriculture and Consumer Services as follows:
- 10 (1) If the revenue generated by the portion of the fee imposed under
11 G.S. 130A-190(b)(3) is less than forty-seven thousand five hundred dollars
12 (\$47,500) for the fiscal year, then funds up to the difference between
13 forty-seven thousand five hundred dollars (\$47,500) and the amount of
14 revenue generated may be used from this Account to fund rabies education
15 and prevention programs.
- 16 (2) Twenty percent (20%) shall be used to develop and implement the statewide
17 education program component of the Spay/Neuter Program established in
18 ~~G.S. 19A-61(a)~~ G.S. 19A-61.
- 19 (3) Up to twenty percent (20%) of the money in the Account may be used to
20 defray the costs of administering the Spay/Neuter Program established in
21 this Article.
- 22 (4) Funds remaining after deductions for the education program and
23 administrative expenses shall be distributed quarterly to eligible counties and
24 cities seeking reimbursement for reduced-cost spay/neuter surgeries
25 performed during the previous year. A county or city is ineligible to receive
26 funds under this subdivision unless it requires the owner to show proof of
27 rabies vaccination at the time of the procedure or, if none, require
28 vaccination at the time of the procedure.
- 29 (c) Report. – ~~In February of each year~~ By October 1 of each year, the Department must
30 report to the Joint Legislative Commission on Governmental Operations and the Fiscal
31 Research Division. The report must contain information regarding all revenues and
32 expenditures of the Spay/Neuter Account."

33 **SECTION 11.4.(g)** G.S. 19A-64(b) reads as rewritten:

34 "(b) Application. – A county or city eligible for reimbursement of spaying and neutering
35 costs from the Spay/Neuter Account shall apply to the Department of ~~Health and Human~~
36 ~~Services~~ Agriculture and Consumer Services by the last day of January, April, July, and October
37 of each year to receive a distribution from the Account for that quarter. The application shall be
38 submitted in the form required by the Department and shall include an itemized listing of the
39 costs for which reimbursement is sought."

40 **SECTION 11.4.(h)** G.S. 19A-65 reads as rewritten:

41 "**§ 19A-65. Annual Report Required From Every Animal Shelter in Receipt of State or**
42 **Local Funding.**

43 Every county or city animal shelter, or animal shelter operated under contract with a county
44 or city or otherwise in receipt of State or local funding shall prepare an annual report setting
45 forth the numbers, by species, of animals received into the shelter, the number adopted out, the
46 number returned to owner, and the number destroyed. The report shall also contain the total
47 operating expenses of the shelter and the cost per animal handled. The report shall be filed with
48 the Department of ~~Health and Human Services~~ Agriculture and Consumer Services by August 1
49 of each year."

50 **SECTION 11.4.(i)** Subsection (c) of this section is effective for taxable years
51 beginning on or after January 1, 2010.

1
2 **PART XII. DEPARTMENT OF LABOR**

3
4 **DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM**

5 **SECTION 12.1.** G.S. 94-12 reads as rewritten:

6 "**§ 94-12. Fees.**

7 The following fees are imposed on each apprentice who is covered by a written
8 apprenticeship agreement entered into under this Chapter: (i) a new registration fee of ~~fifty~~
9 ~~dollars (\$50.00); one hundred dollars (\$100.00)~~ and (ii) an annual fee of ~~fifty~~
10 ~~dollars (\$50.00); one hundred dollars (\$100.00)~~. Each fee authorized by this section is payable as ~~thirty~~
11 ~~dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice.~~ The sponsor
12 shall collect the fees authorized by this section from the apprentice and remit the total fees
13 owed by the sponsor and the apprentice to the Department of Labor. The fees are departmental
14 receipts and must be applied to the costs of administering the apprenticeship program. The
15 Commissioner may adopt rules pursuant to Chapter 150B of the General Statutes to implement
16 this section. ~~The provisions of this section shall not apply to the State, a department or agency~~
17 ~~of the State, or any political subdivision of the State or an apprentice of the State, a department~~
18 ~~or agency of the State, or any political subdivision of the State."~~

19
20 **PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

21
22 **CONSOLIDATE FOUR DENR SUBUNITS WITHIN THE NEW DIVISION OF**
23 **ENVIRONMENTAL ASSISTANCE AND OUTREACH**

24 **SECTION 13.1.(a)** The Division of Environmental Assistance and Outreach is
25 established as a new division within the environmental area of the Department of Environment
26 and Natural Resources. All functions, powers, duties, and obligations previously vested in the
27 following subunits of the Department of Environment and Natural Resources are transferred to,
28 vested in, and consolidated within the Division of Environmental Assistance and Outreach by a
29 Type I transfer, as defined in G.S. 143A-6:

- 30 (1) The Office of Environmental Education.
31 (2) The Customer Service Center.
32 (3) The Division of Pollution Prevention and Environmental Assistance.
33 (4) The Small Business Ombudsman.

34 **SECTION 13.1.(b)** G.S. 18B-902(h) reads as rewritten:

35 "(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage
36 permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed
37 beverages permit shall prepare and submit with the application a plan for the collection and
38 recycling of all recyclable beverage containers of all beverages to be sold at retail on the
39 premises. A permittee who is not able to find a recycler for its beverage containers may apply
40 to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to
41 implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be
42 made in a form specified by the Commission, shall detail the efforts made by the permittee to
43 provide for the collection and recycling of beverage containers, and shall specify the
44 impediments to implementation of a recycling plan. The Commission shall submit all such
45 applications to the Division of ~~Pollution Prevention and Environmental Assistance~~ and
46 Outreach of the Department of Environment and Natural Resources for review and
47 certification. The Division of ~~Pollution Prevention and Environmental Assistance~~ and Outreach
48 shall investigate each application and prepare a summary of its investigation and shall submit
49 the summary to the Commission along with a notation indicating certification or denial of the
50 application. A permittee whose application for a stay is certified by the Division of ~~Pollution~~
51 Prevention and Environmental Assistance and Outreach shall not be required to comply with

1 the recycling requirement of the alcoholic beverage laws and regulations during the one-year
2 stay period so certified."

3 **SECTION 13.1.(c)** G.S. 130A-309.12(a)(6) reads as rewritten:

4 "(6) Providing funding for the activities of the Division of ~~Pollution Prevention~~
5 ~~and Environmental Assistance~~ Assistance and Outreach."

6 **SECTION 13.1.(d)** G.S. 130A-309.63(b)(2) reads as rewritten:

7 "(2) The Department may use up to forty percent (40%) of the revenue in the
8 Account to make grants to encourage the use of processed scrap tire
9 materials. These grants may be made to encourage the use of tire-derived
10 fuel, crumb rubber, carbon black, or other components of tires for use in
11 products such as fuel, tires, mats, auto parts, gaskets, flooring material, or
12 other applications of processed tire materials. These grants shall be made in
13 consultation with the Department of Commerce, the Division of ~~Pollution~~
14 ~~Prevention and Environmental Assistance~~ and Outreach of the Department,
15 and, where appropriate, the Department of Transportation. Grants to
16 encourage the use of processed scrap tire materials shall not be used to
17 process tires."

18 **SECTION 13.1.(e)** G.S. 136-28.8(g) reads as rewritten:

19 "(g) On or before October 1 of each year, the Department shall report to the Division of
20 ~~Pollution Prevention and Environmental Assistance~~ and Outreach of the Department of
21 Environment and Natural Resources as to the amounts and types of recycled materials that were
22 specified or used in contracts that were entered into during the previous fiscal year. On or
23 before December 1 of each year, the Division of ~~Pollution Prevention and Environmental~~
24 ~~Assistance~~ and Outreach shall prepare a summary of this report and submit the summary to the
25 Joint Legislative Commission on Governmental Operations and the Joint Legislative
26 Transportation Oversight Committee. The summary of this report shall also be included in the
27 report required by G.S. 130A-309.06(c)."

28 **SECTION 13.1.(f)** G. S. 143-58.2(d) reads as rewritten:

29 "(d) The Department of Administration, in cooperation with the Division of ~~Pollution~~
30 ~~Prevention and Environmental Assistance~~ and Outreach of the Department of Environment and
31 Natural Resources, shall identify materials and supplies with recycled content that meet
32 appropriate standards for use by State departments, institutions, agencies, community colleges,
33 and local school administrative units."

34 **SECTION 13.1.(g)** The Revisor of Statutes shall make any other conforming
35 statutory changes necessary to reflect the transfer under subsection (a) of this section that are
36 not included in this section.

37
38 **CONSOLIDATE CERTAIN ENVIRONMENTAL HEALTH PROGRAMS FROM**
39 **DENR TO DHHS; AMEND ON-SITE WASTEWATER CERTIFICATION**

40 **SECTION 13.2.(a)** The following sections of the Division of Environmental
41 Health that support programs implemented through local health departments and programs
42 primarily focused on food safety and other public health concerns are transferred from the
43 Department of Environment and Natural Resources to the Division of Public Health of the
44 Department of Health and Human Services with all the elements of a Type I transfer as defined
45 by G.S. 143A-6.

- 46 (1) Environmental Health Services Section.
- 47 (2) Public Health Pest Management Section.
- 48 (3) On-Site Water Protection Section.
- 49 (4) Radiation Protection Section.
- 50 (5) Office of Education and Training.

51 **SECTION 13.2.(b)** G.S. 90A-51 reads as rewritten:

1 **"§ 90A-51. Definitions.**

2 The words and phrases defined below shall when used in this Article have the following
3 meaning unless the context clearly indicates otherwise:

4 ...

5 (2a) "Environmental health practice" means the provision of environmental
6 health services, including administration, organization, management,
7 education, enforcement, and consultation regarding environmental health
8 services provided to or for the public. These services are offered to prevent
9 environmental hazards and promote and protect the health of the public in
10 the following areas: food, lodging, and institutional sanitation; on-site
11 wastewater treatment and disposal; milk and dairy sanitation; shellfish
12 sanitation; recreational water quality; public swimming pool sanitation;
13 childhood lead poisoning prevention; well permitting and inspection; tattoo
14 parlor sanitation; and all other areas of environmental health requiring the
15 delegation of authority by the Division of ~~Environmental~~Public Health
16 ~~of the Department of Health and Human Services~~ to State and local
17 environmental health professionals to enforce rules adopted by the
18 Commission for Public ~~Health~~ or the ~~Environmental Management~~
19 ~~Commission~~Health. The definition also includes local environmental health
20 professionals enforcing rules of local boards of health for on-site wastewater
21 systems and wells."

22 **SECTION 13.2.(c)** G.S. 90A-55(a) reads as rewritten:

23 "(a) Board Membership. – The Board shall consist of 12 members who shall serve
24 staggered terms: the Secretary of ~~Environment and Natural Resources~~Health and Human
25 Services, or the Secretary's duly authorized representative, one public-spirited citizen, one
26 environmental sanitation educator from an accredited college or university, one local health
27 director, a representative of the Division of ~~Environmental Health~~Public Health of the
28 Department of ~~Environment and Natural Resources~~Health and Human Services, and seven
29 practicing environmental health specialists who qualify by education and experience for
30 registration under this Article, six of whom shall represent the Western, Piedmont, and Eastern
31 Regions of the State as described more specifically in the rules adopted by the Board."

32 **SECTION 13.2.(d)** G.S. 90A-55(c) reads as rewritten:

33 "(c) The Environmental Health Section of the North Carolina Public Health Association,
34 Inc., shall submit a recommended list of Board member candidates to the Governor for the
35 Governor's consideration in appointments, except for the two representatives of the Department
36 of ~~Environment and Natural Resources~~Health and Human Services recommended by the
37 Secretary of ~~Environment and Natural Resources~~Health and Human Services and the local
38 health director recommended by the North Carolina Local Health Directors Association."

39 **SECTION 13.2.(e)** G.S. 90A-71 reads as rewritten:

40 **"§ 90A-71. Definitions.**

41 The following definitions apply in this Article:

- 42 (1) "Board" means the North Carolina On-Site Wastewater Contractors and
43 Inspectors Certification Board.
- 44 (2) "Contractor" means a person who constructs, installs, or repairs, or offers to
45 construct, install, or repair an on-site wastewater system in the State.
- 46 (3) "Conventional wastewater system" has the same meaning as in
47 G.S. 130A-343(a)(3).
- 48 (4) "Department" means the Department of ~~Environment and Natural~~
49 ~~Resources~~Health and Human Services.
- 50 (5) "Inspector" means a person who conducts an inspection of ~~an on-site~~
51 ~~wastewater system at any time after the local health department has issued~~

an operation permit pursuant to ~~G.S. 130A-337~~ in accordance with rules adopted by the Board.

(5a) "Inspection" means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that satisfies all of the following criteria:

a. Is requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title.

b. Meets the minimum requirements established by the Board.

(6) "On-site wastewater system" means any wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that does not discharge to a treatment facility or the surface waters of the State.

(7) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or country.

(8) "Wastewater treatment facility" means a mechanical or chemical treatment facility serving a site with multiple wastewater sources."

SECTION 13.2.(f) G.S. 90A-72 reads as rewritten:

"§ 90A-72. Certification required; applicability.

(a) Certification Required. – No person shall construct, install, or repair or offer to construct, install, or repair an on-site wastewater system ~~in the State~~ permitted under Article 11 of Chapter 130A of the General Statutes without being certified as a contractor at the required level of certification for the specified system. No person shall conduct an inspection or offer to conduct an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of the General Statutes without being certified ~~as an inspector at the required level of certification for the specified system~~ in accordance with the provisions of this Article.

(b) Applicability. – This Article does not apply to the following:

(1) A person who is employed ~~by, or performs labor and services for,~~ by a certified contractor or inspector in connection with the construction, installation, repair, or inspection of an on-site wastewater system performed under the direct and personal supervision of the certified contractor or ~~inspector~~ inspector in charge.

(2) A person who constructs, installs, or repairs an on-site wastewater system described as a single septic tank with a gravity-fed ~~distribution system~~ gravel trench dispersal media when located on land owned by that person and that is intended solely for use by that person and members of that person's immediate ~~family~~ family who reside in the same dwelling.

(3) A person licensed under Article 1 of Chapter 87 of the General Statutes who constructs or installs an on-site wastewater system ancillary to the building ~~being constructed~~ constructed or who provides corrective services and labor for an on-site wastewater system ancillary to the building being constructed.

(4) A person who is certified by the Water Pollution Control System Operators Certification Commission and contracted to provide necessary operation and maintenance on the permitted on-site wastewater system.

(5) A person permitted under Article 21 of Chapter 143 of the General Statutes who is constructing a water pollution control facility necessary to comply with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.

- 1 (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a
 2 licensed public utilities contractor who is installing or expanding a
 3 wastewater treatment facility, including a collection system, designed by a
 4 registered professional engineer.
- 5 (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General
 6 Statutes, so long as the plumber is not performing plumbing work that
 7 includes the installation or repair of a septic tank or similar depository, or
 8 lines or appurtenances downstream from the point where the house or
 9 building sewer lines from the plumbing system meet the septic tank or
 10 similar depository.
- 11 (8) A person employed by the Department of Health and Human Services, a
 12 local health department, or a local health district, when conducting a
 13 regulatory inspection of an on-site wastewater system for purposes of
 14 determining compliance."

15 **SECTION 13.2.(g)** G.S. 90A-73(a)(2) reads as rewritten:

- 16 "(2) One member appointed by the Governor who, at the time of appointment, is
 17 a certified ~~water treatment facility operator pursuant to Article 2 of Chapter~~
 18 ~~90A of the General Statutes,~~ water pollution control system operator pursuant
 19 to Article 3 of this Chapter, to a term that expires on 1 July of years evenly
 20 divisible by three."

21 **SECTION 13.2.(h)** G.S. 90A-73(c), 90A-73(d), and 90A-73(i) are repealed.

22 **SECTION 13.2.(i)** G.S. 90A-74 reads as rewritten:

23 **"§ 90A-74. Powers and duties of the Board.**

24 The Board shall have the following general powers and duties:

25 ...

- 26 (4) To develop and administer examinations for ~~each grade level of~~
 27 ~~certification.~~ specific grade levels of certification as approved by the Board.
 28 The Board may approve applications by recognized associations for
 29 certification of its members after a review of the requirements of the
 30 association to ensure that they are equivalent to the requirements of the
 31 Board.

32 ...

- 33 (10a) To employ staff necessary to carry out the provisions of this Article and to
 34 determine the compensation, duties, and other terms and conditions of
 35 employment of its staff.

- 36 (10b) To employ professional, clerical, investigative, or special personnel
 37 necessary to carry out the provisions of this Article.

- 38 (11) To conduct other services necessary to carry out the purposes of this
 39 Article."

40 **SECTION 13.2.(j)** G.S. 90A-75 is amended by adding a new subsection to read:

41 "(c1) Use of Fees. – All fees collected pursuant to this Article shall be held by the Board
 42 and used by the Board for the sole purpose of administering this Article."

43 **SECTION 13.2.(k)** G.S. 90A-76 is repealed.

44 **SECTION 13.2.(l)** G.S. 90A-77(a) reads as rewritten:

45 "(a) Certification. – The Board shall issue a certificate of the appropriate grade level to
 46 an applicant who satisfies all of the following conditions:

- 47 (1) Is at least 18 years of age.
 48 (2) Submits a properly completed application to the Board.
 49 (3) ~~If the applicant has prior experience providing on-site wastewater system~~
 50 ~~services, submits affidavits of three persons not related to the applicant for~~
 51 ~~whom the applicant provided on-site wastewater services.~~ Completes the

1 basic on-site wastewater education program approved by the Board for the
 2 specific grade level.

3 (4) ~~If the applicant has no prior experience, completes the basic on-site~~
 4 ~~wastewater education program approved by the Board.~~

5 (5) Completes any additional training program designed by the Board specific to
 6 the grade level for which the applicant is applying.

7 (6) Pays the applicable fees set by the Board for the particular application and
 8 grade level.

9 (7) For the specific grade levels greater than conventional systems, level, as
 10 determined by the Board, passes a written or oral examination that tests the
 11 applicant's proficiency in all of the following areas:

12 a. Principles of public and environmental health associated with on-site
 13 wastewater systems.

14 b. Principles of construction and safety.

15 c. Technical and practical knowledge of on-site wastewater systems
 16 typical to the specified grade level.

17 d. Laws and rules related to the installation, construction, repair, or
 18 inspection of the specified on-site wastewater system."

19 **SECTION 13.2.(m)** G.S. 90A-81(b) reads as rewritten:

20 "(b) Arbitration. – The Board may establish a voluntary arbitration procedure to resolve
 21 complaints concerning a certified contractor or inspector or any work performed by a certified
 22 contractor or inspector, or conflicts involving any certified contractor or inspector and the
 23 Division of ~~Environmental~~ Public Health of the Department or a local health department."

24 **SECTION 13.2.(n)** G.S. 90A-81(c) reads as rewritten:

25 "(c) Injunction. – The Board may ~~ask the Attorney General to~~ in its own name seek an
 26 injunction to restrain any person, firm, partnership, or corporation from violating the provisions
 27 of this Article or rules adopted by the Board. The ~~Attorney General~~ Board may bring an action
 28 for an injunction ~~in the name of the State~~ in the superior court of any county in which the
 29 violator resides or the violator's principal place of business is located. In any proceedings for an
 30 injunction, it shall not be necessary to allege or prove either that an adequate remedy at law
 31 does not exist, or that substantial or irreparable damage would result from the continued
 32 violation. Members of the Board shall not be personally or professionally liable for any act or
 33 omission pursuant to this subsection. The Board shall not be required to post a bond in
 34 connection with any action to obtain an injunction."

35 **SECTION 13.2.(o)** G.S. 104E-5 reads as rewritten:

36 **"§ 104E-5. Definitions.**

37 Unless a different meaning is required by the context, the following terms as used in this
 38 Chapter shall have the meanings hereinafter respectively ascribed to them:

39 ...

40 (6) "Department" means the ~~State Department of Environment and Natural~~
 41 ~~Resources.~~ Department of Health and Human Services.

42"

43 **SECTION 13.2.(p)** G.S. 104E-8(c)(6) reads as rewritten:

44 "(c) The 10 ex officio members shall be appointed by the Governor, shall be members or
 45 employees of the following State agencies or their successors, and shall serve at the Governor's
 46 pleasure:

47 ...

48 (6) The Division of ~~Environmental~~ Public Health of the Department."

49 **SECTION 13.2.(q)** G.S. 104E-9 reads as rewritten:

50 **"§ 104E-9. Powers and functions of Department of ~~Environment and Natural Resources.~~**
 51 **Health and Human Services.**

1 (a) The Department of ~~Environment and Natural Resources~~ Health and Human Services
2 is authorized:

3 ...

4 (b) The Division of ~~Environmental~~ Public Health of the Department shall develop a
5 training program for tanning equipment operators that meets the training rules adopted by the
6 Commission. If the training program is provided by the Department, the Department may
7 charge each person trained a reasonable fee to recover the actual cost of the training program."

8 **SECTION 13.2.(r)** G.S. 106-307.2(b) reads as rewritten:

9 "(b) The State Veterinarian shall notify the State Health Director and the Director of the
10 Division of ~~Environmental~~ Public Health in the Department of ~~Environment and Natural~~
11 ~~Resources~~ Health and Human Services when the State Veterinarian receives a report indicating
12 an occurrence or potential outbreak of anthrax, arboviral infections, brucellosis, epidemic
13 typhus, hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever,
14 virus infections, and any other disease or condition transmissible to humans that the State
15 Veterinarian determines may have been caused by a terrorist act."

16 **SECTION 13.2.(s)** G.S. 120-70.33(3) reads as rewritten:

17 "**§ 120-70.33. Powers and duties.**

18 The Joint Select Committee shall have the following powers and duties:

19 ...

20 (3) To evaluate actions of the Radiation Protection Commission, the radiation
21 protection programs administered by the Division of ~~Environmental~~ Public
22 Health of the Department of ~~Environment and Natural Resources~~, Health and
23 Human Services, and of any other board, commission, department, or agency
24 of the State or local government as such actions relate to low-level
25 radioactive waste management;"

26 **SECTION 13.2.(t)** The Revisor of Statutes shall make any other conforming
27 statutory changes that are necessary to reflect the transfers under subsection (a) of this section.

28 **SECTION 13.2.(u)** Any funds remaining as of June 30, 2010, in the On-Site
29 Wastewater Certification Fund created in G.S. 90A-76 as a nonreverting account within the
30 Department of Environment and Natural Resources shall be credited to the North Carolina
31 On-Site Wastewater Contractors and Inspectors Certification Board and shall be used in
32 accordance with G.S. 90A-75, as amended by this section.

33 **SECTION 13.2.(v)** This transfer is effective July 1, 2010, and funds transferred
34 shall be net of any changes enacted by this section.

35
36 **CONSOLIDATE SHELLFISH SANITATION AND RECREATIONAL WATER**
37 **QUALITY SECTION WITHIN THE DIVISION OF MARINE FISHERIES**

38 **SECTION 13.3.(a)** The Shellfish Sanitation and Recreational Water Quality
39 Section of the Division of Environmental Health of the Department of Environment and
40 Natural Resources is transferred to, vested in, and consolidated within the Division of Marine
41 Fisheries of the Department of Environment and Natural Resources by a Type I transfer, as
42 defined in G.S. 143A-6.

43 **SECTION 13.3.(b)** G.S. 130A-231 is repealed.

44 **SECTION 13.3.(c)** The Revisor of the Statutes shall make any other conforming
45 statutory changes necessary to reflect this transfer that are not included in this section.

46
47 **CONSOLIDATE PUBLIC WATER SUPPLY SECTION WITHIN DIVISION OF**
48 **WATER RESOURCES**

49 **SECTION 13.4.(a)** The Public Water Supply Section of the Division of
50 Environmental Health of the Department of Environment and Natural Resources is transferred

1 to, vested in, and consolidated within the Division of Water Resources of the Department of
2 Environment and Natural Resources by a Type I transfer, as defined in G.S. 143A-6.

3 **SECTION 13.4.(b)** The Revisor of Statutes shall make any other conforming
4 statutory changes necessary to reflect this transfer that are not included in this section.

5
6 **SUSTAINABLE COMMUNITIES TASK FORCE**

7 **SECTION 13.5.(a)** Article 7 of Chapter 143B of the General Statutes is amended
8 by adding a new Part to read:

9 "Part 31. North Carolina Sustainable Communities Task Force.

10 **"§ 143B-344.34. North Carolina Sustainable Communities Task Force – findings.**

11 (a) The General Assembly finds that the rapid growth of the urban and suburban areas
12 of North Carolina and the economic challenges facing many of the State's urban cores, rural
13 areas, and smaller communities create a significant need for the strategic use of resources to
14 plan and accommodate healthy and equitable development without compromising natural
15 systems and the needs of future generations of North Carolinians.

16 (b) The General Assembly finds that the following principles describe sustainable
17 development for North Carolina's communities:

- 18 (1) Better transportation choices. – Offering safe, reliable, and economical
19 motorized and nonmotorized transportation options to decrease household
20 transportation costs, reduce dependence on foreign oil, improve air quality,
21 reduce greenhouse gas emissions, and promote public health.
- 22 (2) Equitable, affordable housing. – Encouraging the provision to North
23 Carolina citizens of all ages, incomes, races, and ethnicities expanded
24 location-, water-, and energy-efficient housing choices that increase
25 mobility, decrease the impact on existing water and energy infrastructure,
26 and lower the combined cost of housing and transportation.
- 27 (3) Enhanced economic competitiveness. – Expanding business access to
28 markets and improving North Carolina's economic competitiveness through
29 reliable and timely access to employment centers, educational opportunities,
30 services, and other basic needs by workers.
- 31 (4) Support of existing communities. – Targeting public funds toward existing
32 communities that are using strategies such as transit-oriented, mixed-use
33 development, and land recycling to increase community revitalization,
34 enhance the efficiency and cost-effectiveness of public works investments,
35 and protect rural landscapes.
- 36 (5) Coordination and leverage of State policies and investment. – Aligning State
37 and local government policies and funding to remove barriers to
38 collaboration, leverage funding, and increase the accountability and
39 effectiveness of government in planning for future growth.
- 40 (6) Recognize and support communities and neighborhoods. – Preserving and
41 enhancing the unique characteristics of rural, urban, and suburban
42 communities by investing in healthy, safe, and walkable neighborhoods.

