



HOUSE AND SENATE BUDGET ITEMS IN CONTROVERSY

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Senate and House Differ

Senate Version

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2011, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2009-2010 fiscal year.

Current Operations – General Fund	2010-2011
-----------------------------------	-----------

EDUCATION

Community Colleges System Office	\$ 50,744,859
Department of Public Instruction	(219,159,933)
University of North Carolina – Board of Governors	
General Administration	(632,140)
University Institutional Programs	5,846,731
Related Educational Programs	8,195,517
UNC Financial Aid Private Colleges	(1,500,000)
North Carolina School of Science and Mathematics	
UNC Hospitals at Chapel Hill	(2,000,000)
Total University of North Carolina – Board of Governors	\$ 9,910,108

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Central Management and Support	\$ (4,923,834)
Division of Blind Services/Deaf/HH	(632,912)
Division of Child Development	(46,090,555)
Division of Education Services	(5,612,680)
Division of Health Service Regulation	(2,061,346)
Division of Medical Assistance	(349,276,270)
Division of Mental Health	21,595,819
NC Health Choice	6,444,925
Division of Public Health	(6,091,724)
Division of Social Services	(15,645,084)
Division of Vocational Rehabilitation	(3,102,472)
Total Health and Human Services	\$ (405,396,133)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ (1,938,749)
Department of Commerce	
Commerce	33,952,587

1	Commerce State-Aid	4,980,564
2	NC Biotechnology Center	(725,095)
3	Rural Economic Development Center	2,933,378
4		
5	Department of Environment and Natural Resources	1,227,571
6		
7	Department of Labor	(1,411,321)
8		
9	JUSTICE AND PUBLIC SAFETY	
10		
11	Department of Correction	\$ (54,081,580)
12		
13	Department of Crime Control and Public Safety	(1,316,174)
14		
15	Judicial Department	(15,818,245)
16	Judicial Department – Indigent Defense	(4,194,867)
17		
18	Department of Justice	(2,990,307)
19		
20	Department of Juvenile Justice and Delinquency Prevention	(4,737,080)
21		
22	GENERAL GOVERNMENT	
23		
24	Department of Administration	\$ (2,157,910)
25		
26	Office of Administrative Hearings	(278,356)
27		
28	Department of State Auditor	(777,194)
29		
30	Office of State Controller	8,075,323
31		
32	Department of Cultural Resources	
33	Cultural Resources	(3,905,057)
34	Roanoke Island Commission	(115,926)
35		
36	State Board of Elections	373,851
37		
38	General Assembly	(3,295,241)
39		
40	Office of the Governor	
41	Office of the Governor	(353,359)
42	Office of State Budget and Management	(373,164)
43	OSBM – Reserve for Special Appropriations	(4,650)
44	Housing Finance Agency	(850,732)
45		
46	Office of Lieutenant Governor	(54,235)
47		
48	Department of Revenue	(1,523,641)
49		
50	Department of Secretary of State	(666,886)

1			
2	RESERVES, ADJUSTMENTS AND DEBT SERVICE		
3			
4	Reserve for Teachers' and State Employees' Retirement Contribution	\$	20,000,000
5			
6	Reserve for Job Development Investment Grants (JDIG)		(6,600,000)
7			
8	University Cancer Research Fund		600,000
9			
10	Reserve for Capital		18,222,000
11			
12	Debt Service		
13	General Debt Service		(15,845,385)
14			
15	TOTAL CURRENT OPERATIONS – GENERAL FUND	\$	(597,650,979)
16			

House Version

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2011, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2009-2010 fiscal year.

Current Operations – General Fund**2010-2011****EDUCATION**

Community Colleges System Office	\$ 36,581,844
Department of Public Instruction	(282,961,883)
University of North Carolina – Board of Governors	
Appalachian State University	1,550,820
East Carolina University: Academic Affairs	4,801,587
Elizabeth City State University	355,525
Fayetteville State University	1,095,052
NC A&T State University	1,833,194
NC Central University	304,620
NC State University: Academic Affairs	7,033,369
UNC-Asheville	485,823
UNC-Chapel Hill	
Academic Affairs	279,803
Health