43 **"§ 143B-344.35. North Carolina Sustainable Communities Task Force – creation;**
44 **purpose; duties.**

45 There is created within the Department of Environment and Natural Resources the North
46 Carolina Sustainable Communities Task Force to lead and support the State's sustainable
47 communities initiatives. The duties of the Task Force shall be as follows:

- 48 (1) To apply for and receive, on behalf of the State, funding from federal,
49 public, or private initiatives, grant programs, or donors that will foster
50 sustainable development in North Carolina.

- 1 (2) To promote regional partnerships and to assist local governments and
2 regional or interlocal organizations in North Carolina in seeking and
3 managing funding from federal, public, or private initiatives, grant
4 programs, or donors related to the planning, development, or redevelopment
5 of the State's communities in a sustainable manner.
- 6 (3) To identify federal funding opportunities related to sustainable development.
- 7 (4) To provide technical assistance to eligible State agencies, local governments,
8 nonprofits or regional collaborations, and partnerships in applying for
9 federal and other funding opportunities. This technical assistance shall
10 include the development of scenario planning tools, progress measurement
11 metrics, and public participation strategies for use by all applicants.
- 12 (5) To recommend policies for the support, promotion, and encouragement of
13 sustainable communities to the Secretaries of the Departments of Commerce,
14 Environment and Natural Resources, and Transportation, the General
15 Assembly, and the Governor.
- 16 (6) To recommend annually to the Governor appropriations for sustainable
17 development programs.
- 18 (7) To develop a common local government sustainable practices scoring
19 system incorporating the principles set forth in G.S. 143B-344.34(b).
- 20 (8) To pursue opportunities to combine the efforts of State agencies related to
21 development and infrastructure; to study how existing regional and interlocal
22 organizations could improve their organization and reduce unnecessary
23 overlap and duplication of services; and to better integrate State efforts and
24 investments with regional and local efforts. The Task Force shall include in
25 its recommendations under subdivisions (5) and (6) of this section any
26 recommendations for legislation necessary to implement any potential
27 improvements identified under this subdivision.

28 **"§ 143B-344.36. North Carolina Sustainable Communities Task Force – membership;**
29 **staffing; sunset.**

30 (a) Membership and Advice. – The Task Force shall consist of 11 members who reflect
31 the diversity of the State. The Secretaries of Commerce, Environment and Natural Resources,
32 and Transportation and the Director of the North Carolina Housing Finance Agency shall each
33 designate a representative to the Task Force from their agencies. The Secretary of
34 Administration shall designate a representative from that Department who is familiar with the
35 management and development of State-owned lands and buildings. The Secretary of Health and
36 Human Services shall designate a representative from the Division of Public Health of the
37 Department of Health and Human Services who is familiar with the impact of the built
38 environment on human health. The Governor shall appoint the remaining five members under a
39 specified subdivision of this subsection as follows:

- 40 (1) One member who is a representative of a nonprofit organization involved in
41 the planning, advocacy, or creation of sustainable development.
- 42 (2) One member who is a representative of a county government.
- 43 (3) One member who is a representative of city government.
- 44 (4) One member who is a representative of a council of government or other
45 regional collaborative organization.
- 46 (5) One member with professional training in planning who is a representative
47 of the North Carolina Chapter of the American Planning Association.

48 The Secretaries of Administration, Commerce, Environment and Natural Resources, Health
49 and Human Services, and Transportation, or their designees, shall advise the Task Force on
50 sustainable development activities within the responsibility of their respective departments and

1 shall cooperate with the Task Force in jointly seeking funds from federal, public, or private
2 initiatives, grant programs, or donors.

3 (b) Terms, Vacancies. – The members of the Task Force appointed by the Governor
4 shall have a term of office of four years and shall serve until their successors are appointed and
5 qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The
6 remaining members of the Task Force shall serve at the pleasure of the appointing authority.

7 (c) Staff. – The Departments of Administration, Commerce, Environment and Natural
8 Resources, Health and Human Services, and Transportation shall provide clerical and
9 professional staff support to the Task Force.

10 (d) Compensation. – The public members of the Task Force shall receive per diem and
11 necessary travel and subsistence expenses payable to members of State boards and agencies as
12 set forth by G.S. 138-5 and G.S. 138-6, respectively.

13 (e) Sunset. – This Part expires June 30, 2021.

14 **"§ 143B-344.37. North Carolina Sustainable Communities Task Force – reports.**

15 (a) Beginning in 2011, the Task Force shall report to the Governor, the House and
16 Senate Commerce Committees, and the Joint Legislative Commission on Governmental
17 Operations no later than October 1 each year. The report shall include the following elements:

18 (1) Policy recommendations and suggested legislation.

19 (2) Funding applied for and received in the prior fiscal year.

20 (3) Population, employment, building permit, and related socioeconomic data
21 for each metro region of the State, including 25-year projections of
22 population and employment and any other demographic trends the Task
23 Force finds relevant, with commentary on any changing trends in the data
24 that might affect planning for sustainable development and infrastructure.
25 Where possible, the Task Force shall use data already collected by the State
26 Demographer, the United States Census Bureau, and any other state or
27 federal agency.

28 (4) An inventory of State policies and programs that influence positively or
29 negatively the ability to develop sustainable communities.

30 (5) An overview of all State funding initiatives (including State-allocated
31 federal funding initiatives) used to support housing, infrastructure, water
32 quality, and land preservation, including, at a minimum, the following:

33 a. The Clean Water Management Trust Fund.

34 b. The Parks and Recreation Trust Fund.

35 c. The Agriculture Development and Farmland Preservation Trust
36 Fund.

37 d. The Natural Heritage Trust Fund.

38 e. The Highway Fund and the Highway Trust Fund.

39 f. The Congestion Relief and Intermodal Transportation 21st Century
40 Fund.

41 g. The North Carolina Main Street Program and the Main Street
42 Solutions Fund.

43 h. The Housing Trust Fund and the low-income housing tax credit
44 funds administered by the Housing Finance Agency.

45 i. Funds from the Public School Building Capital Fund used by
46 counties for the purchase of land for public school buildings.

47 j. The tax credits for renewable energy property, historic rehabilitation,
48 and mill rehabilitation set forth in Chapter 105 of the General
49 Statutes.

50 The overview should include the current funding level, changes in funding
51 over the previous fiscal year, and how the funding initiative has contributed

1 to sustainable development, or, in the case of a tax credit, the number and
2 geographical distribution of taxpayers taking the credit, the amount of
3 credits claimed, and how the credit has contributed to sustainable
4 development.

5 (b) For purposes of this section, "metro region of the State" includes the following
6 Statistical Areas defined by the United States Census Bureau:

- 7 (1) The Research Triangle region (made up of the Durham-Chapel Hill and the
8 Raleigh-Cary Metropolitan Statistical Areas).
- 9 (2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan
10 Statistical Area.
- 11 (3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.
- 12 (4) The Asheville Metropolitan Statistical Area.
- 13 (5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.
- 14 (6) The Fayetteville Metropolitan Statistical Area.
- 15 (7) The Wilmington Metropolitan Statistical Area.
- 16 (8) The Greenville Metropolitan Statistical Area.
- 17 (9) The Jacksonville Metropolitan Statistical Area.
- 18 (10) The Rocky Mount Metropolitan Statistical Area.
- 19 (11) The Goldsboro Metropolitan Statistical Area.
- 20 (12) Any other Metropolitan Statistical Area that includes counties of the State
21 and that has a population of 100,000 or more within the State."

22 **SECTION 13.5.(b)** G.S. 120-123 is amended by adding a new subdivision to read:

23 "(79) The North Carolina Sustainable Communities Task Force, as established in
24 Article 7 of Chapter 143B of the General Statutes."

25 **SECTION 13.5.(c)** Grant Funding for Regional Sustainable Development
26 Partnerships. – The Task Force shall, from funds available, provide a grants program for
27 regional bodies, cities, or counties within regions that comply with the following requirements:

- 28 (1) The regional body, city, or county is a part of a regional sustainable
29 development partnership covering any of the metro regions identified in
30 G.S. 143B-344.37(b), as enacted by subsection (a) of this section. This
31 partnership may include any Metropolitan Planning Organizations, Regional
32 Planning Organizations, and regional transit agencies in existence in the
33 region, along with representatives of the Departments of Commerce,
34 Transportation, and Environment and Natural Resources.
- 35 (2) The partnership has submitted a workplan to the North Carolina Sustainable
36 Communities Task Force showing the activities to be funded and the public
37 information process through which activities are selected and prioritized.
- 38 (3) All members of the partnership have adopted a jointly developed
39 memorandum of agreement describing how coordinated planning activities
40 will be undertaken.

41 In awarding any grant funding, the Task Force shall utilize the common local government
42 sustainable practices scoring system set forth in G.S. 143B-344.35, as enacted by subsection (a)
43 of this section. In its consideration of grant applications, the Task Force may also consider any
44 offers by a partnership to provide matching funds.

45 **SECTION 13.5.(d)** Reports. – The Departments of Commerce, Transportation, and
46 Environment and Natural Resources shall report by October 1 each year, beginning in 2010, to
47 the House and Senate Commerce Committees and the Joint Legislative Commission on
48 Governmental Operations. The report shall provide information regarding each Department's
49 progress in implementing the sustainable development principles set forth in G.S. 143B-344.34
50 as enacted by subsection (a) of this section.

1 **SECTION 13.5.(e)** Staffing. – The Department of Environment and Natural
2 Resources shall transfer the vacant District Planner position in the Division of Coastal
3 Management to the Task Force and shall fill the position in a timely manner in order to provide
4 support for the operations and activities of the Task Force. For administrative purposes, the
5 Task Force shall be located in the Department's Division of Environmental Assistance and
6 Outreach, and the Division will also provide appropriate administrative and clerical support for
7 the activities of the Task Force.

8 9 **DAM SAFETY FEE**

10 **SECTION 13.6.(a)** A one-time Dam Evaluation Fee of one thousand one hundred
11 dollars (\$1,100) per equivalent dam unit shall be paid to the Department of Environment and
12 Natural Resources by electric utility companies in a lump sum payment based on the number of
13 dams owned by each company that fall under the jurisdiction of the Part 3 of Article 21 of
14 Chapter 143 of the General Statutes. Fees collected pursuant to this section shall be used to
15 support one time-limited engineering position and operating funds necessary to perform the
16 evaluation and integration of regulated power plant dams into the Department's dam safety
17 inventory program. These fees shall remain available to the Department and shall not revert
18 until the evaluation and integration of regulated power plants is complete.

19 **SECTION 13.6.(b)** This section becomes effective October 1, 2010.

20 21 **LITTER REDUCTION FROM DRIVE-THROUGH RESTAURANTS**

22 **SECTION 13.7.(a)** G.S. 130A-309.06(a) is amended by adding a new subdivision
23 to read:

24 "**§ 130A-309.06. Additional powers and duties of the Department.**

25 (a) In addition to other powers and duties set forth in this Part, the Department shall:

26 ...
27 (15) Require that all restaurants selling food or beverages from a drive-through
28 window provide receptacles for disposal of recyclable materials or solid
29 waste that might otherwise end up as litter on and adjacent to roads and
30 highways of the State. The receptacles shall be accessible to customers in
31 vehicles who purchase food or beverages from the drive-through window.
32 Nothing in this subdivision shall require any restaurant providing receptacles
33 for solid waste and recyclable materials to accept quantities of those
34 materials that are greater than the capacity of a reasonably provided and
35 maintained receptacle.

36 "

37 **SECTION 13.7.(b)** G.S. 130A-22(a) reads as rewritten:

38 "**§ 130A-22. Administrative penalties.**

39 (a) The Secretary of Environment and Natural Resources may impose an administrative
40 penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission
41 pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each
42 day of a continuing violation shall constitute a separate violation. The penalty shall not exceed
43 fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous
44 waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day
45 in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or
46 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a
47 manner that results in medical waste entering waters or lands of the State; and shall not exceed
48 fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal
49 of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in
50 medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two
51 thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial

1 action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant
2 to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first
3 violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;
4 and five hundred dollars (\$500.00) for each additional violation within any 12-month period for
5 any violation of Part 2G of Article 9 of this Chapter or of any rule adopted pursuant to
6 G.S. 130A-309.06(a)(15). If a person fails to pay a civil penalty within 60 days after the final
7 agency decision or court order has been served on the violator, the Secretary of Environment
8 and Natural Resources shall request the Attorney General to institute a civil action in the
9 superior court of any county in which the violator resides or has his or its principal place of
10 business to recover the amount of the assessment. Such civil actions must be filed within three
11 years of the date the final agency decision or court order was served on the violator.

12"

13 14 **INCREASE HAZARDOUS WASTE FEES**

15 **SECTION 13.8.** G.S. 130A-294.1(f) reads as rewritten:

16 "(f) A person who generates 100 kilograms or more of hazardous waste in any calendar
17 month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of
18 hazardous waste in each calendar month during that year shall pay an annual fee of one
19 hundred ~~twenty five dollars (\$125.00)~~ seventy dollars (\$170.00)."

20 21 **INCREASE ADMINISTRATIVE CAP FOR INACTIVE HAZARDOUS WASTE SITES** 22 **PROGRAM**

23 **SECTION 13.9.** G.S. 130A-295.9(1) reads as rewritten:

24 **"§ 130A-295.9. Solid waste disposal tax; use of proceeds.**

25 It is the intent that the proceeds of the solid waste disposal tax imposed by Article 5G of
26 Chapter 105 of the General Statutes shall be used only for the following purposes:

- 27 (1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous
28 Sites Cleanup Fund shall be used by the Department of Environment and
29 Natural Resources to fund the assessment and remediation of pre-1983
30 landfills, except up to ~~seven percent (7%)~~ thirteen percent (13%) of the funds
31 credited under this subdivision may be used to fund administrative expenses
32 related to the assessment and remediation of pre-1983 landfills and other
33 inactive hazardous waste sites."

34 35 **STRENGTHEN PLASTIC BAG RECYCLING**

36 **SECTION 13.10.(a)** G.S. 130A-309.121 reads as rewritten:

37 **"§ 130A-309.121. Definitions.**

38 As used in this Part, the following definitions apply:

- 39 (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic
40 polymeric material, which is provided by a store to a customer at the point of
41 sale and incidental to the purchase of other goods.
- 42 (2) Prepared foods retailer. – A retailer primarily engaged in the business of
43 selling prepared foods, as that term is defined in G.S. 105-164.3, to
44 consumers.
- 45 (2a) Recycled content. – Content that is either postconsumer, postindustrial, or a
46 mix of postconsumer and postindustrial.
- 47 (3) Recycled paper bag. – A paper bag that meets all of the following
48 requirements:
- 49 a. The bag is manufactured from one hundred percent (100%) recycled
50 content. ~~content, including postconsumer content, postindustrial~~
51 ~~content, or a mix of postconsumer and postindustrial content.~~

- 1 b. The bag displays the words "made from recycled material" and
2 "recyclable."
3 (4) ~~Retail Chain.— Five or more stores located within the State that are engaged
4 in the same general field of business and (i) conduct business under the same
5 business name or (ii) operate under common ownership or management or
6 pursuant to a franchise agreement with the same franchisor.~~
7 (5) Retailer. – A person who offers goods for sale in this State to consumers and
8 who provides a single-use plastic bag to the consumer to carry or transport
9 the goods for free or for a nominal charge. ~~goods and (i) has more than 5,000
10 square feet of retail or wholesale space or (ii) is one of a retail chain.~~
11 (6) Reusable bag. – ~~A durable plastic bag with handles that is~~ A bag with
12 handles that is specifically designed and manufactured for multiple reuse and
13 is made of one of the following materials: at least 2.25 mils thick
14 a. Nonwoven polypropylene or other plastic material with a minimum
15 weight of 80 grams per square meter. and is specifically designed and
16 manufactured for multiple reuse or a bag made of
17 b. ~~cloth~~ Cloth or other machine washable ~~fabric with handles.~~ fabric."

18 **SECTION 13.10.(b)** From funds available to the Department of Environment and
19 Natural Resources, the Division of Waste Management and the Division of Environmental
20 Assistance and Outreach shall monitor plastic bag use reduction resulting from the
21 implementation of Part 2G of Article 9 of Chapter 130A of the General Statutes and shall report
22 to the Environmental Review Commission on or before January 15, 2012, on the impacts the
23 ban enacted by that Part has had on plastic bag litter in coastal waterways adjacent to areas
24 where that Part applies.

25 **SECTION 13.10.(c)** Subsection (a) of this section becomes effective January 1,
26 2011.

27
28 **PARKS AND RECREATION TRUST FUND/AUTHORITY TO CONSIDER**
29 **OPERATING EXPENSES**

30 **SECTION 13.11.** G.S. 113-44.15 reads as rewritten:

31 "**§ 113-44.15. Parks and Recreation Trust Fund.**

32 (a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State
33 Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of
34 gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to
35 G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.
36 Investment earnings credited to the assets of the Fund shall become part of the Fund.

37 (b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina
38 Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the
39 terms or conditions of a gift or grant, shall be allocated and used as follows:

- 40 (1) Sixty-five percent (65%) for the State Parks System for capital projects,
41 repairs and renovations of park facilities, and land acquisition, and to retire
42 debt incurred for these purposes under Article 9 of Chapter 142 of the
43 General Statutes.
44 (2) Thirty percent (30%) to provide matching funds to local governmental units
45 or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for
46 local park and recreation purposes. The appraised value of land that is
47 donated to a local government unit or public authority may be applied to the
48 matching requirement of this subdivision. These funds shall be allocated by
49 the North Carolina Parks and Recreation Authority based on criteria
50 patterned after the Open Project Selection Process established for the Land

1 and Water Conservation Fund administered by the National Park Service of
2 the United States Department of the Interior.

3 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access
4 Program.

5 (b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section,
6 the North Carolina Parks and Recreation Authority shall make geographic distribution across
7 the State to the extent practicable.

8 (b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks
9 and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may
10 be used by the Department for operating expenses associated with managing capital
11 improvements projects, acquiring land, and administration of local grants programs.

12 (b3) Operating Expenses for State Parks System Allocations. – In allocating funds in the
13 Trust Fund under subdivision (1) of subsection (b) of this section, the North Carolina Parks and
14 Recreation Authority shall consider the operating expenses associated with each capital project,
15 repair and renovation project, and each land acquisition. In considering the operating expenses,
16 the North Carolina Parks and Recreation Authority shall determine both:

17 (1) The minimal anticipated operating expenses, which are determined by the
18 minimum staff and other operating expenses needed to maintain the project.

19 (2) The optimal anticipated operating budget, which is determined by the level
20 of staff and other operating expenses required to achieve a more satisfactory
21 level of operation under the project.

22 (c) Reports. – The North Carolina Parks and Recreation Authority shall report no later
23 than October 1 of each year to the Joint Legislative Commission on Governmental Operations,
24 the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the
25 Fiscal Research Division, and the Environmental Review Commission on allocations from the
26 Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under
27 subdivision (b1) of this section, this report shall include the operating expenses determined
28 under subdivisions (1) and (2) of subsection (b3) of this section.

29 ..."

30 31 **RECLASSIFY SEVEN VACANT POSITIONS IN THE DIVISION OF PARKS AND** 32 **RECREATION**

33 **SECTION 13.12.** The Division of Parks and Recreation of the Department of
34 Environment and Natural Resources shall reclassify seven vacant positions within the Division
35 and shall fill these reclassified positions in a timely manner in order to provide support for new
36 or expanding parks within the State Parks System, as defined in G.S. 113-44.9.

37 38 **STATE PARKS SYSTEM PLAN**

39 **SECTION 13.13.** G.S. 113-44.11 is amended by adding a new subsection to read:

40 "(d) No later than October 1 of each year, the Department shall submit electronically the
41 State Parks System Plan to the Environmental Review Commission, the Senate and the House
42 of Representatives Appropriations Subcommittees on Natural and Economic Resources, and
43 the Fiscal Research Division. Concurrently, the Department shall submit a summary of each
44 change to the Plan that was made during the previous fiscal year."

45 46 **NO NEW FEES FOR PARKING IN STATE PARKS**

47 **SECTION 13.14.** Notwithstanding any provision to the contrary, the funds
48 appropriated to the Department of Environment and Natural Resources for State Parks for the
49 2010-2011 fiscal year shall not be reduced or replaced with fees for parking at State Parks,
50 unless these fees were charged prior to the 2010-2011 fiscal year. No fees shall be charged and

1 no fees shall be collected for parking in a State Park during the 2010-2011 fiscal year, unless
2 these fees were charged prior to the 2010-2011 fiscal year.

3
4 **AUTHORITY FOR THE DEPARTMENT OF REVENUE TO SHARE INFORMATION**
5 **WITH DENR**

6 **SECTION 13.15.** G.S. 105-259(b) is amended by adding a new subdivision to
7 read:

8 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
9 access to tax information in the course of service to or employment by the State may not
10 disclose the information to any other person except as provided in this subsection. Standards
11 used or to be used for the selection of returns for examination and data used or to be used for
12 determining the standards may not be disclosed for any purpose. All other tax information may
13 be disclosed only if the disclosure is made for one of the following purposes:

14 ...

15 (40) To furnish the Division of Forest Resources of the Department of
16 Environment and Natural Resources pertinent contact and financial
17 information concerning companies that are involved in the primary
18 processing of timber products so that the Secretary of Environment and
19 Natural Resources is able to comply with G.S. 113A-193 under the Primary
20 Forest Product Assessment Act."

21
22 **DIVISION OF MARINE FISHERIES AND DIVISION OF FOREST RESOURCES**
23 **AIRCRAFT MAINTENANCE**

24 **SECTION 13.16.(a)** The Division of Marine Fisheries of the Department of
25 Environment and Natural Resources shall use mechanics employed by the Division of Forest
26 Resources of the Department of Environment and Natural Resources for the purpose of
27 performing aircraft maintenance for all aircraft of the Division of Marine Fisheries except for a
28 particular instance when this would be impracticable.

29 **SECTION 13.16.(b)** The Division of Forest Resources of the Department of
30 Environment and Natural Resources shall perform aircraft maintenance using its mechanics for
31 all aircraft of the Division of Marine Fisheries, except for a particular instance when this would
32 be impracticable. The Division of Forest Resources shall develop a process to establish
33 priorities for the aviation maintenance needs of all the aircraft in both the Division of Forest
34 Resources and the Division of Marine Fisheries.

35
36 **PURCHASE OF COMPUTER SOFTWARE BY DENR FOR DENR AIRCRAFT**
37 **FLIGHTS AND MAINTENANCE RECORDKEEPING**

38 **SECTION 13.17.** The Department of Environment and Natural Resources shall
39 purchase computer software to be used to establish and maintain a record of the flights and the
40 maintenance of aircraft of the Department of Environment and Natural Resources. For the
41 purchase under this section, the Department of Environment and Natural Resources shall use
42 funds realized from the sale of aircraft by the divisions within the department that operate
43 aircraft. The Department of Environment and Natural Resources shall work with the Division
44 of Marine Fisheries, the Division of Forest Resources, and the Aviation Division of the
45 Department of Transportation to develop the specifications for this software system and to
46 evaluate the best product available to accomplish the purpose set forth in this section. The
47 Department should evaluate all available options, including the purchase of a commercially
48 available system and the purchase of a license to use a software system that is currently used by
49 another State agency. The purchase under this section is subject to all State laws and rules
50 regarding the procurement of distributed information technology assets, as defined in
51 G.S. 147-33.81.

REPORT ON DENR AVIATION ACTIVITIES

SECTION 13.18.(a) No later than October 1, 2010, the Department of Environment and Natural Resources shall submit a report to the Joint Legislative Commission on Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division. The report shall:

- (1) Describe the uses of the State aircraft fleet within the control of either the Division of Forest Resources of the Department of Environment and Natural Resources or the Division of Marine Fisheries of the Department of Environment and Natural Resources; and
- (2) Describe the progress of the Department of Environment and Natural Resources in implementing the eight management practices that were recommended by the Program Evaluation Division of the General Assembly in its report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1 Million and Save \$1.5 Million Annually" (Report 2010-04), based upon its study of the State's aircraft fleets, as authorized by Section 14.6 of S.L. 2009-451.

SECTION 13.18.(b) The Department of Environment and Natural Resources shall include in its report under subsection (a) of this section a summary of the Conklin & de Decker report that is due to be submitted to the Division of Forest Resources in August 2010, including any recommendations included in the Conklin & de Decker report and a description of the Department's plan to implement the Conklin & de Decker report recommendations.

FISHERY RESOURCE GRANT FUNDS TO BE USED FOR AT-SEA OBSERVER PROGRAM

SECTION 13.19.(a) Of the funds appropriated to the Department of Environment and Natural Resources for the Fishery Resource Grant Program for the 2010-2011 fiscal year, the sum of three hundred thousand dollars (\$300,000) shall be used by the Division of Marine Fisheries to develop and establish the At-Sea Observer Program. Establishing and funding the At-Sea Observer Program is necessary to meet federal requirements to monitor gill net fisheries statewide and record sea turtle and other endangered and threatened species interactions.

SECTION 13.19.(b) The funds allocated under subsection (a) of this section shall be used to establish and support three Marine Fisheries Technician II positions to provide at-sea-observer coverage. In establishing the positions under this section, it is the intent of the General Assembly to enable gill net fishing to continue in North Carolina and to enhance the ability of the Division of Marine Fisheries to collect and analyze data necessary to determine the health of fish stock, such as measures of spawning stock biomass, mortality, recruitment, and sustainable harvest levels. Actions recommended in Fishery Management Plans, which are developed in accordance with G.S. 113-182.1 to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries, rely upon these data.

GRASSROOTS SCIENCE PROGRAM

SECTION 13.20. Section 13.7.(a) of S.L. 2009-451 reads as rewritten:

"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)~~ three million two hundred forty-one thousand one hundred twenty-seven dollars (\$3,241,127) for the 2010-2011 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2009-2010	2010-2011	
1			
2			
3	Aurora Fossil Museum	\$57,875	\$57,875 <u>54,981</u>
4	Cape Fear Museum	\$157,787	\$157,787 <u>149,898</u>
5	Carolina Raptor Center	\$109,931	\$109,931 <u>104,434</u>
6	Catawba Science Center	\$143,429	\$143,429 <u>136,258</u>
7	Colburn Earth Science Museum, Inc.	\$73,054	\$73,054 <u>69,401</u>
8	Core Sound Waterfowl Museum	\$49,000	\$49,000 <u>46,550</u>
9	Discovery Place	\$649,608	\$649,608 <u>617,128</u>
10	Eastern NC Regional Science Center	\$49,000	\$49,000 <u>46,550</u>
11	Fascinate-U	\$79,451	\$79,451 <u>75,478</u>
12	Granville County Museum Commission,		
13	Inc.-Harris Gallery	\$55,294	\$55,294 <u>52,529</u>
14	Greensboro Children's Museum	\$132,374	\$132,374 <u>125,755</u>
15	The Health Adventure Museum of Pack		
16	Place Education, Arts and		
17	Science Center, Inc.	\$152,499	\$152,499 <u>144,874</u>
18	Highlands Nature Center	\$77,683	\$77,683 <u>73,799</u>
19	Imagination Station	\$84,313	\$84,313 <u>80,097</u>
20	The Iredell Museums, Inc.	\$60,080	\$60,080 <u>57,076</u>
21	Kidsenses	\$79,656	\$79,656 <u>75,673</u>
22	Museum of Coastal Carolina	\$76,460	\$76,460 <u>72,637</u>
23	The Natural Science Center		
24	of Greensboro, Inc.	\$182,627	\$182,627 <u>173,496</u>
25	North Carolina Museum of Life		
26	and Science	\$372,229	\$372,229 <u>353,618</u>
27	Pisgah Astronomical Research Institute	\$49,000	\$49,000 <u>46,550</u>
28	Port Discover: Northeastern		
29	North Carolina's Center for		
30	Hands-On Science, Inc.	\$49,000	\$49,000 <u>46,550</u>
31	Rocky Mount Children's Museum	\$70,809	\$70,809 <u>67,269</u>
32	Schiele Museum of Natural History		
33	and Planetarium, Inc.	\$224,956	\$224,956 <u>213,708</u>
34	Sci Works Science Center and		
35	Environmental Park of Forsyth County	\$143,569	\$143,569 <u>136,390</u>
36	Sylvan Heights Waterfowl Park		
37	and Eco-Center	\$49,000	\$49,000 <u>46,550</u>
38	Western North Carolina Nature Center	\$110,621	\$110,621 <u>105,090</u>
39	Wilmington Children's Museum	\$72,408	\$72,408 <u>68,788</u>
40			
41	Total	\$3,411,713	\$3,411,713 <u>3,241,127"</u>

PART XIV. DEPARTMENT OF COMMERCE

ONE NORTH CAROLINA FUND

SECTION 14.1. Section 14.1 of S.L. 2009-451 reads as rewritten:

"**SECTION 14.1.** Of the funds appropriated in this act to the One North Carolina Fund for the ~~2009-2010~~2010-2011 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~~2010-2011 fiscal year."

1
2 **NER BLOCK GRANTS**

3 **SECTION 14.2.(a)** Appropriations from federal block grant funds are made for the
4 fiscal year ending June 30, 2011, according to the following schedule:
5

6 **COMMUNITY DEVELOPMENT BLOCK GRANT**
7

8	01. State Administration	\$	1,000,000
9			
10	02. Scattered Site Housing		16,500,000
11			
12	03. Economic Development		7,210,000
13			
14	04. Small Business/Entrepreneurship		3,000,000
15			
16	05. NC Catalyst		8,240,000
17			
18	06. State Technical Assistance		450,000
19			
20	07. Infrastructure		8,000,000
21			
22	08. Capacity Building		600,000
23			
24			

25 **TOTAL COMMUNITY DEVELOPMENT**

26 **BLOCK GRANT – 2010 Program Year** \$ 45,000,000
27

28 **SECTION 14.2.(b)** Decreases in Federal Fund Availability. – If federal funds are
29 reduced below the amounts specified above after the effective date of this act, then every
30 program in each of these federal block grants shall be reduced by the same percentage as the
31 reduction in federal funds.

32 **SECTION 14.2.(c)** Increases in Federal Fund Availability for Community
33 Development Block Grant. – Any block grant funds appropriated by the Congress of the United
34 States in addition to the funds specified in this section shall be expended as follows: each
35 program category under the Community Development Block Grant shall be increased by the
36 same percentage as the increase in federal funds.

37 **SECTION 14.2.(d)** Limitations on Community Development Block Grant Funds. –
38 Of the funds appropriated in this section for the Community Development Block Grant, the
39 following shall be allocated in each category for each program year: up to one million dollars
40 (\$1,000,000) may be used for State Administration; up to sixteen million five hundred thousand
41 dollars (\$16,500,000) may be used for Scattered Site Housing; up to seven million two hundred
42 ten thousand dollars (\$7,210,000) may be used for Economic Development; up to three million
43 dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; not less than eight
44 million two hundred forty thousand dollars (\$8,240,000) shall be used for NC Catalyst; up to
45 four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up
46 to eight million dollars (\$8,000,000) may be used for Infrastructure; six hundred thousand
47 dollars (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced
48 or increased by the Congress of the United States after the effective date of this act, then these
49 reductions or increases shall be allocated in accordance with subsection (b) or (c) of this
50 section, as applicable.

1 **SECTION 14.2.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to
2 nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in
3 partnership with units of local government is an eligible activity under any program category in
4 accordance with federal regulations. Capacity building grants may be made from funds
5 available within program categories, program income, or unobligated funds.

6 **SECTION 14.2.(f)** The Department of Commerce shall consult with the Joint
7 Legislative Commission on Governmental Operations prior to reallocating Community
8 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
9 the Director of the Budget finds that:

10 (1) A reallocation is required because of an emergency that poses an imminent
11 threat to public health or public safety, the Director of the Budget may
12 authorize the reallocation without consulting the Commission. The
13 Department of Commerce shall report to the Commission on the reallocation
14 no later than 30 days after it was authorized and shall identify in the report
15 the emergency, the type of action taken, and how it was related to the
16 emergency.

17 (2) The State will lose federal block grant funds or receive less federal block
18 grant funds in the next fiscal year unless a reallocation is made. The
19 Department of Commerce shall provide a written report to the Commission
20 on the proposed reallocation and shall identify the reason that failure to take
21 action will result in the loss of federal funds. If the Commission does not
22 hear the issue within 30 days of receipt of the report, the Department may
23 take the action without consulting the Commission.

24 **SECTION 14.2.(g)** By September 1, 2010, the Division of Community Assistance,
25 Department of Commerce, shall report to the Joint Legislative Commission on Governmental
26 Operations and the Fiscal Research Division on the use of Community Development Block
27 Grant Funds appropriated in the prior fiscal year.

28 29 **STATE AGENCIES AND INSTITUTIONS/GREATER ENERGY EFFICIENCY** 30 **REPORTING AND COMPLIANCE**

31 **SECTION 14.3.** G.S. 143-64.12 reads as rewritten:

32 **"§ 143-64.12. Authority and duties of the Department; State agencies and State**
33 **institutions of higher learning.**

34 (a) The Department of Commerce through the State Energy Office shall develop a
35 comprehensive program to manage energy, water, and other utility use for State agencies and
36 State institutions of higher learning and shall update this program annually. Each State agency
37 and State institution of higher learning shall develop and implement a management plan that is
38 consistent with the State's comprehensive program under this subsection to manage energy,
39 water, and other utility ~~use-use,~~ and that addresses any findings or recommendations resulting
40 from the energy audit required by subsection (b1) of this section. The energy consumption per
41 gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by
42 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal
43 year. Each State agency and State institution of higher learning shall update its management
44 plan annually and include strategies for supporting the energy consumption reduction
45 requirements under this subsection. Each community college shall submit to the State Energy
46 Office an annual written report of utility consumption and costs.

47 ...

48 **(b2)** The Department of Administration shall submit a report of the energy audit required
49 by subsection (b1) of this section to the affected State agency or State institution of higher
50 learning and to the State Energy Office. The State Energy Office shall review each audit and, in
51 consultation with the affected State agency or State institution of higher learning, incorporate

1 the audit findings and recommendations into the management plan required by subsection (a)
2 of this section.

3 ...

4 (j) The State Energy Office shall submit a report by September 1 of each year to the
5 Joint Legislative Commission on Governmental Operations describing the comprehensive
6 program to manage energy, water, and other utility use for State agencies and State institutions
7 of higher learning required by subsection (a) of this section. The report shall also contain the
8 following:

- 9 (1) A comprehensive overview of how State agencies and State institutions of
10 higher learning are managing energy, water, and other utility use and
11 achieving efficiency gains.
- 12 (2) Any new measures that could be taken by State agencies and State
13 institutions of higher learning to achieve greater efficiency gains, including
14 any changes in general law that might be needed.
- 15 (3) A summary of the State agency and State institutions of higher learning
16 management plans required by subsection (a) of this section and the energy
17 audits required by subsection (b1) of this section.
- 18 (4) A list of the State agencies and institutions of higher learning that did and
19 did not submit management plans required by subsection (a) of this section
20 and a list of the State agencies and State institutions of higher learning that
21 received an energy audit.
- 22 (5) Any recommendations on how management plans can be better managed
23 and implemented."

24 25 **LOCAL WORKFORCE DEVELOPMENT BOARDS/CONSUMER CHOICE** 26 **REQUIREMENTS**

27 **SECTION 14.4.** G.S. 143B-438.11(a) is amended by adding the following new
28 subdivision to read:

29 **"§ 143B-438.11. Local Workforce Development Boards.**

30 (a) Duties. – Local Workforce Development Boards shall have the following powers
31 and duties:

32 ...

- 33 (8) To provide training services in a manner that maximizes consumer choice in
34 the selection of an eligible provider of training services. Each local
35 workforce development board shall ensure that consumer choice is properly
36 maintained in the one-stop centers and shall not discriminate against any
37 eligible provider. Each local workforce development board, through the
38 one-stop centers, shall make available: (i) the State list of eligible providers
39 of training services with a description of the programs through which the
40 providers may offer the training services and the information identifying
41 eligible providers of on-the-job training and customized training; and (ii) the
42 performance information and performance cost information relating to
43 eligible providers of training services and eligible providers of on-the-job
44 training and customized training."

45 46 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

47 **SECTION 14.5.** Section 14.4 of S.L. 2009-451 reads as rewritten:

48 **"SECTION 14.4.(a)** Funds appropriated to the Department of Commerce for the
49 ~~2009-2010~~2010-2011 fiscal year for the Wanchese Seafood Industrial Park that are unexpended
50 and unencumbered as of ~~June 30, 2009,~~June 30, 2010, shall not revert to the General Fund on
51 ~~June 30, 2009,~~June 30, 2010, but shall remain available to the Department to be expended by

1 the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital
2 improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These
3 funds shall be in addition to funds available to the North Carolina Seafood Industrial Park
4 Authority for operations, maintenance, repair, and capital improvements under Article 23C of
5 Chapter 113 of the General Statutes.

6 ~~"SECTION 14.4.(b) Funds appropriated to the Department of Commerce for the
7 2009-2010 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of
8 June 30, 2009, shall not revert to the General Fund on June 30, 2009, but shall remain available
9 to the Department to be expended by the Wanchese Seafood Industrial Park for securing
10 adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and
11 capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes.
12 These funds shall be in addition to funds available to the North Carolina Seafood Industrial
13 Park Authority for operations, maintenance, repair, and capital improvements under Article
14 23C of Chapter 113 of the General Statutes.~~

15 ~~"SECTION 14.4.(c) This section becomes effective June 30, 2009; June 30, 2010."~~

17 CONSOLIDATE PASSENGER AIRCRAFT

18 **SECTION 14.6.(a)** The Executive Aircraft Division of the Department of
19 Commerce is transferred to the Division of Aviation of the Department of Transportation. This
20 transfer shall have all the elements of a Type I transfer, as defined by G.S. 143A-6.

21 **SECTION 14.6.(b)** G.S. 143B-437.011 is repealed.

22 **SECTION 14.6.(c)** Article 7 of Chapter 136 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 136-102.20. Use of aircraft managed by the Department of Transportation.**

25 The use of aircraft for economic development purposes shall take precedence over all other
26 uses of the aircraft managed by the Department of Transportation. The Department of
27 Transportation shall annually review the rates charged for the use of aircraft and shall adjust the
28 rates, as necessary, to account for upgraded aircraft and inflationary increases in operating
29 costs, including jet fuel prices. If an aircraft is not being used for economic development
30 purposes, the aircraft may be used by the Governor or a State official who is employed by an
31 agency that does not have its own aircraft and is traveling on State business. If an aircraft is
32 used to attend athletic events or for any other purpose related to collegiate athletics, the rate
33 charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's
34 manufacturer, adjusted for inflation."

36 FEE TO ADVERTISE IN WELCOME CENTERS

37 **SECTION 14.7.(a)** G.S. 143B-421.3 reads as rewritten:

38 **"§ 143B-421.3. Consultation required for welcome and visitor centers; advertising**
39 **fees.**

40 **(a) Consultation.** – The Department of Commerce and the Department of
41 Transportation shall consult with the Joint Legislative Commission on Governmental
42 Operations and the House and Senate Appropriations Subcommittees on Natural and Economic
43 Resources before beginning the design or construction of any new welcome center or visitor
44 center buildings.

45 **(b) Advertising.** – An annual fee is imposed on a person who places or displays
46 advertising materials in a welcome center building. The fee imposed by this subsection does
47 not apply to governmental or public sector entities or to advertising materials for an event or
48 amusement that will be held 30 or fewer calendar days from the date the advertising material is
49 placed or displayed in the welcome center building. The annual fee shall be as follows:

(1) For advertising materials where the width is not more than four inches and the length is not more than nine inches: one hundred dollars (\$100.00) per year per welcome center building.

(2) For advertising materials where the width is more than four inches or the length is more than nine inches: two hundred dollars (\$200.00) per year per welcome center building."

SECTION 14.7.(b) This section becomes effective the later of July 1, 2010, or the date upon which this act becomes law, and applies to advertising materials placed or displayed in welcome center buildings on or after that date.

AMEND JDIG REPORTING REQUIREMENTS

SECTION 14.8. G.S. 143B-437.55 reads as rewritten:

"§ 143B-437.55. Applications; fees; reports; study.

...

(c) Annual Reports. – The Committee shall publish a report on the Job Development Investment Grant Program on or before April 30 of each year. The Committee shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

...

(d) Quarterly Reports. – The Committee shall publish a report on the Job Development Investment Grant Program within two months of the end of each quarter. This report shall include a listing of each grant awarded during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year. The Committee shall submit the report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(e) Study. – The Committee shall conduct a study to determine the minimum funding level required to implement the Job Development Investment Grant Program successfully. The Committee shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than ~~March 1~~April 1 of each year."

INDUSTRIAL DEVELOPMENT FUND/REPORTING REQUIREMENTS

SECTION 14.9. G.S. 143B-437.01 reads as rewritten:

"§ 143B-437.01. Industrial Development Fund.

...

(c) Reports. – The Department of Commerce shall report ~~annually to the General Assembly to the Joint Legislative Commission on Governmental Operations on September 1 of each year~~ concerning the applications made to the fund and the payments made from the fund and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the fund, including information regarding to whom payments were made, in what amounts, and for what purposes.

(c1) In addition to the reporting requirements of subsection (c) of this section, the Department of Commerce shall report ~~annually to the General Assembly to the Joint Legislative Commission on Governmental Operations on September 1 of each year~~ concerning the payments made from the Utility Account and the impact of the payments on job creation in the

1 State. The Department of Commerce shall also report quarterly to the Joint Legislative
2 Commission on Governmental Operations and the Fiscal Research Division on the use of the
3 moneys in the Utility Account including information regarding to whom payments were made,
4 in what amounts, and for what purposes.

5"

7 WINE AND GRAPE GROWERS COUNCIL/REPORTING REQUIREMENT

8 SECTION 14.10. G.S. 143B-437.90 is amended by adding a new subdivision to
9 read:

10 "§ 143B-437.90. North Carolina Wine and Grape Growers Council – Creation; powers 11 and duties.

12 There is created the North Carolina Wine and Grape Growers Council of the Department of
13 Commerce. The North Carolina Wine and Grape Growers Council shall have the following
14 powers and duties:

15 ...

16 (14) By September 1 of each year, to report to the House of Representatives
17 Appropriations Subcommittee on Natural and Economic Resources, the
18 Senate Appropriations Committee on Natural and Economic Resources, the
19 Joint Legislative Commission on Governmental Operations, and the Fiscal
20 Research Division on the activities of the Council, the status of the wine and
21 grape industry in North Carolina and the United States, progress on the
22 development and implementation of the State Viticulture Plan, and any
23 contracts or agreements entered into by the Council for research, education,
24 or marketing."

25 LAB-TO-MARKET FUNDS/COMMERCIALIZATION

26 SECTION 14.11. Of the funds appropriated to the Department of Commerce
27 Lab-to-Market/Commercialization, the sum of ten million dollars (\$10,000,000) shall be used
28 to support the Armed Forces Institute for Regenerative Medicine.
29

30 PROMOTE NORTH CAROLINA DISTILLED SPIRITS

31 SECTION 14.12.(a) G.S. 18B-800 is amended by adding a new subsection to read:

32 "(e) Each ABC store shall display spirits which are distilled in North Carolina in an area
33 dedicated solely to North Carolina products."

34 SECTION 14.12.(b) Article 11 of Chapter 18B of the General Statutes is amended
35 by adding a new section to read:

36 "§ 18B-1105.2. Spirituous liquor tasting at distilleries.

37 The holder of any distillery permit authorized by G.S. 18B-1105 may conduct a consumer
38 tasting event at the distillery subject to the following conditions:

- 39 (1) Any person pouring wine at a wine tasting shall be an employee of the
40 distillery and at least 21 years of age.
- 41 (2) The person pouring the spirituous liquor shall be responsible for checking
42 the identification of patrons being served at the tasting.
- 43 (3) Each consumer is limited to tasting samples which total no more than 1.5
44 ounces of spirituous liquor in any calendar day.
- 45 (4) The consumer shall not be charged for any spirituous liquor tasting sample.
- 46 (5) The spirituous liquor used in the consumer tasting event shall be distilled at
47 the distillery where the event is being held by the permit holder conducting
48 the event.
- 49 (6) A consumer tasting event shall not be allowed when the sale of spirituous
50 liquor is otherwise prohibited.
- 51

- 1 (7) Tasting samples are not to be offered to, or allowed to be consumed by, any
2 person under the legal age for consuming spirituous liquor.
3 (8) A consumer tasting event may not be advertised by the permit holder in any
4 type of media, including, but not limited to, print, radio, television, Internet,
5 and signage.

6 The distillery permit holder shall be solely liable for any violations of this Chapter
7 occurring in connection with the tasting. The Commission shall adopt rules to assure that the
8 tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of
9 spirituous liquor and that the tastings are not used by industry members for unlawful
10 inducements to retail permit holders."

11 **SECTION 14.12.(c)** This section becomes effective October 1, 2010.

13 **EMPLOYMENT SECURITY COMMISSION FUNDS**

14 **SECTION 14.13.** Section 14.17 of S.L. 2009-451 reads as rewritten:

15 **"SECTION 14.17.(a)** Funds from the Employment Security Commission Reserve Fund
16 shall be available to the Employment Security Commission of North Carolina to use as
17 collateral to secure federal funds and to pay the administrative costs associated with the
18 collection of the Employment Security Commission Reserve Fund surcharge. The total
19 administrative costs paid with funds from the Reserve in the ~~2009-2010~~2010-2011 fiscal year
20 shall not exceed two million five hundred thousand dollars (\$2,500,000).

21 **"SECTION 14.17.(b)** There is appropriated from the Employment Security Commission
22 Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty
23 million dollars (\$20,000,000) for the ~~2009-2010~~2010-2011 fiscal year to be used for the
24 following purposes:

- 25 (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the
26 operation and support of local Employment Security Commission offices.
27 (2) Two hundred thousand dollars (\$200,000) ~~for the State Occupational~~
28 ~~Information Coordinating Committee to develop and operate an~~
29 ~~interagency to operate the system to track that tracks~~ former participants in
30 State education and training programs.
31 (3) Three hundred thousand dollars (\$300,000) to maintain compliance with
32 Chapter 96 of the General Statutes, which directs the Commission to employ
33 the Common Follow-Up Management Information System to evaluate the
34 effectiveness of the State's job training, education, and placement programs.

35 **"SECTION 14.17.(c)** There is appropriated from the Employment Security Commission
36 Reserve Fund to the Employment Security Commission of North Carolina an amount not to
37 exceed ~~one million dollars (\$1,000,000)~~five hundred thousand dollars (\$500,000) for the
38 ~~2009-2010~~2010-2011 fiscal year to fund State initiatives not currently funded through federal
39 grants.

40 **"SECTION 14.17.(d)** There is appropriated from the Employment Security Commission
41 Reserve Fund to the Employment Security Commission of North Carolina an amount not to
42 exceed ~~one million five hundred thousand dollars (\$1,500,000)~~one million two hundred
43 thousand dollars (\$1,200,000) for the ~~2009-2010~~2010-2011 fiscal year to fund a system
44 upgrade to the Common Follow-Up Management Information System.

45 ~~**"SECTION 14.17.(e)** The Employment Security Commission of North Carolina may use~~
46 ~~funds in the Employment Security Commission Reserve Fund to contract with nonprofit~~
47 ~~organizations to provide dislocated workers with assistance in obtaining health care benefits,~~
48 ~~receiving vocational training, and securing employment.~~

49 **"SECTION 14.17.(f)** There is appropriated from the Worker Training Trust Fund to the
50 Employment Security Commission of North Carolina the sum of one million dollars
51 (\$1,000,000) for the 2010-2011 fiscal year to fund the 'Tar Heel Works Program' which

1 provides enhanced skills training opportunities to recipients of unemployment insurance
2 benefits.

3 "**SECTION 14.17.(g)** Of the funds credited to and held in the State of North Carolina's
4 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States
5 pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title
6 II of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the
7 Employment Security Commission of North Carolina may expend the sum of two hundred five
8 million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one
9 hundred fifty million dollars (\$150,000,000) shall be used to design and build the integrated
10 unemployment insurance benefit and tax accounting system; and (ii) the remaining funds shall
11 be used for the operation of the unemployment insurance program."

12 SET REGULATORY FEE FOR UTILITIES COMMISSION

13 **SECTION 14.14.** Section 14.26 of S.L. 2009-451 reads as rewritten:

14 **"SECTION 14.26.(a)** The percentage rate to be used in calculating the public utility
15 regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for
16 each public utility's North Carolina jurisdictional revenues earned during each quarter that
17 begins on or after ~~July 1, 2009~~ July 1, 2010.

18 **SECTION 14.26.(b)** The electric membership corporation regulatory fee imposed under
19 G.S. 62-302(b1) for the ~~2009-2010~~ 2010-2011 fiscal year is two hundred thousand dollars
20 (\$200,000).

21 **SECTION 14.26.(c)** This section becomes effective ~~July 1, 2009~~ July 1, 2010."
22

23 REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

24 **SECTION 14.15.(a)** Funds appropriated in this act to the Department of
25 Commerce for regional economic development commissions shall be allocated to the following
26 commissions in accordance with subsection (b) of this section: Western North Carolina
27 Regional Economic Development Commission, Research Triangle Regional Partnership,
28 Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad
29 Partnership, Northeastern North Carolina Regional Economic Development Commission,
30 North Carolina's Eastern Region Economic Development Partnership, and Carolinas
31 Partnership, Inc.

32 **SECTION 14.15.(b)** Funds appropriated pursuant to subsection (a) of this section
33 shall be allocated to each regional economic development commission as follows:

34 (1) First, the Department shall establish each commission's allocation by
35 determining the sum of allocations to each county that is a member of that
36 commission. Each county's allocation shall be determined by dividing the
37 county's development factor by the sum of the development factors for
38 eligible counties and multiplying the resulting percentage by the amount of
39 the appropriation. As used in this subdivision, the term "development factor"
40 means a county's development factor as calculated under G.S. 143B-437.08;
41 and
42

43 (2) Next, the Department shall subtract from funds allocated to the North
44 Carolina's Eastern Region Economic Development Partnership the sum of
45 two hundred thirty thousand three hundred twenty-five dollars and
46 thirty-three cents (\$230,325.33) in the 2010-2011 fiscal year, which sum
47 represents: (i) the total interest earnings in the prior fiscal year on the
48 estimated balance of the seven million five hundred thousand dollars
49 (\$7,500,000) appropriated to the Global TransPark Development Zone in
50 Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest
51 earnings in the prior fiscal year on loans made from the seven million five

1 hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark
2 Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws;
3 and

- 4 (3) Next, the Department shall redistribute the sum of two hundred thirty
5 thousand three hundred twenty-five dollars and thirty-three cents
6 (\$230,325.33) in the 2010-2011 fiscal year to the seven regional economic
7 development commissions named in subsection (a) of this section. Each
8 commission's share of this redistribution shall be determined according to
9 the development factor formula set out in subdivision (1) of this subsection.
10 This redistribution shall be in addition to each commission's allocation
11 determined under subdivision (1) of this subsection.

12 **SECTION 14.15.(c)** No more than one hundred twenty thousand dollars
13 (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional
14 economic development commission.

15 **SECTION 14.15.(d)** The General Assembly finds that successful economic
16 development requires the collaboration of the State, regions of the State, counties, and
17 municipalities. Therefore, the regional economic development commissions are encouraged to
18 seek supplemental funding from their county and municipal partners to continue and enhance
19 their efforts to attract and retain business in the State.

20 **E-NC AUTHORITY/REPORTING REQUIREMENT**

21 **SECTION 14.16.** G.S. 143B-437.47 reads as rewritten:

22 "**§ 143B-437.47. (This part has a delayed repeal date. See notes.) Powers, duties, and goals**
23 **of the Authority.**

24 ...

25 (e) Reports. – ~~The~~ By September 1 of each year, the Authority shall submit ~~quarterly~~
26 ~~reports~~ a report to the Governor, the Joint Legislative Oversight Committee on Information
27 Technology, and the Joint Legislative Commission on Governmental Operations. ~~The reports~~
28 report shall summarize the Authority's activities during the ~~quarter-prior State fiscal year~~ and
29 contain any information about the Authority's activities that is requested by the Governor, the
30 Committee, or the Commission."
31

32 **DEFENSE AND SECURITY TECHNOLOGY ACCELERATOR/REPORTING** 33 **REQUIREMENT**

34 **SECTION 14.17.** By September 1, 2010, and September 1, 2011, the Defense and
35 Security Technology Accelerator shall report to the Joint Legislative Commission on
36 Governmental Operations and the Fiscal Research Division on prior State fiscal year program
37 activities, objectives, and accomplishments and prior State fiscal year itemized expenditures
38 and fund sources.
39

40 **COUNCIL OF GOVERNMENT FUNDS**

41 **SECTION 14.18.** Section 14.21.(a) of S.L. 2009-451 reads as rewritten:

42 "**SECTION 14.21.(a)** Of the funds appropriated in this act to the Department of
43 Commerce, the sum of four hundred twenty-five thousand dollars (\$425,000) for the 2009-2010
44 fiscal year and the sum of ~~four hundred twenty-five thousand dollars (\$425,000)~~ four hundred
45 three thousand seven hundred fifty dollars (\$403,750) for the 2010-2011 fiscal year shall only
46 be used as provided by this section. Each regional council of government or lead regional
47 organization is allocated up to twenty-five thousand dollars (\$25,000) for the 2009-2010 and
48 the 2010-2011 fiscal years."
49

50 **RURAL ECONOMIC DEVELOPMENT CENTER**

SECTION 14.19. Section 14.27.(a) of S.L. 2009-451 reads as rewritten:

"SECTION 14.27.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million six hundred two thousand four hundred thirty-six dollars (\$4,602,436) for the 2009-2010 fiscal year and the sum of ~~four million five hundred twenty-seven thousand four hundred thirty-six dollars (\$4,527,436)~~ three million nine hundred eighty-one thousand eight hundred sixty-four dollars (\$3,981,864) for the 2010-2011 fiscal year shall be allocated as follows:

	2009-2010	2010-2011
Center Administration, Technical Assistance, & Oversight	\$1,555,000	\$1,523,000 <u>\$1,446,850</u>
Research and Demonstration Grants	\$351,000	\$344,000 <u>\$326,800</u>
Institute for Rural Entrepreneurship	\$136,000	\$134,000 <u>\$127,300</u>
Community Development Grants	\$987,436	\$987,436 <u>\$938,064</u>
Microenterprise Loan Program	\$185,000	\$182,000 <u>\$172,900</u>
Water/Sewer/Business Development Matching Grants	\$840,000	\$821,000 <u>\$779,950</u>
Statewide Water/Sewer Database	\$ 95,000	\$93,000 <u>\$88,350</u>
Agricultural Advancement Consortium	\$110,000	\$107,000 <u>\$101,650</u>

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION 14.20. Section 14.28 of S.L. 2009-451 reads as rewritten:

"SECTION 14.28.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million three hundred five thousand dollars (\$19,305,000) for the 2009-2010 fiscal year and the sum of ~~nineteen million three hundred five thousand dollars (\$19,305,000)~~ eighteen million three hundred thirty-nine thousand seven hundred fifty dollars (\$18,339,750) for the 2010-2011 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least ~~fifteen million dollars (\$15,000,000)~~ fourteen million two hundred fifty thousand dollars (\$14,250,000) of the funds appropriated in this act for ~~each year of the biennium~~ the 2010-2011 fiscal year must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide economic development research and demonstration grants.

"SECTION 14.28.(b) The Rural Center may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

"SECTION 14.28.(c) ~~During each year of the 2009-2011 biennium,~~ For the 2010-2011 fiscal year, the Rural Center may use up to ~~three hundred eighty five thousand dollars (\$385,000)~~ three hundred sixty-five thousand seven hundred fifty dollars (\$365,750) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

1 "SECTION 14.28.(d) Of the funds appropriated in subsection (a) of this section to the
2 Rural Center for the 2009-2010 fiscal year, the sum of one million five hundred forty-four
3 thousand four hundred dollars (\$1,544,400) shall be transferred to the Department of
4 Environment and Natural Resources to be used to provide the State match to draw down
5 maximum federal funds for the Clean Water State Revolving Loan Fund.

6 "SECTION 14.28.(e) By September 1 of each year, and more frequently as requested, the
7 Rural Center shall report to the Joint Legislative Commission on Governmental Operations and
8 the Fiscal Research Division concerning the progress of the North Carolina Economic
9 Infrastructure Program in the prior State fiscal year."

10 11 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

12 **SECTION 14.21.** Section 14.30.(a) of S.L. 2009-451 reads as rewritten:

13 "SECTION 14.30.(a) Of the funds appropriated in this act to the North Carolina Rural
14 Economic Development Center, Inc. (Rural Center), the sum of three hundred forty-three
15 thousand dollars (\$343,000) for the 2009-2010 fiscal year and the sum of ~~three hundred~~
16 ~~thirty-six thousand dollars (\$336,000)~~ three hundred nineteen thousand two hundred dollars
17 (\$319,200) for the 2010-2011 fiscal year shall be equally distributed among the certified
18 Opportunities Industrialization Centers (OI Centers)."

19 20 **PART XV. JUDICIAL DEPARTMENT**

21 22 **COLLECTION OF WORTHLESS CHECK FUNDS**

23 **SECTION 15.1.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial
24 Department may use any balance remaining in the Collection of Worthless Check Fund on June
25 30, 2010, for the purchase or repair of office or information technology equipment during the
26 2010-2011 fiscal year. Prior to using any funds under this section, the Judicial Department
27 shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of
28 the House of Representatives and Senate Appropriations Subcommittees on Justice and Public
29 Safety on the equipment to be purchased or repaired and the reasons for the purchases.

30 31 **DIRECT THE OFFICE OF STATE BUDGET AND MANAGEMENT TO RELEASE** 32 **FUNDS**

33 **SECTION 15.2.** In the event that the Office of Indigent Defense Services has more
34 than the sum of one million dollars (\$1,000,000) in unpaid fee applications received but unpaid
35 at the end of the 2010-2011 fiscal year, the Office of State Budget and Management shall
36 release sufficient funds from the Office of Indigent Defense Services' 2011-2012 fiscal year
37 appropriation in the first month's allotment to allow the Office to pay outstanding obligations at
38 the beginning of the new fiscal year.

39 40 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

41 **SECTION 15.3.** Section 15.12 of S.L. 2009-451 reads as rewritten:

42 "SECTION 15.12. The Judicial Department, Office of Indigent Defense Services, may use
43 up to the sum of two million five hundred one thousand one hundred fifty dollars (\$2,501,150)
44 in appropriated funds during the 2009-2010 fiscal year and up to the sum of two million four
45 hundred thirty-three thousand seven hundred dollars (\$2,433,700) in appropriated funds during
46 the 2010-2011 fiscal year for the expansion of existing public defender offices currently
47 providing legal services to the indigent population under the oversight of the Office of Indigent
48 Defense Services, or for the creation of new public defender offices within existing public
49 defender districts currently providing those services, by creating up to 20 new attorney
50 positions and 10 new support staff ~~positions~~ positions during the 2009-2010 fiscal year. In
51 addition, the Office of Indigent Defense Services may use up to the sum of one million dollars

1 (\$1,000,000) in appropriated funds to create up to 12 new attorney positions and six new
2 support positions during the 2010-2011 fiscal year. These funds may be used for salaries,
3 benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of
4 Indigent Defense Services shall report to the Chairs of the House of Representatives and the
5 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed
6 expansion."
7

8 **CORRECT DEATH PENALTY LITIGATION FUNDING AMOUNT**

9 **SECTION 15.4.** Section 15.3 of S.L. 2009-451 reads as rewritten:

10 **"SECTION 15.3.** Of the funds appropriated in this act to the Office of Indigent Defense
11 Services for the 2009-2011 fiscal biennium, the Office may use up to the sum of three hundred
12 seventy-six thousand one hundred twenty-five dollars (\$376,125) for the 2009-2010 fiscal year
13 and up to the sum of ~~three hundred seventy six thousand one hundred twenty five dollars~~
14 ~~(\$376,125)~~ four hundred fifty-two thousand six hundred four dollars (\$452,604) for the
15 2010-2011 fiscal year to contract with the Center for Death Penalty Litigation to provide
16 training, consultation, brief banking, and other assistance to attorneys representing indigent
17 capital defendants. The Office of Indigent Defense Services shall report by February 1 of each
18 year in the biennium to the Chairs of the House of Representatives and Senate Appropriations
19 Subcommittees on Justice and Public Safety on the activities funded by this section."
20

21 **INCREASE CERTAIN COURT FEES**

22 **SECTION 15.5.(a)** G.S. 7A-304(a) reads as rewritten:

23 **"§ 7A-304. Costs in criminal actions.**

24 (a) In every criminal case in the superior or district court, wherein the defendant is
25 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
26 prosecuting witness, the following costs shall be assessed and collected, except that when the
27 judgment imposes an active prison sentence, costs shall be assessed and collected only when
28 the judgment specifically so provides, and that no costs may be assessed when a case is
29 dismissed.

30 ...

31 (4) For support of the General Court of Justice, the sum of ~~ninety five dollars~~
32 ~~and fifty cents (\$95.50)~~ one hundred dollars and fifty cents (\$100.50) in the
33 district court, including cases before a magistrate, and the sum of one
34 hundred two dollars and fifty cents (\$102.50) in the superior court, to be
35 remitted to the State Treasurer. For a person convicted of a felony in
36 superior court who has made a first appearance in district court, both the
37 district court and superior court fees shall be assessed. The State Treasurer
38 shall remit the sum of two dollars and five cents (\$2.05) of each fee
39 collected under this subdivision to the North Carolina State Bar for the
40 provision of services described in G.S. 7A-474.4, and ninety-five cents
41 (\$.95) of each fee collected under this subdivision to the North Carolina
42 State Bar for the provision of services described in G.S. 7A-474.19.

43 ...

44 (6) For support of the General Court of Justice, the sum of two hundred dollars
45 (\$200.00) is payable by a defendant who fails to appear to answer the charge
46 as scheduled, unless within 20 days after the scheduled appearance, the
47 person either appears in court to answer the charge or disposes of the charge
48 pursuant to G.S. 7A-146, and the sum of ~~twenty five dollars (\$25.00)~~ fifty
49 dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or
50 costs within 20 days of the date specified in the court's judgment. Upon a
51 showing to the court that the defendant failed to appear because of an error

or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer.

...."

SECTION 15.5.(b) G.S. 7A-305 reads as rewritten:

"§ 7A-305. Costs in civil actions.

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...

(2) For support of the General Court of Justice, the sum of ~~ninety-three dollars (\$93.00)~~ one hundred fifty dollars (\$150.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars (\$1,000) shall be paid upon its assignment, and the sum of ~~seventy-three dollars (\$73.00)~~ one hundred dollars (\$100.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-five dollars (\$55.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...

(a5) For the support of the General Court of Justice, a fee of forty dollars (\$40.00) shall be assessed against a party filing a motion for summary judgment pursuant to G.S. 1A-1, Rule 56. Sums collected under this subsection shall be remitted to the State Treasurer.

...."

SECTION 15.5.(c) G.S. 7A-307(b1) reads as rewritten:

"(b1) The clerk shall assess the following miscellaneous fees:

- (1) Filing and indexing a will with no probate
 - first page..... \$ 1.00
 - each additional page or fraction thereof..... .25
- (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
- (3) Inventory of safe deposits of a decedent, per box, per day..... 15.00
- (4) Taking a deposition..... 10.00
- (5) Docketing and indexing a will probated in another county in the State
 - first page 6.00
 - each additional page or fraction thereof25
- (6) Hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, and allotting the same 8.00
- (7) Assignment of title..... 10.00"

CHILD SUPPORT FEE MODIFICATION

SECTION 15.6. G.S. 110-134 reads as rewritten:

"§ 110-134. Filing of affidavits, agreements, and orders; fees.

All affidavits, agreements, and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133 shall be filed by the clerk of superior court in the county in which they are entered. The filing fee for the institution of an action through the entry of an

1 order under either of these provisions shall be ~~four dollars (\$4.00)~~ in an amount equal to that
2 provided in G.S. 7A-308(a)(18)."

3 4 **EXPERT FEES**

5 **SECTION 15.7.** G.S. 7A-314(d) reads as rewritten:

6 "(d) An expert witness, other than a salaried State, county, or municipal law-enforcement
7 officer, shall receive such compensation and allowances as the court, or the Judicial Standards
8 Commission, in its discretion, may authorize. A law-enforcement officer who appears as an
9 expert witness shall receive reimbursement for travel expenses only, as provided in subsection
10 (b) of this section. Compensation of experts acting on behalf of the court or prosecutorial
11 offices shall be paid in accordance with the rules established by the Administrative Office of
12 the Courts. Compensation of experts provided under G.S. 7A-454 shall be in accordance with
13 rules established by the Office of Indigent Defense Services."

14 15 **PROVIDE CERTAIN COUNTERCLAIM FEES IN DOMESTIC VIOLENCE ACTIONS**

16 **SECTION 15.8.** G.S. 7A-305(a1) reads as rewritten:

17 "(a1) Costs apply to any and all additional and subsequent actions filed by amendment or
18 counterclaim to the original action brought under Chapter 50B of the General Statutes, unless
19 such additional and subsequent amendment or counterclaim to the action is ~~also brought~~
20 ~~under~~ limited to requests for relief authorized by Chapter 50B of the General Statutes."

21 22 **MODIFY FEES FOR RESUMPTION OF MAIDEN OR FORMER NAME**

23 **SECTION 15.9.(a)** G.S. 50-12 reads as rewritten:

24 "**§ 50-12. Resumption of maiden or premarriage surname.**

25 (a) Any woman whose marriage is dissolved by a decree of absolute divorce may, upon
26 application to the clerk of court of the county in which she resides or where the divorce was
27 granted setting forth her intention to do so, change her name to any of the following:

- 28 (1) Her maiden name; or
29 (2) The surname of a prior deceased husband; or
30 (3) The surname of a prior living husband if she has children who have that
31 husband's surname.

32 (a1) A man whose marriage is dissolved by decree of absolute divorce may, upon
33 application to the clerk of court of the county in which he resides or where the divorce was
34 granted setting forth his intention to do so, change the surname he took upon marriage to his
35 premarriage surname.

36 (b) The application and fee required by subsection (e) of this section shall be ~~addressed~~
37 presented to the clerk of the court of the county in which such divorced person resides or where
38 the divorce was granted, and shall set forth the full name of the former spouse of the applicant,
39 the name of the county and state in which the divorce was granted, and the term or session of
40 court at which such divorce was granted, and shall be signed by the woman in her full maiden
41 name, or by the man in his full premarriage surname. The clerks of court of the several counties
42 of the State shall record and index such applications in such manner as shall be required by the
43 Administrative Office of the Courts.

44 (c) If an applicant, since the divorce, has adopted one of the surnames listed in
45 subsection (a) or (a1) of this section, the applicant's use and adoption of that name is validated.

46 (d) In the complaint, or counterclaim for divorce filed by any person in this State, the
47 person may petition the court to adopt any surname as provided by this section, and the court is
48 authorized to incorporate in the divorce decree an order authorizing the person to adopt that
49 surname.

50 (e) For support of the General Court of Justice, a fee in the amount of ten dollars
51 (\$10.00) shall be assessed against each person requesting the resumption of maiden or

1 premarriage surname in accordance with this section. Sums collected under this section shall be
2 remitted to the State Treasurer."

3 **INCREASE FEE FOR CERTAIN CASES ASSIGNED TO A MAGISTRATE**

4 **SECTION 15.10.** G.S. 7A-305(a)(2) reads as rewritten:

5 "(a) In every civil action in the superior or district court, except for actions brought
6 under Chapter 50B of the General Statutes, shall be assessed:

7 ...

8 (2) For support of the General Court of Justice, the sum of ninety-three dollars
9 (\$93.00) in the superior court, except that if a case is assigned to a special
10 superior court judge as a complex business case under G.S. 7A-45.3, an
11 additional one thousand dollars (\$1,000) shall be paid upon its assignment,
12 and the sum of seventy-three dollars (\$73.00) in the district court except that
13 if the case is assigned to a magistrate the sum shall be sixty-five dollars
14 (\$65.00) for cases initiated under Article 3 of Chapter 42 of the General
15 Statutes or fifty-five dollars (~~\$55.00~~)-(\$55.00) for all other cases assigned to
16 a magistrate. Sums collected under this subdivision shall be remitted to the
17 State Treasurer. The State Treasurer shall remit the sum of two dollars and
18 five cents (\$2.05) of each fee collected under this subdivision to the North
19 Carolina State Bar for the provision of services described in G.S. 7A-474.4,
20 and ninety-five cents (\$.95) of each fee collected under this subdivision to
21 the North Carolina State Bar for the provision of services described in
22 G.S. 7A-474.19."

23 24 **INCREASE ATTORNEY APPOINTMENT FEE**

25 **SECTION 15.11.** G.S. 7A-455.1 reads as rewritten:

26 "**§ 7A-455.1. Appointment fee in criminal cases.**

27 (a) In every criminal case in which counsel is appointed at the trial level, the judge shall
28 order the defendant to pay to the clerk of court an appointment fee of ~~fifty dollars (\$50.00).~~
29 sixty dollars (\$60.00). No fee shall be due unless the person is convicted.

30 (b) The mandatory ~~fifty-dollar (\$50.00)~~ sixty-dollar (\$60.00) fee may not be remitted or
31 revoked by the court and shall be added to any amounts the court determines to be owed for the
32 value of legal services rendered to the defendant and shall be collected in the same manner as
33 attorneys' fees are collected for such representation.

34 (c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

35 (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for
36 denying appointment of counsel, for withdrawal of counsel, or for contempt.

37 (e) The appointment fee required by this section shall be assessed only once for each
38 attorney appointment, regardless of the number of cases to which the attorney was assigned. An
39 additional appointment fee shall not be assessed if the charges for which an attorney was
40 appointed were reassigned to a different attorney.

41 (f) Of each appointment fee collected under this section, the sum of ~~forty-five dollars~~
42 (~~\$45.00~~) fifty-five dollars (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund
43 and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund
44 under G.S. 7A-343.2. These fees shall not revert.

45 (g) The Office of Indigent Defense Services shall adopt rules and develop forms to
46 govern implementation of this section."

47 48 **PART XVI. DEPARTMENT OF JUSTICE**

49 50 **REPORTING BY MEDICAID FRAUD CRIMINAL INVESTIGATION TEAM**

1 **SECTION 16.1.** Article 1 of Chapter 114 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 114-2.5A. Report by the Medicaid Fraud Criminal Investigation Team required**
4 **annually.**

5 By September 1 of each year, the Medicaid Fraud Criminal Investigation Team of the
6 Department of Justice shall file a written report about its activities with the Chairs of the
7 Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of
8 the Senate and House of Representatives and with the Fiscal Research Division of the
9 Legislative Services Office. This report shall include the following information about the
10 Team's activities during the previous fiscal year:

- 11 (1) The number of cases of potential Medicaid fraud reported.
- 12 (2) The number of cases of potential Medicaid fraud investigated.
- 13 (3) The number of cases in which Medicaid fraud is actually found.
- 14 (4) The total amount of funds recovered in each case in which funds were
15 recovered.
- 16 (5) An explanation of how recovered funds were allocated, including
17 information about any amounts allocated to (i) the federal government; (ii)
18 the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture
19 Fund; (iv) the Department of Justice."

21 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

23 **PROVIDE FEE SCHEDULE REQUIREMENTS FOR LAW ENFORCEMENT** 24 **SUPPORT SERVICES**

25 **SECTION 17.1.(a)** The General Assembly finds that a centralized evidence and
26 DNA storage facility will provide local law enforcement agencies and clerks of court with a
27 lower cost storage alternative, reducing or eliminating the need for local entities to provide
28 their own storage and streamlining the evidence storage process.

29 **SECTION 17.1.(b)** G.S. 143B-475.2 is repealed.

30 **SECTION 17.1.(c)** Part 7 of Article 11 of Chapter 143B of the General Statutes is
31 amended by adding a new section to read:

32 **"§ 143B-508.1. Fees for services provided by the Division.**

33 Fees shall be established and collected by the Department for all program services provided
34 by the Law Enforcement Support Services Division, except for Department of Defense
35 property being transferred pursuant to the National Defense Authorization Act of 1997. The
36 fees collected are departmental receipts and are applied to the Division's costs in providing
37 services to these entities. The fees apply to the following:

- 38 (1) A law enforcement agency that receives any services from the Division.
- 39 (2) An agency for which the Department stores evidence."

40 **SECTION 17.1.(d)** The Department of Crime Control and Public Safety, Law
41 Enforcement Support Services Division (LESS), shall, in consultation with the Fiscal Research
42 Division of the General Assembly, develop a fee schedule for the services provided by LESS.
43 In developing this fee schedule, the Department shall consider the following:

- 44 (1) Fees charged in other states for similar services.
- 45 (2) Utilization rates for each of the three main program areas of LESS for the
46 last five years.
- 47 (3) Actual workload requirements for each of the three main program areas of
48 LESS, including the average time to complete a single transaction for each
49 of the programs. For example, the Division shall determine, on average, how
50 many person hours it takes to log in a piece of evidence for storage.
- 51 (4) Projected evidence storage needs for the next five years.

1 (5) Projected space costs and the feasibility of purchasing a permanent storage
2 facility rather than continuing to lease space.

3 **SECTION 17.1.(e)** The fee schedule required to be developed pursuant to this
4 section shall be reported to the Joint Legislative Corrections, Crime Control, and Juvenile
5 Justice Oversight Committee and the Fiscal Research Division of the General Assembly not
6 later than October 1, 2010.

7 **SECTION 17.1.(f)** The fees required by this section shall become effective July 1,
8 2011, and apply to program services provided on or after that date.

9
10 **PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
11 **PREVENTION**

12
13 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

14 **SECTION 18.1.** Funds appropriated in this act to the Department of Juvenile
15 Justice and Delinquency Prevention for the 2010-2011 fiscal year may be used as matching
16 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives
17 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office
18 of State Budget and Management and the Governor's Crime Commission shall consult with the
19 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding
20 federal funds. The Office of State Budget and Management, the Governor's Crime
21 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report
22 to the Appropriations Committees of the Senate and House of Representatives and the Joint
23 Legislative Commission on Governmental Operations prior to allocation of the federal funds.
24 The report shall identify the amount of funds to be received for the 2010-2011 fiscal year, the
25 amount of funds anticipated for the 2010-2011 fiscal year, and the allocation of funds by
26 program and purpose.

27
28 **REPEAL TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT**
29 **CENTERS**

30 **SECTION 18.2.** Section 18.4 of S.L. 2009-451 is repealed.

31
32 **PART XIX. DEPARTMENT OF CORRECTION**

33
34 **FEDERAL GRANT MATCHING FUNDS**

35 **SECTION 19.1.** Section 19.9 of S.L. 2009-451 reads as rewritten:

36 "**SECTION 19.9.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of
37 Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000)
38 during the 2009-2010 fiscal year and up to the sum of one million two hundred thousand
39 dollars (\$1,200,000) during the 2010-2011 fiscal year from funds available to the Department
40 to provide the State match needed in order to receive federal grant funds. Prior to using funds
41 for this purpose, the Department shall report to the Chairs of the House of Representatives and
42 Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
43 Commission on Governmental Operations on the grants to be matched using these funds."

44
45 **PLAN FOR A PILOT PROGRAM ON PRIVATIZATION OF PROBATION SERVICES**

46 **SECTION 19.2.** The Department of Correction, Division of Community
47 Corrections, shall develop a plan for implementing a pilot program on the privatization of
48 probation services. The plan shall include a determination of what resources and policy changes
49 are necessary to conduct a pilot program for fee-based supervision of low-risk or
50 community-level offenders by private entities.

1 No pilot program shall be implemented without the prior approval of the General
2 Assembly. The Division shall report its plan to the Joint Legislative Corrections, Crime
3 Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division by March
4 1, 2011.

5
6 **INCREASE FEES FOR PROBATION, PAROLE, AND POST-RELEASE**
7 **SUPERVISION**

8 **SECTION 19.3.(a)** G.S. 15A-1343(c1) reads as rewritten:

9 "(c1) Supervision Fee. – Any person placed on supervised probation pursuant to
10 subsection (a) of this section shall pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars
11 (\$40.00) per month, unless exempted by the court. The court may exempt a person from paying
12 the fee only for good cause and upon motion of the person placed on supervised probation. No
13 person shall be required to pay more than one supervision fee per month. The court may require
14 that the fee be paid in advance or in a lump sum or sums, and a probation officer may require
15 payment by such methods if he is authorized by subsection (g) to determine the payment
16 schedule. Supervision fees must be paid to the clerk of court for the county in which the
17 judgment was entered or the deferred prosecution agreement was filed. Fees collected under
18 this subsection shall be transmitted to the State for deposit into the State's General Fund."

19 **SECTION 19.3.(b)** G.S. 15A-1368.4(f) reads as rewritten:

20 "(f) Required Supervision Fee. – The Commission shall require as a condition of
21 post-release supervision that the supervisee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty
22 dollars (\$40.00) per month. The Commission may exempt a supervisee from this condition only
23 if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid
24 to the clerk of superior court of the county in which the supervisee was convicted. The clerk
25 shall transmit any money collected pursuant to this subsection to the State to be deposited in the
26 State's General Fund. In no event shall a supervisee be required to pay more than one
27 supervision fee per month."

28 **SECTION 19.3.(c)** G.S. 15A-1374(c) reads as rewritten:

29 "(c) Supervision Fee. – The Commission must require as a condition of parole that the
30 parolee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) per month. The
31 Commission may exempt a parolee from this condition of parole only if it finds that requiring
32 him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk
33 of superior court of the county in which the parolee was convicted. The clerk must transmit any
34 money collected pursuant to this subsection to the State to be deposited in the general fund of
35 the State. In no event shall a person released on parole be required to pay more than one
36 supervision fee per month."

37 **SECTION 19.3.(d)** This section becomes effective July 1, 2010, and applies to
38 persons placed on supervised probation, parole, or post-release prior to that date and to all
39 persons placed on supervised probation, parole, or post-release on or after that date.

40
41 **INCREASE FEE FOR COMMUNITY SERVICE PROGRAM**

42 **SECTION 19.4.** G.S. 143B-262.4(b) reads as rewritten:

43 "(b) A fee of ~~two hundred twenty five dollars (\$225.00)~~three hundred dollars (\$300.00)
44 shall be paid by all persons who participate in the program or receive services from the
45 program staff. Only one fee may be assessed for each sentencing transaction, even if the person
46 is assigned to the program on more than one occasion, or while on deferred prosecution, or
47 while serving a sentence for the offense. A sentencing transaction shall include all offenses
48 considered and adjudicated during the same term of court. Fees collected pursuant to this
49 subsection shall be deposited in the General Fund. If the person is convicted in a court in this
50 State, the fee shall be paid to the clerk of court in the county in which the person is convicted,
51 regardless of whether the person is participating in the program as a condition of probation

1 imposed by the court or pursuant to the exercise of authority delegated to the probation officer
2 pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of
3 a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the
4 county in which the agreement is filed. If the person is participating in the program as a
5 condition of parole, the fee shall be paid to the clerk of the county in which the person is
6 released on parole. Persons participating in the program for any other reason shall pay the fee
7 to the clerk of court in the county in which the services are provided by the program staff. The
8 fee shall be paid in full before the person may participate in the community service program,
9 except that:

- 10 (1) A person convicted in a court in this State may be given an extension of time
11 or allowed to begin the community service before the person pays the fee by
12 the court in which the person is convicted; or
- 13 (2) A person performing community service pursuant to a deferred prosecution
14 or similar agreement may be given an extension of time or allowed to begin
15 community service before the fee is paid by the official or agency
16 representing the State in the agreement.
- 17 (3) A person performing community service as a condition of parole may be
18 given an extension of time to pay the fee by the Post-Release Supervision
19 and Parole Commission. No person shall be required to pay the fee before
20 beginning the community service unless the Commission orders the person
21 to do so in writing.
- 22 (4) A person performing community service as ordered by a probation officer
23 pursuant to authority delegated by G.S. 15A-1343.2 may be given an
24 extension of time to pay the fee by the probation officer exercising the
25 delegated authority."

26 27 **PART XX. DEPARTMENT OF ADMINISTRATION**

28 29 **FREEZE STATE MOTOR FLEET VEHICLE ACQUISITION PROGRAM**

30 **SECTION 20.1.** The Department of Administration, Motor Fleet Management,
31 shall not acquire any vehicles during the 2010-2011 fiscal year and shall minimize any impact
32 on Motor Fleet operations through enhanced operational efficiencies. By July 1, 2011, Motor
33 Fleet Management shall develop and implement a plan to ensure that thirty-three percent (33%)
34 of new vehicles purchased in subsequent fiscal years have a fuel economy for the new vehicle's
35 model year that is in the top fifteen percent (15%) of its class of comparable automobiles.
36

37 **PART XXI. OFFICE OF THE STATE AUDITOR**

38 39 **BATTLESHIP COMMISSION PAY FOR AUDIT**

40 **SECTION 21.1.** G.S. 143B-74.1 reads as rewritten:

41 **"§ 143B-74.1. U.S.S. North Carolina Battleship Commission – funds.**

42 The Commission shall establish and maintain a "Battleship Fund" composed of the moneys
43 which may come into its hands from admission or inspection fees, gifts, donations, grants, or
44 bequests, which funds will be used by the Commission to pay all costs of maintaining and
45 operating the ship for the purposes herein set forth. The Commission shall maintain books of
46 accounting records concerning revenue derived and all expenses incurred in maintaining and
47 operating the ship as a public memorial. The operations of the Commission shall be subject to
48 the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General
49 Statutes. The Commission shall reimburse the State Auditor the cost of any audit. The
50 Commission shall establish a reserve fund in an amount to be determined by the Secretary of
51 Cultural Resources to be maintained and used for contingencies and emergencies beyond those

1 occurring in the course of routine maintenance and operation, and may authorize the deposit of
2 this reserve fund in a depository to be selected by the Treasurer of North Carolina."
3

4 **STATE PORTS AUTHORITY PAY FOR AUDIT**

5 **SECTION 21.2.** G.S. 143B-464 reads as rewritten:

6 **"§ 143B-464. Audit.**

7 The operations of the State Ports Authority shall be subject to the oversight of the State
8 Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The State Ports
9 Authority shall reimburse the State Auditor the cost of any audit."
10

11 **PART XXII. DEPARTMENT OF CULTURAL RESOURCES**

12 **MODIFY TERMS OF THE 2007-2008 GRANT-IN-AID FOR FREEDOM MONUMENT**

13 **SECTION 22.1.** Funds appropriated by the 2007 General Assembly as a
14 grant-in-aid for North Carolina Freedom Monument Project, Inc., to fabricate and construct a
15 monument that have not been used for this purpose may be used by North Carolina Freedom
16 Monument Project, Inc., for planning and development of preconstruction stages of the
17 monument.
18

19 **PART XXIII. HOUSING FINANCE AGENCY**

20 **ALLOW CREATION OF HOUSING FINANCE CORPORATIONS TO RECEIVE** 21 **FEDERAL "HARDEST HIT HOUSING MARKETS" FUNDING**

22 **SECTION 23.1.(a)** Chapter 55 of the General Statutes is amended by adding a new
23 Article to read:
24

25 Article 18.

26 "Housing Finance Corporations.

27 **"§ 55-18-01. General provisions.**

28 A corporation may be formed under this Article for the purpose of (i) applying for and
29 receiving federal funding from the Housing Finance Agency Innovation Fund for the Hardest
30 Hit Housing Markets, or similar fund, administered under the Emergency Economic
31 Stabilization Act of 2008, P.L. 110-343, as amended, and (ii) administering the federal funding
32 in a manner consistent with the program. A corporation formed under this Article shall be
33 subject to the provisions of this Chapter that are not in conflict with the provisions of this
34 Article.
35

36 **"§ 55-18-02. Incorporation.**

37 A corporation may be incorporated under this Article only by a minimum of 13
38 incorporators, a majority of whom must also be members of the board of directors of the North
39 Carolina Housing Finance Agency. The articles of incorporation may provide that only the
40 State may own the capital stack of the corporation.
41

42 **"§ 55-18-03. Powers.**

43 A corporation formed under this Article shall have the following corporate powers in
44 addition to those generally provided under this Chapter:

- 45 (1) Apply for and receive funds from the federal government from the Housing
46 Finance Agency Innovation Fund for the Hardest Hit Housing Markets, or
47 similar fund.
- 48 (2) Contract with the North Carolina Housing Finance Agency to carry out the
49 program requirements of the Housing Finance Agency Innovation Fund for
50 the Hardest Hit Housing Markets, or similar fund.

51 **"§ 55-18-04. Name.**

1 A corporation formed under this Article shall include in its name the words "Housing
2 Finance Corporation" but shall not use language that would confuse the corporation with the
3 State instrumentality known as the North Carolina Housing Finance Agency. The Secretary of
4 State shall have the power to determine whether a corporation's name causes confusion.

5 **"§ 55-18-05. Relationship to State.**

6 A corporation formed under this Article is not an agency of the State.

7 **"§ 55-18-06. Other requirements.**

8 A corporation formed under this Article shall structure and conduct itself in such a way as
9 to meet the definition of "financial institution" under the Emergency Economic Stabilization
10 Act of 2008, P.L. 110-343, as amended."

11 **SECTION 23.1.(b)** Chapter 55A of the General Statutes is amended by adding a
12 new Article to read:

13 "Article 18.

14 "Housing Finance Corporations.

15 **"§ 55A-18-01. General provisions.**

16 A corporation may be formed under this Article for the purpose of (i) applying for and
17 receiving federal funding from the Housing Finance Agency Innovation Fund for the Hardest
18 Hit Housing Markets, or similar fund, administered under the Emergency Economic
19 Stabilization Act of 2008, P.L. 110-343, as amended, and (ii) administering the federal funding
20 in a manner consistent with the program. A corporation formed under this Article shall be
21 subject to the provisions of this Chapter that are not in conflict with the provisions of this
22 Article.

23 **"§ 55A-18-02. Incorporation.**

24 A corporation may be incorporated under this Article only by a minimum of 13
25 incorporators, a majority of whom must also be members of the board of directors of the North
26 Carolina Housing Finance Agency.

27 **"§ 55A-18-03. Powers.**

28 A corporation formed under this Article shall have the following corporate powers in
29 addition to those generally provided under this Chapter:

- 30 (1) Apply for and receive funds from the federal government from the Housing
31 Finance Agency Innovation Fund for the Hardest Hit Housing Markets, or
32 similar fund.
33 (2) Contract with the North Carolina Housing Finance Agency to carry out the
34 program requirements of the Housing Finance Agency Innovation Fund for
35 the Hardest Hit Housing Markets, or similar fund.

36 **"§ 55A-18-04. Name.**

37 A corporation formed under this Article shall include in its name the words "Housing
38 Finance Corporation" but shall not use language that would confuse the corporation with the
39 state instrumentality known as the North Carolina Housing Finance Agency. The Secretary of
40 State shall have the power to determine whether a corporation's name causes confusion.

41 **"§ 55A-18-05. Relationship to State.**

42 A corporation formed under this Article is not an agency of the State.

43 **"§ 55A-18-06. Other requirements.**

44 A corporation formed under this article shall structure and conduct itself in such a way as to
45 meet the definition of "financial institution" under the Emergency Economic Stabilization Act
46 of 2008, P.L. 110-343, as amended."

47 **SECTION 23.1.(c)** G.S. 122A-5 is amended by adding a new subdivision to read:

48 **"§ 122A-5. General powers.**

49 The Agency shall have all of the powers necessary or convenient to carry out and effectuate
50 the purposes and provisions of this Chapter, including, but without limiting the generality of the
51 foregoing, the power:

1 ...
2 (28) To contract with housing finance corporations organized under Article 18 of
3 Chapter 55 or under Article 18 of Chapter 55A of the General Statutes to
4 carry out programs related to the funding awarded to the housing finance
5 corporations from the Housing Finance Agency Innovation Fund for the
6 Hardest Hit Housing Markets, or similar fund, administered under the
7 Emergency Economic Stabilization Act of 2008, P.L. 110-343, as amended."
8

9 PART XXIV. DEPARTMENT OF INSURANCE

10 REFORM INSURANCE RATE-MAKING IN NORTH CAROLINA

11 **SECTION 24.1.(a)** Effective April 1, 2011, the North Carolina Rate Bureau and
12 the ratemaking authority of the Commissioner of Insurance are abolished. Article 36 of Chapter
13 58 of the General Statutes and G.S. 58-2-52, 58-36-35, 58-37-65, 58-45-50, 58-46-30,
14 58-48-40(c)(7), 58-48-42, and 58-62-51(c) are repealed.

15 **SECTION 24.1.(b)** Task Force Established; Purpose. – There is established the
16 North Carolina Blue Ribbon Task Force on Insurance Rate-Making Reform. The Task Force
17 shall develop for presentation to the 2011 General Assembly a comprehensive plan to overhaul
18 the manner by which insurance rates are established in North Carolina to ensure greater
19 transparency, accountability, public participation, and fairness in the insurance rate-setting
20 process. The Rate Bureau and the Department of Insurance shall assist the Task Force, at its
21 direction, in the development of the plan. The Task Force may also request assistance from any
22 other source or authority it deems necessary in the development of the plan.

23 **SECTION 24.1.(c)** Task Force Membership. – Appointments to the Task Force
24 shall be as follows:

- 25 (1) Three members of the House of Representatives appointed by the Speaker of
26 the House of Representatives.
- 27 (2) Three members of the Senate appointed by the President Pro Tempore of the
28 Senate.

29 Appointments to the Task Force shall be made no later than August 1, 2010.

30 **SECTION 24.1.(d)** Duties of the Task Force. –

- 31 (1) To replace the Rate Bureau and the Commissioner of Insurance's
32 rate-making powers set forth in Chapter 58 of the General Statutes with a
33 new insurance rate-making system modeled on the statutory scheme for
34 setting of public utility rates set forth in Chapter 62 of the General Statutes,
35 specifically including the following components:
 - 36 a. An Insurance Rate Commission made up of seven Commissioners
37 appointed by the Governor and confirmed by the General Assembly,
38 and subject to the same standards of judicial conduct as that provided
39 for judges in Article 30 of Chapter 7A of the General Statutes. The
40 Commission shall be empowered to ensure that rates for insurance
41 are just, reasonable, and are not excessive, inadequate, or unfairly
42 discriminatory.
 - 43 b. A Public Staff independent of the Commission and charged with
44 representing the interests of insurance policyholders in rate-making
45 proceedings before the Commission.
- 46 (2) To recommend all changes to the General Statutes necessary to effectuate
47 the duties set out in this subsection and accomplish the purposes set forth in
48 subsection (a) of this section.
- 49 (3) To provide estimates of the costs of implementation of its proposals under
50 this subsection and a plan for effecting the necessary economies from the
51

1 dissolution of the Rate Bureau and the removal of rate-making hearing
2 functions from the Department of Insurance in order to minimize the
3 expense of the reforms proposed by the Task Force.

4 **SECTION 24.1.(e)** Chair; Meetings. – The Speaker of the House of
5 Representatives and the President Pro Tempore of the Senate shall each designate one member
6 to serve as cochair of the Task Force.

7 The cochairs shall call the initial meeting of the Task Force on or before September
8 15, 2010. The Task Force shall subsequently meet upon such notice and in such manner as its
9 members determine. A majority of the members of the Task Force shall constitute a quorum.

10 **SECTION 24.1.(f)** Expenses of Members. – Members of the Task Force shall
11 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or
12 138-6, as appropriate.

13 **SECTION 24.1.(g)** Cooperation by Government Agencies. – The Task Force may
14 call upon any department, agency, institution, or officer of the State or of any political
15 subdivision of the State for facilities, data, or other assistance.

16 **SECTION 24.1.(h)** Report. – The Task Force shall report its findings and
17 recommendations for implementation of rate-making reform, including all necessary
18 recommended legislation, by February 1, 2011, to the Joint Legislative Commission on
19 Governmental Operations, the House of Representatives Appropriations Subcommittee on
20 General Government, the Senate Appropriations Committee on General Government and
21 Information Technology, the House of Representatives Committee on Insurance, the Senate
22 Committee on Commerce, and the Legislative Drafting Division. The Task Force shall
23 terminate upon filing its final report.

24 **SECTION 24.1.(i)** Funding. – The Legislative Services Officer shall allocate
25 funds to carry out the duties of the Task Force.

26 27 **DEPARTMENT OF INSURANCE HEALTH REFORM AUTHORITY AND** 28 **POSITIONS**

29 **SECTION 24.2.(a)** G.S. 58-2-40 is amended by adding a new subdivision to read:

30 "(10) Administer and enforce the provisions of the federal Patient Protection and
31 Affordable Care Act (Public Law 111-148) and the provisions of the Health
32 Care and Education Reconciliation Act of 2010 (Public Law 111-152) to the
33 extent that the provisions apply to persons subject to the Commissioner's
34 jurisdiction and to the extent that the provisions are not under the exclusive
35 jurisdiction of any federal agency."

36 **SECTION 24.2.(b)** The Department shall apply for federal funds that are available
37 through the Patient Protection and Affordable Insurance Care Act, Public Law 111-148, or the
38 Health Care and Education Reconciliation Act of 2010, Public Law 111-152, to support the
39 following 13 positions within the Department to implement this section:

- 40 (1) Attorney III.
- 41 (2) Health Actuary.
- 42 (3) Examiner III.
- 43 (4) Insurance Regulatory Analysts I, II (two positions), and III.
- 44 (5) Office Assistant, and Program Assistant.
- 45 (6) Insurance Investigator.
- 46 (7) Insurance Complaint Analyst (two positions).
- 47 (8) Complaint Analyst Supervisor.

48 In the event that federal funds cannot be obtained by the Department for the purposes of this
49 section, the Department shall, in consultation with the Joint Legislative Commission on
50 Governmental Operations, utilize funds from the Insurance Regulatory Fund to support these
51 positions.

1
2 **PART XXV. OFFICE OF ADMINISTRATIVE HEARINGS**

3
4 **INCREASE FEES FOR FILING A CONTESTED CASE**

5 **SECTION 25.1.** G.S. 150B-23.2 reads as rewritten:

6 **"§ 150B-23.2. Fee for filing a contested case hearing.**

7 (a) Filing Fee. – In every contested case where the value of the amount in controversy
8 equals or exceeds fifty thousand dollars (\$50,000) commenced in the Office of Administrative
9 Hearings by a person aggrieved,aggrieved or heard in the Office of Administrative Hearings
10 pursuant to agency application under G.S. 150B-40(e), the petitioner shall pay a filing fee, and
11 the administrative law judge shall have the authority to assess that filing fee against the losing
12 party, in the amount of ~~one hundred twenty five dollars (\$125.00),five hundred dollars~~
13 (\$500.00) unless the Office of Administrative Hearings establishes a lesser filing fee by rule.
14 The value of the amount in controversy, for purposes of determining the filing fee, shall be
15 determined solely by the Office of Administrative Hearings.

16 (b) Time of Collection. – All fees that are required to be assessed, collected, and
17 remitted under subsection (a) of this section shall be collected by the Office of Administrative
18 Hearings at the time of commencement of the contested case (except in suits in forma
19 pauperis).

20 (c) Forms of Payment. – The Office of Administrative Hearings may by rule provide
21 for the acceptable forms for payment and transmission of the filing fee.

22 (d) ~~Wavier-Waiver~~ or Refund. – The Office of Administrative Hearings shall by rule
23 provide for the fee to be waived in a contested case in which the petition is filed in forma
24 pauperis and supported by such proofs as are required in G.S. 1-110 and in a contested case
25 involving a mandated federal cause of action. The Office of Administrative Hearings shall by
26 rule provide for the fee to be refunded in a contested case in which the losing party is the
27 State."

28
29 **CONTINUE TRANSFER FROM DHHS TO OAH FOR MEDICAID APPEALS**

30 **SECTION 25.2.** From funds available to the Department of Health and Human
31 Services for the 2010-2011 fiscal year, the sum of two million dollars (\$2,000,000) shall be
32 transferred by the Department of Health and Human Services to the Office of Administrative
33 Hearings. These funds shall be allocated by the Office of Administrative Hearings for
34 mediation services provided for Medicaid applicant and recipient appeals and to contract for
35 other services necessary to conduct the appeals process.

36
37 **PART XXVI. DEPARTMENT OF REVENUE**

38
39 **MODIFICATION OF METHOD BY WHICH LOCAL GOVERNMENTS REIMBURSE**
40 **THE STATE FOR PROGRAMS THAT SUPPORT LOCAL GOVERNMENTS**

41 **SECTION 26.1.(a)** G.S. 105-501(b) reads as rewritten:

42 "(b) Deductions. – ~~In determining the net proceeds of the tax to be distributed, the~~
43 ~~Secretary must deduct from the collections to be allocated an amount equal to one twelfth of~~
44 ~~the costs during the preceding fiscal year of:~~

45 (1) ~~The Department of Revenue in performing the duties imposed by~~
46 ~~G.S. 105-275.2 and by Article 15 of this Chapter.~~

47 (1a) ~~Seventy percent (70%) of the expenses of the Department of Revenue in~~
48 ~~performing the duties imposed by Article 2D of this Chapter.~~

49 (2) ~~The Property Tax Commission.~~

- (3) ~~The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.~~
- (4) ~~The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.~~

The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

- (1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:
 - a. Performing the duties imposed by Article 15 of this Chapter.
 - b. The Property Tax Commission.
- (2) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:
 - a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.
 - b. The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.
 - c. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter."

SECTION 26.1.(b) For fiscal year 2010-2011, the amount deducted under G.S. 105-501 from the net proceeds of the one-half percent (1/2%) sales and use tax levied under Article 42 of Chapter 105 of the General Statutes is increased by an amount equal to the 2009-2010 costs of the Department of Revenue and the Property Tax Commission in performing the duties imposed on the Department and the Commission under Article 15 of Chapter 105 of the General Statutes. The deduction required under this subsection may be made on a quarterly or other periodic basis, as determined by the Secretary of Revenue. The amount deducted under this section must be credited to the General Fund.

SECTION 26.1.(c) This section becomes effective July 1, 2010.

PART XXVII. STATE BOARD OF ELECTIONS

RAISE CANDIDATE FILING FEES

SECTION 27.1.(a) G.S. 163-107(a) reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which he files under the provisions of G.S. 163-106 a filing fee for the office he seeks in the amount specified in the following tabulation:

Office Sought	Amount of Filing Fee
Governor	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
Lieutenant Governor	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
All State executive offices	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought

1	All District Attorneys of the General	One percent (1%) <u>One and one-half percent</u>
2	Court of Justice	<u>(1.5%)</u> of the annual salary of the office
3		sought
4	United States Senator	One percent (1%) <u>One and one-half percent</u>
5		<u>(1.5%)</u> of the annual salary of the office
6		sought
7	Members of the United States House	One percent (1%) <u>One and one-half percent</u>
8	of Representatives	<u>(1.5%)</u> of the annual salary of the office
9		sought
10	State Senator	One percent (1%) <u>One and one-half percent</u>
11		<u>(1.5%)</u> of the annual salary of the office
12		sought
13	Member of the State House of	One percent (1%) <u>One and one-half percent</u>
14	Representatives	<u>(1.5%)</u> of the annual salary of the office
15		sought
16	All county offices not compensated by fees	One percent (1%) <u>One and one-half percent</u>
17		<u>(1.5%)</u> of the annual salary of the office
18		sought
19	All county offices compensated partly	One percent (1%) <u>One and one-half percent</u>
20	by salary and partly by fees	<u>(1.5%)</u> of the first annual salary to be
21		received (exclusive of fees)
22		
23		

24 The salary of any office that is the basis for calculating the filing fee is the starting salary
 25 for the office, rather than the salary received by the incumbent, if different. If no starting salary
 26 can be determined for the office, then the salary used for calculation is the salary of the
 27 incumbent, as of January 1 of the election year."

28 **SECTION 27.1.(b)** G.S. 163-324(a) reads as rewritten:

29 "(a) Fee Schedule. – At the time of filing a notice of candidacy under this Article, each
 30 candidate shall pay to the State Board of Elections a filing fee for the office he seeks in the
 31 amount of ~~one percent (1%)~~ one and one-half percent (1.5%) of the annual salary of the office
 32 sought."

33 **SECTION 27.1.(c)** G.S. 163-291(3) reads as rewritten:

34 "(3) The filing fee for municipal and district primaries shall be fixed by the
 35 governing board not later than the day before candidates are permitted to
 36 begin filing notices of candidacy. There shall be a minimum filing fee of five
 37 dollars (\$5.00). The governing board shall have the authority to set the filing
 38 fee at not less than five dollars (\$5.00) nor more than ~~one percent (1%)~~ one
 39 and one-half percent (1.5%) of the annual salary of the office sought unless
 40 ~~one percent (1%)~~ one and one-half percent (1.5%) of the annual salary of the
 41 office sought is less than five dollars (\$5.00), in which case the minimum
 42 filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the
 43 board of elections at the time notice of candidacy is filed."

44 **SECTION 27.1.(d)** G.S. 163-294.2(e) reads as rewritten:

45 "(e) The filing fee for the primary or election shall be fixed by the governing board not
 46 later than the day before candidates are permitted to begin filing notices of candidacy. There
 47 shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the
 48 authority to set the filing fee at not less than five dollars (\$5.00) nor more than ~~one percent~~
 49 ~~(1%)~~ one and one-half percent (1.5%) of the annual salary of the office sought unless ~~one~~
 50 ~~percent (1%)~~ one and one-half percent (1.5%) of the annual salary of the office sought is less

1 than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be
2 charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed."

3 **SECTION 27.1.(e)** This section is effective with respect to elections held on or
4 after January 1, 2011.

5 6 **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

7 8 **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

9 **SECTION 28.1.(a)** Section 25.1 of S.L. 2009-451 is repealed.

10 **SECTION 28.1.(b)** The General Assembly authorizes and certifies anticipated
11 revenues of the Highway Fund as follows:

12	For Fiscal Year 2011-2012	\$ 1,793.1 million
13	For Fiscal Year 2012-2013	\$ 1,880.6 million
14	For Fiscal Year 2013-2014	\$ 1,920.5 million
15	For Fiscal Year 2014-2015	\$ 1,958.9 million

16 **SECTION 28.1.(c)** The General Assembly authorizes and certifies anticipated
17 revenues of the Highway Trust Fund as follows:

18	For Fiscal Year 2011-2012	\$ 989.2 million
19	For Fiscal Year 2012-2013	\$ 1,046.4 million
20	For Fiscal Year 2013-2014	\$ 1,078.3 million
21	For Fiscal Year 2014-2015	\$ 1,120.4 million

22 23 **DRIVER EDUCATION PROGRAM FUND REVERSION**

24 **SECTION 28.2.** G.S. 20-88.1 reads as rewritten:

25 "**§ 20-88.1. Driver education.**

26 ...

27 (a1) For each fiscal year, the State Superintendent of Public Instruction shall calculate a
28 per student allocation for the driver education program by dividing the total funds allocated for
29 the program by the estimated number of qualified students throughout the State, as described in
30 subsection (a) of this section. The Superintendent shall distribute funds to local school
31 administrative units by giving each local school administrative unit an amount equal to the per
32 student allocation multiplied by the estimated number of qualified students within that local
33 school administrative unit's district, including students enrolled in both public and private
34 schools. If, at the end of the fiscal year, fewer than the expected number of students have
35 participated in the driver education program in a local school administrative unit, then the local
36 school administrative unit shall revert the per student allocation for each student that was
37 estimated to be eligible to participate but did not actually participate in the driver education
38 program.

39 ...

40 (c) All expenses incurred by the State in carrying out the provisions of this section shall
41 be paid out of the Highway Fund. At the end of each fiscal year, the Department of Public
42 Instruction shall collect and revert any unused funds allocated for this program back to the
43 Highway Fund.

44 ..."

45 46 **PART XXIX. SALARIES AND BENEFITS**

47 48 **FURLOUGHS AUTHORIZED/PUBLIC SCHOOLS**

49 **SECTION 29.1.(a)** The General Assembly finds that:

- 50 (1) North Carolina's citizens and businesses are suffering from the effects of a
51 significant State financial crisis.

- 1 (2) The financial crisis has resulted in large reductions in revenues projected to
2 be available to fund the State's budget for the 2010-2011 fiscal year.
- 3 (3) Each local school administrative unit is required to reduce its budget and
4 should attempt to protect employees when possible.
- 5 (4) The implementation of furloughs may be necessary to balance local school
6 administrative unit budgets for the 2010-2011 fiscal year.

7 **SECTION 29.1.(b)** In accordance with Section 7.13 of this act, local boards of
8 education may implement furloughs of State-funded public school employees to offset the LEA
9 funding flexibility adjustment.

10 **SECTION 29.1.(c)** The following definitions apply in this section:

- 11 (1) Furlough. – A temporary period of leave from employment without pay that
12 (i) is ordered by a local board of education and (ii) is not in connection with
13 a demotion or other disciplinary action.
- 14 (2) Public school employee. – Any person employed by a local school
15 administrative unit. The term includes public officers.

16 **SECTION 29.1.(d)** The provisions of Section 26.14E.(b) and (c) of S.L. 2009-451
17 apply to public school employees furloughed pursuant to the section.

18 **SECTION 29.1.(e)** Local school administrative units shall cooperate with the
19 Department of Public Instruction in the implementation of a furlough, if required.

20 **SECTION 29.1.(f)** As soon as practicable, and no more than 30 calendar days from
21 the effective date of this section, the State Board of Education shall adopt rules for the
22 implementation of this section in accordance with G.S. 150B-21.1A, except that
23 notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until the
24 expiration of this section. These rules shall be applied by local boards of education in
25 designating the times public school employees may be subject to furlough. These rules shall
26 provide, at a minimum, that:

- 27 (1) Employees who work only on instructional days shall not be subject to
28 furlough.
- 29 (2) Employees who earn an annual base rate of thirty thousand dollars (\$30,000)
30 or less shall not be subject to furlough.
- 31 (3) A furlough for other employees shall be for the same number of days for all
32 such employees and shall be for a maximum of two days;
- 33 (4) No teacher shall be subject to a furlough on an instructional day or a
34 protected work day.
- 35 (5) A local board of education shall have a public hearing and shall disclose the
36 local school administrative unit's finances before the local board implements
37 a furlough.
- 38 (6) The local school administrative unit shall cut all bonus pay before it imposes
39 a furlough.
- 40 (7) A local school administrative unit may spread the salary or wage reduction
41 for furloughed employees over the contract period in order to lessen the
42 impact on the employees.
- 43 (8) All savings realized as a result of a furlough shall be used to offset the LEA
44 funding flexibility adjustment.
- 45 (9) A county in which a local school administrative unit implements a furlough
46 pursuant to this section shall not supplant existing local current expense
47 funds for schools.
- 48 (10) Each local board of education shall report to the State Board of Education on
49 the details of any furlough implemented by the local school administrative
50 unit and certify that the furlough complied with the provisions of this section
51 and the rules adopted by the State Board.

1	25	\$4,650	\$5,208
2	26	\$4,714	\$5,280
3	27	\$4,779	\$5,352
4	28	\$4,845	\$5,426
5	29	\$4,913	\$5,503
6	30	\$4,984	\$5,582
7	31	\$5,055	\$5,662
8	32	\$5,153	\$5,771
9	33+	\$5,255	\$5,886

2010-2011 Monthly Salary Schedule

"M" Teachers

13	Years of Experience	"M" Teachers	NBPTS Certification
14	0	\$3,347	N/A
15	1	\$3,347	N/A
16	2	\$3,347	N/A
17	3	\$3,394	\$3,801
18	4	\$3,442	\$3,855
19	5	\$3,590	\$4,021
20	6	\$3,744	\$4,193
21	7	\$3,892	\$4,359
22	8	\$4,034	\$4,518
23	9	\$4,148	\$4,646
24	10	\$4,201	\$4,705
25	11	\$4,255	\$4,766
26	12	\$4,310	\$4,827
27	13	\$4,364	\$4,888
28	14	\$4,420	\$4,950
29	15	\$4,476	\$5,013
30	16	\$4,534	\$5,078
31	17	\$4,594	\$5,145
32	18	\$4,654	\$5,212
33	19	\$4,715	\$5,281
34	20	\$4,780	\$5,354
35	21	\$4,843	\$5,424
36	22	\$4,907	\$5,496
37	23	\$4,975	\$5,572
38	24	\$5,042	\$5,647
39	25	\$5,115	\$5,729
40	26	\$5,185	\$5,807
41	27	\$5,257	\$5,888
42	28	\$5,330	\$5,970
43	29	\$5,404	\$6,052
44	30	\$5,482	\$6,140
45	31	\$5,561	\$6,228
46	32	\$5,668	\$6,348
47	33+	\$5,781	\$6,475

48 **SECTION 29.2.(b)** Annual longevity payments for teachers shall be at the rate of
 49 one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and
 50 twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three
 51 and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service,

1 and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The
 2 longevity payment shall be paid in a lump sum once a year.

3 **SECTION 29.2.(c)** Certified public schoolteachers with certification based on
 4 academic preparation at the six-year degree level shall receive a salary supplement of one
 5 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for
 6 certified personnel of the public schools who are classified as "M" teachers. Certified public
 7 schoolteachers with certification based on academic preparation at the doctoral degree level
 8 shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in
 9 addition to the compensation provided for certified personnel of the public schools who are
 10 classified as "M" teachers.

11 **SECTION 29.2.(d)** The first step of the salary schedule for school psychologists
 12 shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule
 13 established in this section for certified personnel of the public schools who are classified as
 14 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate
 15 step based on their years of experience. Certified psychologists shall receive longevity
 16 payments based on years of State service in the same manner as teachers.

17 Certified psychologists with certification based on academic preparation at the
 18 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars
 19 (\$126.00) per month in addition to the compensation provided for certified psychologists.
 20 Certified psychologists with certification based on academic preparation at the doctoral degree
 21 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month
 22 in addition to the compensation provided for certified psychologists.

23 **SECTION 29.2.(e)** Speech pathologists who are certified as speech pathologists at
 24 the master's degree level and audiologists who are certified as audiologists at the master's
 25 degree level and who are employed in the public schools as speech and language specialists and
 26 audiologists shall be paid on the school psychologist salary schedule.

27 Speech pathologists and audiologists with certification based on academic
 28 preparation at the six-year degree level shall receive a salary supplement of one hundred
 29 twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech
 30 pathologists and audiologists. Speech pathologists and audiologists with certification based on
 31 academic preparation at the doctoral degree level shall receive a salary supplement of two
 32 hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for
 33 speech pathologists and audiologists.

34 **SECTION 29.2.(f)** Certified school nurses who are employed in the public schools
 35 as nurses shall be paid on the "M" salary schedule.

36 **SECTION 29.2.(g)** As used in this section, the term "teacher" shall also include
 37 instructional support personnel.
 38

39 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

40 **SECTION 29.3.(a)** The following base salary schedule for school-based
 41 administrators shall apply only to principals and assistant principals. This base salary schedule
 42 shall apply for the 2010-2011 fiscal year, commencing July 1, 2010. Provided, however,
 43 school-based administrators (i) employed during the 2009-2010 school year who did not work
 44 the required number of months to acquire an additional year of experience and (ii) employed
 45 during the 2010-2011 school year in the same classification shall not receive a decrease in
 46 salary as otherwise would be required by the salary schedule below.
 47

48 2010-2011 Principal and Assistant Principal Salary Schedules
 49 Classification

50 Years of Exp	Assistant	Prin I	Prin II	Prin III	Prin IV
51	Principal	(0-10)	(11-21)	(22-32)	(33-43)

1	0-6	\$3,781	-	-	-	-
2	7	\$3,931	-	-	-	-
3	8	\$4,074	-	-	-	-
4	9	\$4,189	-	-	-	-
5	10	\$4,243	\$4,243	-	-	-
6	11	\$4,298	\$4,298	-	-	-
7	12	\$4,353	\$4,353	\$4,408	-	-
8	13	\$4,408	\$4,408	\$4,464	-	-
9	14	\$4,464	\$4,464	\$4,521	\$4,579	-
10	15	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
11	16	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
12	17	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
13	18	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
14	19	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
15	20	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
16	21	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
17	22	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
18	23	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
19	24	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
20	25	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
21	26	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
22	27	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
23	28	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
24	29	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
25	30	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
26	31	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
27	32	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
28	33	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
29	34	-	\$5,956	\$6,075	\$6,197	\$6,321
30	35	-	-	\$6,197	\$6,321	\$6,447
31	36	-	-	\$6,321	\$6,447	\$6,576
32	37	-	-	-	\$6,576	\$6,708
33	38	-	-	-	\$6,708	\$6,842
34	39	-	-	-	-	\$6,979

2010-2011 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+)
0-16	\$4,828	-	-	-
17	\$4,891	-	-	-
18	\$4,956	\$5,025	-	-
19	\$5,025	\$5,092	\$5,237	-
20	\$5,092	\$5,166	\$5,310	\$5,383
21	\$5,166	\$5,237	\$5,383	\$5,458
22	\$5,237	\$5,310	\$5,458	\$5,537
23	\$5,310	\$5,383	\$5,537	\$5,617
24	\$5,383	\$5,458	\$5,617	\$5,725
25	\$5,458	\$5,537	\$5,725	\$5,839
26	\$5,537	\$5,617	\$5,839	\$5,956
27	\$5,617	\$5,725	\$5,956	\$6,075

1	28	\$5,725	\$5,839	\$6,075	\$6,197
2	29	\$5,839	\$5,956	\$6,197	\$6,321
3	30	\$5,956	\$6,075	\$6,321	\$6,447
4	31	\$6,075	\$6,197	\$6,447	\$6,576
5	32	\$6,197	\$6,321	\$6,576	\$6,708
6	33	\$6,321	\$6,447	\$6,708	\$6,842
7	34	\$6,447	\$6,576	\$6,842	\$6,979
8	35	\$6,576	\$6,708	\$6,979	\$7,119
9	36	\$6,708	\$6,842	\$7,119	\$7,261
10	37	\$6,842	\$6,979	\$7,261	\$7,406
11	38	\$6,979	\$7,119	\$7,406	\$7,554
12	39	\$7,119	\$7,261	\$7,554	\$7,705
13	40	\$7,261	\$7,406	\$7,705	\$7,859
14	41	-	\$7,554	\$7,859	\$8,016
15	42	-	\$7,705	\$8,016	\$8,176
16	43	-	-	\$8,176	\$8,340

SECTION 29.3.(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 29.3.(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. Provided, however, a principal who acquires an additional step for the 2009-2010 or 2010-2011 fiscal years shall not receive a corresponding increase in salary during the 2009-2011 fiscal biennium. 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 29.3.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level a salary supplement of one hundred

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

3 **SECTION 29.3.(e)** Longevity pay for principals and assistant principals shall be as
4 provided for State employees under the State Personnel Act.

5 **SECTION 29.3.(f)** If a principal is reassigned to a higher job classification because
6 the principal is transferred to a school within a local school administrative unit with a larger
7 number of State-allotted teachers, the principal shall be placed on the salary schedule as if the
8 principal had served the principal's entire career as a principal at the higher job classification.

9 If a principal is reassigned to a lower job classification because the principal is
10 transferred to a school within a local school administrative unit with a smaller number of
11 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal
12 had served the principal's entire career as a principal at the lower job classification.

13 This subsection applies to all transfers on or after the effective date of this section,
14 except transfers in school systems that have been created, or will be created, by merging two or
15 more school systems. Transfers in these merged systems are exempt from the provisions of this
16 subsection for one calendar year following the date of the merger.

17 **SECTION 29.3.(g)** Participants in an approved full-time master's in school
18 administration program shall receive up to a 10-month stipend at the beginning salary of an
19 assistant principal during the internship period of the master's program. For the 2006-2007
20 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the
21 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any
22 fellowship funds received by the intern as a full-time student, including awards of the Principal
23 Fellows Program. The Principal Fellows Program or the school of education where the intern
24 participates in a full-time master's in school administration program shall supply the
25 Department of Public Instruction with certification of eligible full-time interns.

26 **SECTION 29.3.(h)** During the 2010-2011 fiscal year, the placement on the salary
27 schedule of an administrator with a one-year provisional assistant principal's certificate shall be
28 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary
29 schedule, whichever is higher.

30 31 **FURLOUGHS AUTHORIZED/UNC**

32 **SECTION 29.4.(a)** Findings. – The General Assembly finds that:

- 33 (1) North Carolina's citizens and businesses are suffering from the effects of a
34 significant State financial crisis.
- 35 (2) The financial crisis has resulted in large reductions in revenues projected to
36 be available to fund the State's budget for the 2010-2011 fiscal year.
- 37 (3) The University of North Carolina and its constituent institutions are required
38 to reduce their budgets and should attempt to protect university employees
39 when possible.
- 40 (4) The implementation of furloughs may be necessary to balance The
41 University of North Carolina's and its constituent institutions' budgets for the
42 2010-2011 fiscal year.

43 **SECTION 29.4.(b)** The President of The University of North Carolina may
44 implement furloughs of university employees or delegate furlough authority to a chancellor of a
45 constituent institution to offset the UNC Management Flexibility Reduction.

46 **SECTION 29.4.(c)** Definitions. – The following definitions apply in this section:

- 47 (1) Furlough. – A temporary period of leave from employment without pay that
48 (i) is ordered by the President of The University of North Carolina or a
49 chancellor when delegated and (ii) is not in connection with a demotion or
50 other disciplinary action.

- 1 (2) University employee. – Any permanent full-time, permanent part-time, or
2 time-limited employee of The University of North Carolina, including
3 employees exempt from the State Personnel Act under G.S. 126-5(c),
4 126-5(c1), 126-5(c7), and 126-5(c8). The term includes public officers.

5 **SECTION 29.4.(d)** Compensation and Benefits. – The provisions of Section
6 26.14E.(b) and (c) of S.L. 2009-451 apply to university employees furloughed pursuant to the
7 section.

8 **SECTION 29.4.(e)** Cooperation with The University of North Carolina – General
9 Administration. – Constituent institutions shall cooperate with UNC General Administration in
10 the implementation of furloughs, if required.

11 **SECTION 29.4.(f)** As soon as practicable, and no more than 30 calendar days from
12 the effective date of this section, the Board of Governors of The University of North Carolina
13 shall adopt policies for the implementation of this section to remain in effect until the
14 expiration of this section. These policies shall be applied by the President and the constituent
15 institutions in implementing a furlough of university employees. These policies shall provide,
16 at a minimum, that:

- 17 (1) The President may establish a salary threshold below which university
18 employees shall not be subject to furlough. In no event may any full-time
19 university employee, prorated for any part-time employee, earning an annual
20 base rate of thirty thousand dollars (\$30,000) or less be subject to furlough.
21 (2) The scheduling of any furlough period shall be at the discretion of the
22 President or the chancellor of the constituent institution when delegated.
23 (3) Paid leave shall not be used to offset all or any portion of a furlough.
24 (4) If a holiday falls during the mandatory furlough period, the university
25 employee must be paid for the holiday.
26 (5) All savings realized as a result of a furlough shall be used to offset the
27 Management Flexibility Reduction for The University of North Carolina..

28 **SECTION 29.4.(g)** Reporting Requirements. – The provisions of Section
29 26.14E.(e) of S.L. 2009-451 apply to furloughs under this section.

30 **SECTION 29.4.(h)** Upon delegation of furlough authority to a chancellor, the
31 constituent institution shall develop a furlough plan to be approved by the President consistent
32 with the policies adopted by the UNC Board of Governors. Access to approved furlough plans
33 shall be provided to all affected employees.

34 **SECTION 29.4.(i)** Effective Date. – This section is effective when it becomes law
35 and expires June 30, 2011.
36

37 **MONITOR COMPLIANCE WITH FREEZE ON MOST SALARY INCREASES**

38 **SECTION 29.5.(a)** The Office of State Budget and Management and the Office of
39 State Personnel shall monitor jointly the compliance of the following units of government with
40 the provisions of Section 26.1A of S.L. 2009-451, and beginning September 1, 2010, shall
41 submit quarterly reports of their monitoring activities to the President Pro Tempore of the
42 Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State
43 agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the
44 judicial branch; and (iii) The University of North Carolina and its constituent institutions.

45 The quarterly reports required by this section shall include the following
46 information:

- 47 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a
48 breakdown by action type (including promotion, reallocation, career
49 progression, salary adjustment, and any similar actions increasing employee
50 pay) of the number and annual amount of those increases and (ii) a
51 breakdown by action reason (including in-range higher level, acting pay,

1 trainee adjustment, and other similar action reasons) of the number and
 2 annual amount of those action types coded as salary adjustment.

3 (2) For The University of North Carolina and its constituent institutions, a
 4 breakdown of the number and annual amount of those increases categorized
 5 by the university as promotions, changes in job duties or responsibilities,
 6 Distinguished Professorships, retention pay, career progression, and any
 7 similar actions increasing employee pay.

8 (3) A summary of actions taken by the Office of State Budget and Management
 9 and the Office of State Personnel with respect to unauthorized salary
 10 increases.

11 **SECTION 29.5.(b)** Beginning September 1, 2010, and quarterly thereafter, the
 12 Legislative Services Officer shall report to the President Pro Tempore of the Senate and the
 13 Speaker of the House of Representatives on compliance with Section 26.1A of S.L. 2009-451.

14
 15 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

16 **SECTION 29.6.** Section 6(c) of S.L. 2009-16, as amended by Section 26.20(b) of
 17 S.L. 2009-451, reads as rewritten:

18 "SECTION 6.(c) Effective July 1, 2010, the State's employer contribution rates budgeted
 19 for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal
 20 year are: (i) ~~ten and fifty-one hundredths percent (10.51%)~~ ten and seventy-one hundredths
 21 percent (10.71%) – Teachers and State Employees; (ii) ~~fifteen and fifty-one hundredths percent~~
 22 ~~(15.51%)~~ fifteen and seventy-one hundredths percent (15.71%) – State Law Enforcement
 23 Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees'
 24 Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) –
 25 Community College Optional Retirement Program; (v) twenty and one hundredths percent
 26 (20.01%) – Consolidated Judicial Retirement System; and (vi) four and ninety hundredths
 27 percent (4.90%) – Legislative Retirement System. Each of the foregoing contribution rates
 28 includes four and ninety hundredths percent (4.90%) for hospital and medical benefits. The rate
 29 for Teachers and State Employees, State Law Enforcement Officers, Community College
 30 Optional Retirement Program, and for the University Employees' Optional Retirement Program
 31 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for
 32 Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths
 33 percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers
 34 includes five percent (5%) for Supplemental Retirement Income."

35
 36 **PART XXX. CAPITAL APPROPRIATIONS**

37
 38 **CAPITAL APPROPRIATIONS/GENERAL FUND**

39 **SECTION 30.1.** There is appropriated from the General Fund for the 2010-2011
 40 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2010-2011
Department of Environment and Natural Resources	
Water Resources Development Projects	\$9,130,000
University of North Carolina System	
Appalachian State University	
College of Nursing and Health Sciences Building Advance Planning	2,400,000
East Carolina University	

1	Life Sciences Building Advance Planning	6,100,000
2		
3	Elizabeth City State University	
4	Aviation Complex Planning	533,778
5		
6	University of North Carolina at Charlotte	
7	Science Building Advance Planning	4,800,000
8		
9	University of North Carolina at Wilmington	
10	Allied Health and Human Sciences Building Advance Planning	1,900,000
11		
12	Western Carolina University	
13	Mountain Area Health Education Center Advance Planning	1,300,000
14		
15	Winston-Salem State University	
16	Science Building Advance Planning	1,400,000
17		
18	TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$27,563,778

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 30.2.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects in accordance with the schedule that follows. These funds will provide a State match for an estimated twenty-seven million four hundred four thousand dollars (\$27,404,000) in federal funds.

27	Name of Project	2009-2010
28		
29	(1) Wilmington Harbor Deepening	\$900,000
30	(2) Wilmington Harbor Maintenance	2,000,000
31	(3) Morehead City Harbor Maintenance	100,000
32	(4) Dredging Contingency Fund	1,250,000
33	(5) AIWW Dredging	1,000,000
34	(6) Bogue Banks Shore Protection Study	5,000
35	(7) John H. Kerr Dam and Reservoir Sec. 216	50,000
36	(8) Neuse River Basin PED	–
37	(9) Princeville Flood Damage Reduction	200,000
38	(10) Currituck Sound Environmental Restoration Study	50,000
39	(11) Belhaven Harbor – Cap – Sec 1135	350,000
40	(12) Surf City/North Topsail Beach Protection Study PED	–
41	(13) West Onslow Beach (Topsail Beach) PED	50,000
42	(14) Silver Lake Harbor Disposal Area Maintenance	800,000
43	(15) Manteo Old House Channel – CAP – Sec. 204	25,000
44	(16) Concord Streams Restoration – CAP – Sec. 206	–
45	(17) North Carolina International Terminal	–
46	(18) Planning Assistance to Communities	–
47	(19) State-Local Projects	2,000,000
48	(20) Aquatic Plant Control, Statewide and Lake Gaston	350,000
49		
50	TOTALS	\$9,130,000
51		

1 **SECTION 30.2.(b)** Where the actual costs are different from the estimated costs
 2 under subsection (a) of this section, the Department may adjust the allocations among projects
 3 as needed. If any projects funded under subsection (a) of this section are delayed and the
 4 budgeted State funds cannot be used during the 2010-2011 fiscal year, or if the projects funded
 5 under subsection (a) of this section are accomplished at a lower cost, the Department may use
 6 the resulting fund availability to fund any of the following:

- 7 (1) U.S. Army Corps of Engineers project feasibility studies.
- 8 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
 9 require State-matching funds in fiscal year 2010-2011.
- 10 (3) State-local water resources development projects.

11 Funds not expended or encumbered for these purposes shall revert to the General Fund at the
 12 end of the 2011-2012 fiscal year.

13 **SECTION 30.2.(c)** The Department shall make semiannual reports on the use of
 14 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal
 15 Research Division, and the Office of State Budget and Management. Each report shall include
 16 all of the following:

- 17 (1) All projects listed in this section.
- 18 (2) The estimated cost of each project.
- 19 (3) The date that work on each project began or is expected to begin.
- 20 (4) The date that work on each project was completed or is expected to be
 21 completed.
- 22 (5) The actual cost of each project.

23 The semiannual reports shall also show those projects advanced in schedule, those
 24 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
 25 General Fund.

26
 27 **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

28 **SECTION 30.3.(a)** The General Assembly authorizes the following capital
 29 projects to be funded with receipts or from other non-General Fund sources available to the
 30 appropriate department:

32 Name of Project	33 Amount of Non-General Fund 34 Funding Authorized for FY 2010-2011
35 Department of Agriculture and Consumer Services	
36 Upgrade Steam Generation Capability at Food and Drug Facility	\$ 18,000
37 Western NC Agricultural Center – Storage Shed	23,000
38 Western NC Agricultural Center – Entertainment Stage	35,000
39 Western NC Agricultural Center – Youth Building Roof Replacement	3,000
40 Western NC Agricultural Center – RV Site Improvements	20,000
41 Western NC Agricultural Center – C&D Barn Access Road	125,000
42 Western NC Agricultural Center – Handicap Platform	8,000
43 Western NC Agricultural Center – Exhibits/Cashier Office	70,000
44 Western NC Agricultural Center – Retention Pond Parking	225,000
45 Constable Lab Standby Generator/Rollins Lab Security	363,245
46 Southeastern Agricultural Center – Multipurpose Pavilion	1,290,000
47 Southeastern Agricultural Center – Horse Stalls	700,000
48 Research Stations Irrigation Renovations	200,000
49 Piedmont Research Station – Grain Storage Renovation	400,000

50
 51 Department of Correction

1	Southern Medium Programs Building	600,000
2	Caledonia Programs Building	600,000
3	Caswell Programs Building	600,000
4	Southern Minimum Programs Building	600,000
5	Randolph Programs Building	600,000
6		
7	Department of Cultural Resources	
8	USS NC Battleship Repairs, Dredging, Construction	
9	Commission Battleship Fund	1,700,000
10		
11	Department of Environment and Natural Resources	
12	Forest Resources – Bladen Lakes Ranger Residence	399,000
13		
14	Department of Justice	
15	NC Justice Academy Live Fire Shoot House	282,000
16		
17	Wildlife Resources Commission	
18	Pisgah Education Center Repairs & Renovation	60,000
19	Outer Banks Education Center Repairs and Renovation	26,000
20	Mt. Holly Depot Acquisition	150,000
21	Statewide Boating Access Areas (BAA) Renovations	3,610,000
22	Table Rock Hatchery Residence Renovation	150,000
23	McKinney Lake Equipment Shed	70,000
24	Fishing Access Areas Construction	180,000
25		
26	TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL	
27	PROJECTS AUTHORIZED	\$13,107,245

28

29 **SECTION 30.3.(b)** From funds deposited with the State Treasurer in a capital
30 improvement account to the credit of the Department of Agriculture and Consumer Services
31 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 fiscal
32 year shall be transferred to the Department of Agriculture and Consumer Services to be used,
33 notwithstanding G.S. 146-30, by the Department for its plant conservation program under
34 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of
35 land, such as land appraisals, land surveys, title searches, environmental studies, and for the
36 management of the plant conservation program preserves owned by the Department.

37 **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

38 **SECTION 30.4.(a)** Of the funds in the Reserve for Repairs and Renovations for
39 the 2010-2011 fiscal year, fifty-four percent (54%) shall be allocated to the Board of Governors
40 of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in
41 accordance with guidelines developed in The University of North Carolina Funding Allocation
42 Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The
43 University of North Carolina, and forty-six percent (46%) shall be allocated to the Office of
44 State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

45 Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the
46 repair and renovation of facilities not supported from the General Fund if the Board determines
47 that sufficient funds are not available from other sources and that conditions warrant General
48 Fund assistance. Any such finding shall be included in the Board's submission to the Joint
49 Legislative Commission on Governmental Operations on the proposed allocation of funds.

1 The Board of Governors and the Office of State Budget and Management shall
 2 consult with the Joint Legislative Commission on Governmental Operations prior to the
 3 allocation or reallocation of these funds.

4 **SECTION 30.4.(b)** Of the funds allocated to the Board of Governors of The
 5 University of North Carolina in subsection (a) of this section, a portion shall be used by the
 6 Board of Governors for the installation of fire sprinklers in university residence halls. This
 7 portion shall be in addition to funds otherwise appropriated in this act for the same purpose.
 8 Such funds shall be allocated among the university's constituent institutions by the President of
 9 The University of North Carolina, who shall consider the following factors when allocating
 10 those funds:

- 11 (1) The safety and well-being of the residents of campus housing programs.
- 12 (2) The current level of housing rents charged to students and how that
 13 compares to an institution's public peers and other UNC institutions.
- 14 (3) The level of previous authorizations to constituent institutions for the
 15 construction or renovation of residence halls funded from the General Fund,
 16 or from bonds or certificates of participation supported by the General Fund,
 17 since 1996.
- 18 (4) The financial status of each constituent institution's housing system,
 19 including debt capacity, debt coverage ratios, credit rankings, required
 20 reserves, the planned use of cash balances for other housing system
 21 improvements, and the constituent institution's ability to pay for the
 22 installation of fire sprinklers in all residence halls.
- 23 (5) The total cost of each proposed project, including the cost of installing fire
 24 sprinklers and the cost of other construction, such as asbestos removal and
 25 additional water supply needs.

26 The Board of Governors shall submit progress reports to the Joint Legislative
 27 Commission on Governmental Operations. Reports shall include the status of completed,
 28 current, and planned projects. Reports also shall include information on the financial status of
 29 each constituent institution's housing system, the constituent institution's ability to pay for fire
 30 protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be
 31 submitted on January 1 and July 1 until all residence halls have fire sprinklers.

32 **SECTION 30.4.(c)** Of the funds allocated to the Board of Governors of The
 33 University of North Carolina in subsection (a) of this section, a portion shall be used by the
 34 Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).
 35

36 **AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND**
 37 **CAPITAL IMPROVEMENT AUTHORIZATIONS**

38 **SECTION 30.5.(a)** Subsection 27.4.(a) of S.L. 2009-451 reads as rewritten:

39 **"SECTION 27.4.(a)** The General Assembly authorizes the following capital projects to be
 40 funded with receipts or from other non-General Fund sources available to the appropriate
 41 department:
 42

43 Name of Project	44 Amount of Non-General Fund 45 Funding Authorized for FY 2009-2010
46 Department of Crime Control and Public Safety	
47 Additions and Renovations to Armories	\$ 9,303,442
48 Camp Butner Cantonment – Phase 1 Design	1,367,000
49 Family Assistance Centers	2,000,000
50 Gastonia Armory Renovation and Expansion	1,100,000
51 Tactical Unmanned Aerial Systems Facility	6,746,000

1		
2	Department of Cultural Resources	
3	Aycock Birthplace Picnic Shelter	86,100
4	Maritime Museum – Floating Dock	130,000
5	Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
6		
7	Department of Environment and Natural Resources	
8	Zoo – Elephant Exhibit New Restrooms	300,000
9		
10	Wildlife Resources Commission	
11	Armstrong Hatchery Lower Raceway Replacement	1,725,000
12	Centennial Campus Education Center Exhibit Completion	180,000
13	Chinquapin Equipment Storage Pole Shed	60,000
14	Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
15	Emerald Isle New Boating Access Area	600,000
16	Falls Lake Office Building	550,000
17	Hampstead Land Acquisition	10,000,000
18	Land Acquisitions – State Gamelands	59,135,000 20,000,000
19	Lewelyn Branch New Boating Access Area	150,000
20	Manns Harbor Bridge Marina Acquisition	5,750,000
21	Marion Depot Drainage Repairs	200,000
22	<u>Marion Hatchery and Depot Renovation</u>	<u>4,000,000</u>
23	McKinney Lake Hatchery Kettles Replacement	1,700,000
24	Minor Boating Access Area Renovations – Various Locations	150,000
25	New Coldwater Fish Hatchery Construction	7,900,000
26	Ocean Isle Boating Access Area Renovations	150,000
27	Outer Banks Education Center Teaching Facility Repairs	245,000
28	Pechmann Fishing Education Center Pond Restoration	160,000
29	Pechmann Fishing Education Center Storage Building	220,000
30	Pisgah Education Center Gift Shop Renovation and Expansion	200,000
31	Pisgah Education Center Outdoor Exhibit Renovation	450,000
32	Pisgah Education Center Repairs	155,000
33	Pisgah Hatchery Water System Renovation	100,000
34	Rhodes Pond Dam Repairs	500,000
35	Sneads Ferry Land Acquisition	6,500,000
36	<u>Statewide Emergency Repair & Renovation</u>	<u>3,500,000</u>
37	Sunset Harbor Land Acquisition	925,000
38	Swan Quarter Land Acquisition	1,700,000
39	Sykes Depot Pond, Office, Storage Construction	350,000
40	Table Rock Hatchery Office and Workshop Replacement	345,000

41
42 **TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**

43 **PROJECTS AUTHORIZED** **\$122,782,54283,247,542"**

44 **SECTION 30.5.(b)** Section 27.4 of S.L. 2009-451 is amended by adding a new
45 subsection to read:

46 **"SECTION 27.4.(a1)** The Wildlife Resources Commission shall not expend any of the
47 funds authorized to be spent on Statewide Emergency Repair & Renovation by subsection (a)
48 of this section without first obtaining approval from the Office of State Budget and
49 Management."

50
51 **AMEND COPS AUTHORIZATION LANGUAGE/UNCG**

1 **SECTION 30.6.(a)** Subdivision (13) of Section 27.8(a) of S.L. 2008-107 reads as
2 rewritten:

3 "(13) In the maximum aggregate principal amount of thirty-eight million six
4 hundred seventy thousand dollars (\$38,670,000) to finance the capital
5 facility costs of completing an academic classroom and office building at the
6 University of North Carolina at Greensboro. Up to a total of four million five
7 hundred thousand dollars (\$4,500,000) may be used to acquire real property
8 for an academic building, a University Police building, and a student
9 recreation facility and for the development and construction of a new
10 railroad underpass to connect the current central campus to West Lee Street.
11 No more than a maximum aggregate amount of twenty-one million dollars
12 (\$21,000,000) of special indebtedness may be issued or incurred under this
13 subdivision prior to July 1, 2009."

14 **SECTION 30.6.(b)** Section 27.8(a) of S.L. 2008-107 is amended by adding a new
15 subdivision to read:

16 "(11a) In the maximum aggregate principal amount of four million dollars
17 (\$4,000,000) to finance the capital facility costs of completing infrastructure
18 at the Innovation Center at The Carolina North Campus of The University of
19 North Carolina at Chapel Hill."

21 **PART XXXI. TAX CHANGES**

23 **IRC UPDATE**

24 **SECTION 31.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

25 "(b) Definitions. – The following definitions apply in this Article:

26 ...

27 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009, May 1,~~
28 2010, including any provisions enacted as of that date which become
29 effective either before or after that date."

30 **SECTION 31.1.(b)** G.S. 105-134.6(d) reads as rewritten:

31 "(d) Other Adjustments. – The following adjustments to taxable income shall be made in
32 calculating North Carolina taxable income:

33 ...

34 (7) An addition is required to taxable years 2003, 2004, 2005, and 2006 for the
35 amount of any 2008 or 2009 net operating loss deduction claimed on a
36 federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.

37 (8) For taxable years 2011 through 2013, a taxpayer may deduct one-third of the
38 taxpayer's net operating loss absorbed on the taxpayer's 2003, 2004, 2005,
39 and 2006 federal returns under section 172(b)(1)(H) or section 810(b)(4) of
40 the Code."

41 **SECTION 31.1.(c)** This section is effective when it becomes law.

43 **CAP TAX RATE ON INCOME FROM FAMILY-OWNED AND OTHER SMALL** 44 **BUSINESS**

45 **SECTION 31.2.(a)** G.S. 105-134.2 reads as rewritten:

46 "**§ 105-134.2. Individual income tax imposed.**

47 (a) Tax Rate. – A tax is imposed upon the North Carolina taxable income of every
48 individual. The tax shall be levied, collected, and paid ~~annually and shall annually.~~ Except as
49 otherwise provided in this section, the tax shall be computed at the following percentages of the
50 taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	NA	7.75%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	NA	7.75%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	NA	7.75%

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
0	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	NA	7.75%

(b) Tax Tables. – In lieu of the tax imposed by subsection (a) of this section, there is imposed for each taxable year upon the North Carolina taxable income of every individual a tax determined under tables, applicable to the taxable year, which may be prescribed by the Secretary. The amounts of the tax determined under the tables shall be computed on the basis of the rates prescribed by subsection (a) of this section. This subsection does not apply to an individual making a return under section 443(a)(1) of the Code for a period of less than 12 months on account of a change in the individual's annual accounting period, or to an estate or trust. The tax imposed by this subsection shall be treated as the tax imposed by subsection (a) of this section.

(c) Small Business Income. – The tax rate imposed on the net business income of a taxpayer who receives income from a small business for a taxable year may not exceed the rate imposed on a corporation under G.S. 105-130.3. A small business is a business whose cumulative gross receipts from all business activity in a taxable year does not exceed one million dollars (\$1,000,000). For purposes of this subsection, the term business income does not include income that is considered passive income under the Code."

SECTION 31.2.(b) This section becomes effective for taxable years beginning on or after January 1, 2010.

LOWER SALES TAX COMPLIANCE BURDEN ON SMALL RETAILERS

SECTION 31.3.(a) G.S. 105-164.16(b1) reads as rewritten:

1 "(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars
2 (\$100.00) but less than ~~ten thousand dollars (\$10,000)~~ fifteen thousand dollars (\$15,000) a
3 month in State and local sales and use taxes must file a return and pay the taxes due on a
4 monthly basis. A monthly return is due by the 20th day of the month following the calendar
5 month covered by the return."

6 **SECTION 31.3.(b)** G.S. 105-164.16(b2) reads as rewritten:

7 "(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~ten thousand dollars~~
8 ~~(\$10,000)~~ fifteen thousand dollars (\$15,000) a month in State and local sales and use taxes
9 must make a monthly prepayment of the next month's tax liability. The prepayment is due on
10 the date a monthly return is due. The prepayment must equal at least sixty-five percent (65%)
11 of any of the following:

- 12 (1) The amount of tax due for the current month.
- 13 (2) The amount of tax due for the same month in the preceding year.
- 14 (3) The average monthly amount of tax due in the preceding calendar year."

15 **SECTION 31.3.(c)** G.S. 105-164.16(b1), as rewritten by subsection (a) of this
16 section, reads as rewritten:

17 "(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars
18 (\$100.00) but less than ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a
19 month in State and local sales and use taxes must file a return and pay the taxes due on a
20 monthly basis. A monthly return is due by the 20th day of the month following the calendar
21 month covered by the return."

22 **SECTION 31.3.(d)** G.S. 105-164.16(b2), as rewritten by subsection (b) of this
23 section, reads as rewritten:

24 "(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~fifteen thousand~~
25 ~~dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a month in State and local sales and use
26 taxes must make a monthly prepayment of the next month's tax liability. The prepayment is due
27 on the date a monthly return is due. The prepayment must equal at least sixty-five percent
28 (65%) of any of the following:

- 29 (1) The amount of tax due for the current month.
- 30 (2) The amount of tax due for the same month in the preceding year.
- 31 (3) The average monthly amount of tax due in the preceding calendar year."

32 **SECTION 31.3.(e)** When the Secretary of Revenue conducts a review of a
33 taxpayer's sales and use tax payment schedule requirements under G.S. 105-164.16(b3), the
34 Secretary must identify the taxpayers who are no longer required to make a monthly
35 prepayment of the next month's sales and use tax liability because of the reduction of the sales
36 tax payment threshold under this section and must notify those taxpayers of the change in the
37 taxpayer's payment requirement.

38 **SECTION 31.3.(f)** Subsections (a) and (b) of this section become effective
39 October 1, 2010. Subsections (c) and (d) of this section become effective July 1, 2011. The
40 remainder of this section is effective when it becomes law.

41 **RELIEVE ANNUAL REPORT COMPLIANCE BURDEN ON SMALL BUSINESS**

42 **SECTION 31.4.(a)** G.S. 55-16-22(c) reads as rewritten:

43 "(c) Due Date. – An annual report eligible to be delivered to the Secretary of Revenue is
44 due by the due date for filing the corporation's income and franchise tax returns. An extension
45 of time to file a return is an extension of time to file an annual report. At the option of the filer,
46 an annual report may be filed directly with the Secretary of State in electronic form. An annual
47 report required to be delivered to the Secretary of State is due by the fifteenth day of the ~~third~~
48 fourth month following the close of the corporation's fiscal year."

49 **SECTION 31.4.(b)** G.S. 57C-2-23 reads as rewritten:

50 "§ 57C-2-23. Annual report for Secretary of State.
51

1 (a) Requirement and Content. – Each domestic limited liability company other than a
2 professional limited liability company governed by G.S. 57C-2-01(c) and each foreign limited
3 liability company authorized to transact business in this State, ~~shall deliver to the Secretary of~~
4 ~~State for filing an annual report, in~~ State must file an annual report with the Secretary of State
5 on a form prescribed by the Secretary of State, that sets forth all of the following: and in the
6 manner required by the Secretary. The annual report must specify the year to which the report
7 applies and must set out the information listed in this subsection. The information must be
8 current as of the date the company completes the report. If the information in the company's
9 most recent annual report has not changed, the company may certify on its annual report that
10 the information has not changed in lieu of restating the information.

11 The following information must be included on an annual report of a limited liability
12 company:

- 13 (1) The name of the limited liability or foreign limited liability company and the
14 state or country under whose law it is formed.
- 15 (2) The street address, and the mailing address if different from the street
16 address, of the registered office, the county in which the registered office is
17 located, and the name of its registered agent at that office in this State, and a
18 statement of any change of the registered office or registered agent, or both.
- 19 (3) The address and telephone number of its principal office.
- 20 (4) The names and business addresses of its managers or, if the limited liability
21 company has never had members, its organizers.
- 22 (5) A brief description of the nature of its business.

23 ~~If the information contained in the most recently filed annual report has not changed, a~~
24 ~~certification to that effect may be made instead of setting forth the information required by~~
25 ~~subdivisions (2) through (5) of this subsection. The Secretary of State shall make available the~~
26 ~~form required to file an annual report.~~

27 ~~(b) Information in the annual report must be current as of the date the annual report is~~
28 ~~executed on behalf of the limited liability company or the foreign limited liability company.~~

29 (c) Notice and Due Date. – The Secretary of State must notify limited liability
30 companies of the annual report filing requirement. The first annual report shall be delivered to
31 the Secretary of State of a limited liability company is due by April 15th of each year: the year
32 following the calendar year in which the company files its articles of organization with the
33 Secretary of State. Each subsequent annual report is due on April 15.

34 (d) Incomplete Report. – If an annual report does not contain the information required
35 by this section, the Secretary of State shall promptly notify the reporting domestic or foreign
36 limited liability company in writing and return the report to it for correction. If the report is
37 corrected to contain the information required by this section and delivered to the Secretary of
38 State within 30 days after the effective date of notice, it is deemed to be timely filed.

39 (e) Amendments. – Amendments to any previously filed annual report may be filed
40 with the Secretary of State at any time for the purpose of correcting, updating, or augmenting
41 the information contained in the annual report."

42 **SECTION 31.4.(c)** This section is effective when it becomes law. A limited
43 liability company whose articles of organization were filed on or after January 1, 2010, but
44 before April 15, 2010, is not required to file an annual report until April 15, 2011. A limited
45 liability company that was formed during this period and that has filed an annual report that is
46 not required is considered to have filed the annual report due April 15, 2011. A limited liability
47 company that was formed before January 1, 2009, and has filed an annual report in each year
48 after the calendar year in which its articles of organization were filed is considered to have met
49 its annual report filing requirements.

50

1 **EXTEND SUNSET ON EXPIRING TAX INCENTIVE INCOME TAX CREDITS AND**
2 **SALES TAX REFUNDS ONE YEAR**

3 **SECTION 31.5.(a)** G.S. 105-129.75 reads as rewritten:

4 "**§ 105-129.75. Sunset.**

5 This Article expires ~~January 1, 2011,~~ January 1, 2012, for rehabilitation projects for which
6 an application for an eligibility certification is submitted on or after that date."

7 **SECTION 31.5.(b)** G.S. 105-163.015 reads as rewritten:

8 "**§ 105-163.015. Sunset.**

9 This Part is repealed effective for investments made on or after ~~January 1, 2011.~~January 1,
10 2012."

11 **SECTION 31.5.(c)** G.S. 105-164.14(a1) reads as rewritten:

12 "(a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund
13 of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in
14 excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and
15 use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A
16 request for a refund must be in writing and must include any information and documentation
17 the Secretary requires. A request for a refund is due within six months after the end of the
18 calendar year for which the refund is claimed. The refund allowed by this subsection is in
19 addition to the refund allowed in subsection (a) of this section. This subsection is repealed for
20 purchases made on or after ~~January 1, 2011.~~January 1, 2012."

21 **SECTION 31.5.(d)** G.S. 105-164.14(l) reads as rewritten:

22 "(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or
23 a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this
24 State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel
25 to a motorsports event in another state from a location in this State, or to travel to this State
26 from a motorsports event in another state. For the purposes of this subsection, a "motorsports
27 event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A
28 request for a refund must be in writing and must include any information and documentation
29 the Secretary requires. A request for a refund is due within six months after the end of the
30 State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed
31 for purchases made on or after ~~January 1, 2011.~~January 1, 2012."

32 **SECTION 31.5.(e)** This section is effective when it becomes law.
33

34 **MODERNIZE SALES TAX ON ACCOMMODATIONS**

35 **SECTION 31.6.(a)** G.S. 105-164.4(a)(3) reads as rewritten:

36 "**§ 105-164.4. Tax imposed on retailers.**

37 (a) A privilege tax is imposed on a retailer at the following percentage rates of the
38 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is five and
39 three-quarters percent (5.75%).

40 ...

41 (3) ~~Operators of hotels, motels, tourist homes, tourist camps, and similar type~~
42 ~~businesses and persons who rent private residences and cottages to transients~~
43 ~~are considered retailers under this Article. A tax at the general rate of tax is~~
44 ~~levied on the gross receipts derived by these retailers from the rental of any~~
45 ~~rooms, lodgings, or accommodations furnished to transients for a~~
46 ~~consideration. This tax does not apply to any private residence or cottage~~
47 ~~that is rented for less than 15 days in a calendar year or to any room,~~
48 ~~lodging, or accommodation supplied to the same person for a period of 90 or~~
49 ~~more continuous days.~~

50 ~~As used in this subdivision, the term "persons who rent to transients"~~
51 ~~means (i) owners of private residences and cottages who rent to transients~~

1 and (ii) rental agents, including "real estate brokers" as defined in
2 G.S. 93A-2, who rent private residences and cottages to transients on behalf
3 of the owners. If a rental agent is liable for the tax imposed by this
4 subdivision, the owner is not liable. A tax at the general rate applies to the
5 sales price of the rental of an accommodation to a transient and to other
6 gross receipts derived from the rental of an accommodation to a transient.
7 The sales price of the rental of an accommodation to a transient is
8 determined as if the rental were a service. An "accommodation" is a hotel
9 room, a motel room, a residence, a cottage, or a similar space for occupancy
10 by an individual. The tax does not apply to a residence or a cottage that is
11 rented for less than 15 days in a calendar year or to an accommodation
12 provided to the same person for a period of 90 or more continuous days.

13 A person who provides an accommodation to a transient is considered a
14 retailer under this Article. A person who, by written contract, agrees to be
15 the rental agent for the provider of an accommodation is considered a retailer
16 under this Article and is liable for the tax imposed by this subdivision. The
17 liability of a rental agent for the tax imposed by this subdivision relieves the
18 provider of the accommodation from liability. A rental agent includes a real
19 estate broker, as defined in G.S. 93A-2.

20 A person who, by written contract, is not the rental agent of the provider
21 of an accommodation but is authorized by the provider to facilitate the rental
22 of the accommodation and to charge a transient for the rental is considered a
23 retailer under this Article for the purpose of determining the sales price of
24 the accommodation. Accordingly, charges designated as facilitation fees or
25 similar fees are considered charges necessary to complete the rental of the
26 accommodation and are included in the sales price. A person who enters into
27 a contract with the provider of an accommodation to a transient to facilitate
28 the rental of an accommodation must report the sales price to the provider of
29 the accommodation and must send the provider the tax due on the sales
30 price. A facilitator that does not send a provider the tax due on the sales
31 price of an accommodation is liable for the amount of tax the provider fails
32 to send. A facilitator is not liable for tax sent to a provider but not remitted
33 by the provider to the Secretary. Tax payments received by a provider from a
34 facilitator are held in trust by the provider for remittance to the Secretary. A
35 provider that receives a tax payment from a facilitator must remit the amount
36 received to the Secretary. A provider is not liable for tax due but not
37 received from a facilitator. The requirements imposed by this subdivision on
38 a provider and a facilitator are considered terms of the contract between the
39 provider and the facilitator."

40 **SECTION 31.6.(b)** G.S. 105-164.4B is amended by adding a new subsection to
41 read:

42 "(e) Accommodations. – The rental of a transient accommodation is sourced to the
43 location of the accommodation."

44 **SECTION 31.6.(c)** G.S. 153A-155(c) reads as rewritten:

45 "(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on
46 and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as
47 part of the charge for furnishing a taxable accommodation. A person who is required to remit to
48 the Department of Revenue the State sales tax on accommodations imposed by
49 G.S. 105-164.4(a)(3) is required to remit a room occupancy tax to the taxing county on and
50 after the effective date of the levy of the room occupancy tax. The room occupancy tax applies
51 to the same gross receipts as the State sales tax on accommodations and is calculated in the

1 same manner as that tax. A rental agent or a person who facilitates the rental of an
2 accommodation has the same responsibility and liability under the room occupancy tax as the
3 rental agent or facilitator has under the State sales tax on accommodations.

4 If a taxable accommodation is furnished as part of a package, the bundled transaction
5 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable
6 accommodation. If those provisions do not address the type of package offered, the ~~operator~~
7 person offering the package may determine an allocated price for each item in the package
8 based on a reasonable allocation of revenue that is supported by the operator's person's business
9 records kept in the ordinary course of business and collect-calculate tax on the allocated price
10 of the taxable accommodation.

11 ~~The tax shall be stated and charged separately from the sales records and shall be paid by~~
12 ~~the purchaser to the operator of the business. The provider of an accommodation must~~
13 separately state the room occupancy tax. Room occupancy taxes paid to a provider of an
14 accommodation are paid to the provider as trustee for and on account of the taxing county. The
15 tax shall be added to the sales price and shall be passed on to the purchaser instead of being
16 borne by the operator of the business.

17 The taxing county shall ~~design, print, design~~ and furnish to all appropriate businesses and
18 persons in the county the necessary forms for filing returns and instructions to ensure the full
19 collection of the tax. ~~An operator of a business. A provider of accommodations~~ who collects a
20 room occupancy tax may deduct from the amount remitted to the taxing county a discount
21 equal to the discount the State allows the ~~operator~~ provider for State sales and use tax."

22 **SECTION 31.6.(d)** G.S. 153A-155(g) reads as rewritten:

23 "(g) Applicability. – Subsection (c) of this section applies to all counties that levy an
24 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act,
25 subsection (c) supersedes that provision. The remainder of this This-section applies only to
26 Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,
27 Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
28 Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell,
29 Montgomery, Nash, New Hanover, New Hanover County District U, Northampton,
30 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,
31 Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson
32 Counties, to Surry County District S, to Watauga County District U, to Yadkin County District
33 Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing
34 District."

35 **SECTION 31.6.(e)** G.S. 160A-215(c) reads as rewritten:

36 "(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on
37 and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as
38 part of the charge for furnishing a taxable accommodation. A person who is required to remit to
39 the Department of Revenue the State sales tax on accommodations imposed by
40 G.S. 105-164.4(a)(3) is required to remit a room occupancy tax to the taxing city on and after
41 the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the
42 same gross receipts as the State sales tax on accommodations and is calculated in the same
43 manner as that tax. A rental agent or a person who facilitates the rental of an accommodation
44 has the same responsibility and liability under the room occupancy tax as the rental agent or
45 facilitator has under the State sales tax on accommodations.

46 If a taxable accommodation is furnished as part of a package, the bundled transaction
47 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable
48 accommodation. If those provisions do not address the type of package offered, the ~~operator~~
49 person offering the package may determine an allocated price for each item in the package
50 based on a reasonable allocation of revenue that is supported by the operator's person's business

1 records kept in the ordinary course of business and ~~collect~~ calculate tax on the allocated price
2 of the taxable accommodation.

3 ~~The tax shall be stated and charged separately from the sales records and shall be paid by~~
4 ~~the purchaser to the operator of the business.~~ The provider of an accommodation must
5 separately state the room occupancy tax. Room occupancy taxes paid to a provider of an
6 accommodation are paid to the provider as trustee for and on account of the taxing city. The tax
7 shall be added to the sales price and shall be passed on to the purchaser instead of being borne
8 by the operator of the business.

9 The taxing city shall ~~design, print, design~~ and furnish to all appropriate businesses and
10 persons in the city the necessary forms for filing returns and instructions to ensure the full
11 collection of the tax. An operator of a business who collects a room occupancy tax may deduct
12 from the amount remitted to the taxing city a discount equal to the discount the State allows the
13 ~~operator~~ provider for State sales and use tax."

14 **SECTION 31.6.(f)** G.S. 160A-215(g) reads as rewritten:

15 "(g) Applicability. – Subsection (c) of this section applies to all cities that levy an
16 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act,
17 subsection (c) supersedes that provision. The remainder of this ~~This~~ section applies only to
18 Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia,
19 Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir,
20 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville,
21 Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of
22 Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina
23 Beach, Carrboro, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach,
24 Leland, McAdenville, Mooresville, Murfreesboro, North Topsail Beach, Pilot Mountain, Ranlo,
25 Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville
26 Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick
27 Counties."

28 **SECTION 31.6.(g)** This section becomes effective January 1, 2011, and applies to
29 gross receipts derived from accommodations provided on or after that date.

30 MODERNIZE ADMISSIONS TAX AND RESTORE AMENITIES EXCLUSION

31 **SECTION 31.7.(a)** G.S. 105-37.1 reads as rewritten:

32 "**§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other entertainments.~~ Live**
33 **entertainment and ticket resales.**

34 (a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged~~
35 ~~in any of the following:~~

36 (1) ~~Giving, offering, or managing a dance or an athletic contest for which an~~
37 ~~admission fee in excess of fifty cents (50¢) is charged.~~ The gross admissions
38 receipts of a person who is engaged in providing admission to live
39 entertainment of any kind. Gross admissions receipts under this subdivision
40 do not include charges for amenities. If charges for amenities are not
41 separately stated on the face of an admission ticket, then the charge for
42 admission is considered to be equal to the admission charge for a ticket to
43 the same event that does not include amenities and is for a seat located
44 directly in front of or closest to a seat that includes amenities.

45 (2) ~~Giving, offering, or managing a form of amusement or entertainment that is~~
46 ~~not taxed by another provision of this Article and for which an admission fee~~
47 ~~is charged.~~ The gross admissions receipts of a person who is engaged in the
48 business of reselling on the Internet under G.S. 14-344.1 an admission ticket
49 that is taxable under subdivision (1) of this subsection. If the price of an
50 admission ticket is printed on the face of the ticket, gross receipts under this
51

1 subdivision exclude the face price. If the price of an admission ticket is not
2 printed on the face of the ticket, the tax under this subdivision applies to the
3 difference between the amount the reseller paid for the ticket and the amount
4 the reseller charges for the ticket.

5 (3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show,~~
6 ~~that is not taxed by another provision of this Article.~~

7 (b) Rate and Payment. – The rate of the privilege tax imposed by this section is three
8 percent ~~(3%) of the gross receipts from the activities described in subsection (a) of this~~
9 ~~section.(3%).~~ The tax is due when a return is due. A return is due by the 10th day after the end
10 of each month and covers the gross receipts received during the previous month.

11 (c) Advance Report. – A person who owns or controls a ~~performance, show, or~~
12 ~~exhibition~~ live entertainment performance subject to the tax imposed by this section and who
13 plans to bring the performance to this State from outside the State must file a statement with the
14 Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~
15 performance. The statement must be filed no less than five days before the first ~~performance,~~
16 ~~show, or exhibition~~ performance in this State.

17 (d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision
18 (a)(1) ~~or (a)(2)~~ of this section; however, the tax may not exceed twenty-five dollars (\$25.00).
19 ~~Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section;~~
20 ~~however, the tax may not exceed twenty-five dollars (\$25.00) for each day or part of a day the~~
21 ~~performance, show, or exhibition~~ live entertainment is given performed at each location. Cities
22 may not levy a license tax on a person taxed under subdivision (a)(2) of this section.

23 Counties may not levy a license tax on a person taxed under ~~subdivision (a)(1) or (a)(2)~~ of
24 this section. ~~Counties may levy a license tax on a person taxed under subdivision (a)(3) to the~~
25 ~~same extent as a city."~~

26 **SECTION 31.7.(b)** G.S. 14-344.1(e) is repealed.

27 **SECTION 31.7.(c)** If any provision of this act is declared by a court to violate the
28 Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found
29 to be invalid, then G.S. 14-344.1 is repealed.

30 **SECTION 31.7.(d)** G.S. 105-264(c) reads as rewritten:

31 "(c) Revised Interpretations. – This section does not prevent the Secretary from changing
32 an ~~interpretation~~ interpretation, and it does not prevent a change in an interpretation from
33 applying on and after the effective date of the change. An interpretation that revises a prior
34 interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due
35 may not become effective sooner than the following:

36 (1) For a tax that is payable on a monthly or quarterly basis, the first day of a
37 month that is at least 90 days after the date the revised interpretation is
38 issued.

39 (2) For a tax that is payable on an annual basis, the first day of a tax year that
40 begins after the date the revised interpretation is issued."

41 **SECTION 31.7.(e)** G.S. 105-37.1(a)(2), as amended by subsection (a) of this
42 section, becomes effective January 1, 2011, and applies to admission tickets sold on or after
43 that date. The remainder of subsection (a) of this section and subsection (b) of this section
44 become effective August 1, 2010. G.S. 105-37.1(a)(1), as amended by subsection (a) of this
45 section, applies to charges for admission received on or after August 1, 2010. The remainder of
46 this section is effective when it becomes law.

47 **IMPROVE TAX AND DEBT COLLECTION PROCESS**

48 **SECTION 31.8.(a)** G.S. 147-86.20(1) reads as rewritten:

49 **"§ 147-86.20. Definitions.**

50 The following definitions apply in this Article:
51

- 1 (1) Account ~~Receivable~~.receivable. – An asset of the State reflecting a debt that
2 is owed to the State and has not been received by the State agency servicing
3 the debt. The term includes claims, damages, fees, fines, forfeitures, loans,
4 overpayments, taxes, and tuition as well as penalties, interest, and other costs
5 authorized by law. The term does not include court costs or fees assessed in
6 actions before the General Court of Justice or counsel fees and other
7 expenses of representing indigents under Article 36 of Chapter 7A of the
8 General Statutes.

9"

10 **SECTION 31.8.(b)** G.S. 147-86.22 reads as rewritten:

11 **"§ 147-86.22. Statewide accounts receivable program.**

12 (a) Program. – The State Controller shall implement a statewide accounts receivable
13 program. As part of this program, the State Controller shall do all of the following:

- 14 (1) Monitor the State's accounts receivable collection efforts.
15 (2) Coordinate information, systems, and procedures between State agencies to
16 maximize the collection of past-due accounts receivable.
17 (3) Adopt policies and procedures for the management and collection of
18 accounts receivable by State agencies.
19 (4) Establish procedures for writing off accounts ~~receivable and for determining~~
20 ~~when to end efforts to collect accounts receivable after they have been~~
21 ~~written off~~.receivable.

22 (b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and
23 G.S. 147-86.21, this subsection applies to debts owed a community college, a local school
24 administrative unit, an area mental health, developmental disabilities, and substance abuse
25 authority, and the Administrative Office of the Courts, and to debts payable to or through the
26 office of a clerk of superior court or a magistrate, as well as to debts owed to other State
27 agencies as defined in G.S. 147-86.20.

28 The State Controller shall establish policies that allow accounts receivable to be payable
29 under certain conditions by electronic payment. These policies shall be established with the
30 concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or
31 through the office of a clerk of superior court or a magistrate shall be established with the
32 concurrence of the Administrative Officer of the Courts. The Administrative Officer of the
33 Courts may also establish policies otherwise authorized by law that apply to these debts as long
34 as those policies are not inconsistent with the Controller's policies.

35 A condition of payment by electronic payment is receipt by the appropriate State agency of
36 the full amount of the account receivable owed to the State agency. A debtor who pays by
37 electronic payment may be required to pay any fee or charge associated with the use of
38 electronic payment. Fees associated with processing electronic payments may be paid out of the
39 General Fund and Highway Fund if the payment of the fee by the State is economically
40 beneficial to the State and the payment of the fee by the State has been approved by the State
41 Controller and State Treasurer.

42 The State Controller and State Treasurer shall consult with the Joint Legislative
43 Commission on Governmental Operations before establishing policies that allow accounts
44 receivable to be payable by electronic payment and before authorizing fees associated with
45 electronic payment to be paid out of the General Fund and Highway Fund. A State agency must
46 also consult with the Joint Legislative Commission on Governmental Operations before
47 implementing any program to accept payment under the policies established pursuant to this
48 subsection.

49 A payment of an account receivable that is made by electronic payment and is not honored
50 by the issuer of the card or the financial institution offering electronic funds transfer does not
51 relieve the debtor of the obligation to pay the account receivable.

1 (c) Collection Techniques. – The State Controller, in conjunction with the Office of the
 2 Attorney General, shall establish policies and procedures to govern techniques for collection of
 3 accounts receivable. These techniques may include use of credit reporting bureaus, judicial
 4 remedies authorized by law, and administrative setoff by a reduction of ~~an individual's~~ a tax
 5 refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a
 6 reduction of another payment, other than payroll, due from the State to a person to reduce or
 7 eliminate an account receivable that the person owes the State.

8 ~~No later than January 1, 1999, the~~ The State Controller shall negotiate a contract with a third
 9 party to perform an audit and collection process of inadvertent overpayments by State agencies
 10 to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight
 11 charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party
 12 shall be compensated only from funds recovered as a result of the audit. Savings realized in
 13 excess of costs shall be transferred from the agency to the Office of State Budget and
 14 Management and placed in a special reserve account for future direction by the General
 15 Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does
 16 not apply to the purchase of medical services by State agencies or payments used to reimburse
 17 or otherwise pay for health care services."

18 **SECTION 31.8.(c)** G.S. 147-86.25 reads as rewritten:

19 **"§ 147-86.25. Setoff debt collection.**

20 The State Controller shall implement a statewide setoff debt collection program to provide
 21 for collection of ~~accounts receivable that have been written off. The statewide program shall~~
 22 ~~supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall~~
 23 ~~provide for written off the following~~ accounts receivable ~~to be set off~~ by setoff against payments
 24 the State owes to debtors, other than payments of ~~individual income~~ tax refunds and
 25 ~~payroll~~ payroll:

26 (1) Accounts receivable submitted to the Department of Revenue by a claimant
 27 agency under the Setoff Debt Collection Act, Chapter 105A of the General
 28 Statutes.

29 (2) An overdue tax debt, as defined in G.S. 105-243.1.

30 ~~A program shall provide that, before final setoff can occur, the State agency servicing the~~
 31 ~~debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff~~
 32 ~~through an administrative hearing and judicial review. A proposed setoff by a State agency that~~
 33 ~~is a "claimant agency" under Chapter 105A of the General Statutes shall be conducted in~~
 34 ~~accordance with the procedures the State agency must follow under that Chapter. A proposed~~
 35 ~~setoff by a State agency that is not a "claimant agency" under Chapter 105A of the General~~
 36 ~~Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes."~~

37 **SECTION 31.8.(d)** G.S. 105A-2 reads as rewritten:

38 **"§ 105A-2. Definitions.**

39 The following definitions apply in this Chapter:

40 ...
 41 (3) Debtor. – ~~An individual~~ A person who owes a debt.

42 ...
 43 (8) Refund. – ~~An individual's North Carolina income~~ A debtor's North Carolina
 44 tax refund.

45 (9) State agency. – Any of the following:

46 a. A unit of the executive, legislative, or judicial branch of State
 47 government.

48 b. A local agency, to the extent it administers a program supervised by
 49 the Department of Health and Human Services or it operates a Child
 50 Support Enforcement Program, enabled by Chapter 110, Article 9,
 51 and Title IV, Part D of the Social Security Act.

1 c. A community college."

2 **SECTION 31.8.(e)** G.S. 105A-3(c) reads as rewritten:

3 "(c) Identifying Information. – All claimant agencies shall whenever possible obtain the
4 full name, social security ~~number,~~ number or federal identification number, address, and any
5 other identifying information required by the Department from any person for whom the
6 agencies provide any service or transact any business and who the claimant agencies can
7 foresee may become a debtor under this Chapter."

8 **SECTION 31.8.(f)** G.S. 105A-14(a) reads as rewritten:

9 "(a) Simultaneously with the transmittal of the net proceeds collected to a claimant
10 agency, the Department must provide the agency with an accounting of the setoffs for which
11 payment is being made. The accounting must whenever ~~possible,~~ possible include the full
12 names of the debtors, the debtors' social security ~~numbers,~~ numbers or federal identification
13 numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff, and the
14 collection assistance fee added to the debt and collected per setoff."

15 **SECTION 31.8.(g)** G.S. 105-259(b)(18) reads as rewritten:

16 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
17 access to tax information in the course of service to or employment by the State may not
18 disclose the information to any other person except as provided in this subsection. Standards
19 used or to be used for the selection of returns for examination and data used or to be used for
20 determining the standards may not be disclosed for any purpose. All other tax information may
21 be disclosed only if the disclosure is made for one of the following purposes:

22 ...

23 (18) To furnish to the Office of the State Controller ~~the name, address, and~~
24 ~~account and identification numbers of a taxpayer upon request to~~
25 enable information needed by the State Controller to implement the setoff
26 debt collection program established under G.S. 147-86.25, verify statewide
27 vendor ~~files~~ files, or track debtors of the State.

28"

29 **SECTION 31.8.(h)** G.S. 105-242(b) reads as rewritten:

30 "(b) ~~Garnishment and Attachment.~~ Attachment and Garnishment. – Intangible property
31 that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under
32 circumstances that would permit it to be levied upon if it were tangible property is subject to
33 attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible
34 under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries,
35 wages, property held in the Escheat Fund, and any other property incapable of manual levy or
36 delivery. AG.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible
37 property.

38 A person who is in possession of intangible property that is subject to attachment and
39 garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability
40 applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by
41 any amount the taxpayer owes the garnishee. ~~G.S. 105-242.1 sets out the procedure for~~
42 ~~attachment and garnishment of intangible property.~~

43 The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information
44 that identifies a taxpayer who owes a tax debt that is collectible under G.S. 105-241.22 and the
45 amount of the debt. The Secretary may submit the information on a quarterly basis or, with the
46 agreement of the financial institution, on a more frequent basis. A financial institution that
47 receives the information must determine the amount, if any, of intangible property it holds that
48 belongs to the taxpayer and is subject to attachment and garnishment and must inform the
49 Secretary of its determination. The Secretary must reimburse a financial institution for its costs
50 in providing the information, not to exceed the amount payable to the financial institution under
51 G.S. 110-139 for providing information for use in locating a noncustodial parent.

1 No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and
2 garnishment. The wages or salary of an employee of the United States, the State, or a political
3 subdivision of the State are subject to attachment and garnishment."

4 **SECTION 31.8.(i)** G.S. 105-242.1 reads as rewritten:

5 **"§ 105-242.1. Procedure for attachment and garnishment.**

6 (a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment
7 and garnishment. Before the Department attaches and garnishes intangible property in payment
8 of a tax, the Department must send the garnishee a notice of garnishment. The notice must be
9 sent in accordance with the methods authorized in G.S. 105-241.20 ~~or by registered or certified~~
10 ~~mail or, with the agreement of the garnishee, by electronic means.~~ The notice must contain all
11 of the following ~~information:~~ information, unless the notice is an electronic notice subject to
12 subsection (a1) of this section:

- 13 (1) The taxpayer's ~~name, address, and social security number or federal~~
14 ~~identification number.~~ name.
- 15 (2) The ~~type of tax the taxpayer owes and the tax periods for which the tax is~~
16 ~~owed.~~ taxpayer's social security number or federal identification number.
- 17 (3) The amount of tax, interest, and penalties the taxpayer owes.
- 18 (4) An explanation of the liability of a garnishee for tax owed by a taxpayer.
- 19 (5) An explanation of the garnishee's responsibility concerning the notice.

20 (a1) Electronic Notice. – Before the Department sends an electronic notice of
21 garnishment to a garnishee, the Department and the garnishee must have an agreement that
22 establishes the protocol for transmitting the notice and provides the information required under
23 subdivisions (4) and (5) of subsection (a) of this section. An electronic notice must contain the
24 information required under subdivisions (1), (2), and (3) of subsection (a) of this section.

25 (b) Action. – ~~Within 30 days after receiving a notice of garnishment, a~~ garnishee must
26 comply with ~~the a~~ notice of garnishment or file a written response to the ~~notice~~ notice within
27 the time set in this subsection. A garnishee that is a financial institution must comply or file a
28 response within 20 days after receiving a notice of garnishment. All other garnishees must
29 comply or file a response within 30 days after receiving a notice of garnishment. A written
30 response must explain why the garnishee is not subject to garnishment and attachment. ~~Upon~~

31 Upon receipt of the a written response, the Department must contact the garnishee and
32 schedule a conference to discuss the response or inform the garnishee of the Department's
33 position concerning the response. If the Department does not agree with the garnishee on the
34 garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax
35 by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

36 (c) Release. – ~~When the Department releases a garnishee from liability, the Department~~
37 ~~must send the garnishee a letter of release. The letter must identify the taxpayer to whom the~~
38 ~~release applies and contain the identifying information about the taxpayer that is required under~~
39 ~~subsection (a) on a notice of garnishment.~~ A notice of garnishment sent to a financial institution
40 is released when the financial institution complies with the notice. A notice of garnishment sent
41 to all other garnishees is released when the Department sends the garnishee a notice of release.
42 A notice of release must state the name and social security number or federal identification
43 number of the taxpayer to whom the release applies.

44 (d) Financial Institution. – As used in this section, the term 'financial institution' has the
45 same meaning as in G.S. 53B-2."

46 **SECTION 31.8.(j)** G.S. 53B-4(2) reads as rewritten:

47 **"§ 53B-4. Access to financial records.**

48 Notwithstanding any other provision of law, no government authority may have access to a
49 customer's financial record held by a financial institution unless the financial record is
50 described with reasonable specificity and access is sought pursuant to any of the following:

51 ...

(2) Authorization under ~~G.S. 105-251~~G.S. 105-242 or G.S. 105-258."

SECTION 31.8.(k) Subsection (h) of this section becomes effective January 1, 2011. The remainder of this section is effective when it becomes law.

REDUCE FRANCHISE TAX BURDEN ON CONSTRUCTION COMPANIES

SECTION 31.9.(a) Section 2 of S.L. 2009-422 reads as rewritten:

"**SECTION 2.** This act is effective retroactively for taxable years beginning on or after ~~January 1, 2010.~~January 1, 2007."

SECTION 31.9.(b) A taxpayer that paid franchise tax in taxable years 2007, 2008, or 2009 and that included billings in excess of costs in its capital base may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2011. A request for refund received after that date is barred.

SECTION 31.9.(c) This section is effective when it becomes law.

FAIR TAX PENALTIES

SECTION 31.10.(a) G.S. 105-236(a)(4) reads as rewritten:

"(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the tax, subject to a minimum of five dollars (\$5.00). This penalty does not apply in any of the following circumstances:

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:

1. The date of the notice of proposed assessment of the ~~tax~~tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.

2. The date the proposed assessment becomes collectible under G.S. 105-241.22, if the taxpayer files a timely request for a Departmental review of the proposed assessment.

c. When a taxpayer files a consolidated return under G.S. 105-130.6 at the request of the Secretary and the tax due is paid within 45 days after the later of the following:

1. The date the consolidated return is filed, if the taxpayer does not file a timely request for a Departmental review of the tax.

2. The date the Departmental review of the tax ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review."

SECTION 31.10.(b) G.S. 105-236(a)(5) is amended by adding a new sub-subdivision to read:

"(5) Negligence. –

...

f. Consolidated return. – The amount of tax shown as due on a consolidated return requested by the Secretary under G.S. 105-130.6 is not considered a deficiency and is not subject to this subdivision."

SECTION 31.10.(c) This section is effective when it becomes law and applies to penalties that are assessed and unpaid as of the effective date, penalties that are paid as of the

1 effective date but are based on a tax that is the subject of an administrative or judicial action
2 that is pending on the effective date, and penalties and taxes assessed on or after that date.
3

4 **PART XXXII. MISCELLANEOUS PROVISIONS**

5 **STATE BUDGET ACT APPLIES**

6 **SECTION 32.1.** The provisions of the State Budget Act, Chapter 143C of the
7 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
8 this act by reference.
9

10 **COMMITTEE REPORT**

11 **SECTION 32.2.(a)** The Senate Appropriations Committee Report On The
12 Continuation, Expansion and Capital Budgets for Senate Bill 897, dated May 16, 2010, which
13 was distributed in the Senate and the House of Representatives and used to explain this act,
14 shall indicate action by the General Assembly on this act and shall therefore be used to construe
15 this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as
16 appropriate, and for these purposes shall be considered a part of this act and as such shall be
17 printed as a part of the Session Laws.

18 **SECTION 32.2.(b)** The budget enacted by the General Assembly is for the
19 maintenance of the various departments, institutions, and other spending agencies of the State
20 for the 2010-2011 budget as provided in G.S. 143C-3-5. This budget includes the
21 appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

22 The Director of the Budget submitted recommended adjustments to the budget to
23 the General Assembly in April 2010 in the documents "The North Carolina State Budget,
24 Recommended Operating Budget with Performance Management Information 2010-2011" for
25 the 2010-2011 fiscal year for the various departments, institutions, and other spending agencies
26 of the State. The adjustments to these documents made by the General Assembly are set out in
27 the Committee Report.,

28 **SECTION 32.2.(c)** The budget enacted by the General Assembly shall also be
29 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other
30 appropriate legislation.

31 In the event that there is a conflict between the line-item budget certified by the
32 Director of the Budget and the budget enacted by the General Assembly, the budget enacted by
33 the General Assembly shall prevail.
34

35 **MOST TEXT APPLIES ONLY TO THE 2010-2011 FISCAL YEAR**

36 **SECTION 32.3.** Except for statutory changes or other provisions that clearly
37 indicate an intention to have effects beyond the 2010-2011 fiscal year, the textual provisions of
38 this act apply only to funds appropriated for, and activities occurring during, the 2010-2011
39 fiscal year.
40

41 **EFFECT OF HEADINGS**

42 **SECTION 32.4.** The headings to the parts and sections of this act are a
43 convenience to the reader and are for reference only. The headings do not expand, limit, or
44 define the text of this act, except for effective dates referring to a part.
45

46 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

47 **SECTION 32.5.(a)** Except where expressly repealed or amended by this act, the
48 provisions of S.L. 2009-451 and S.L. 2009-575 remain in effect.

49 **SECTION 32.5.(b)** Notwithstanding any modifications by this act in the amounts
50 appropriated, except where expressly repealed or amended, the limitations and directions for
51 the 2010-2011 fiscal year in S.L. 2009-451 and S.L. 2009-575 that applied to appropriations to

1 particular agencies or for particular purposes apply to the newly enacted appropriations and
2 budget reductions of this act for those same particular purposes.

3
4 **SEVERABILITY CLAUSE**

5 **SECTION 32.6.** If any section or provision of this act is declared unconstitutional
6 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
7 than the part so declared to be unconstitutional or invalid.

8
9 **EFFECTIVE DATE**

10 **SECTION 32.7.** Except as otherwise provided, this act becomes effective July 1,
11 2010.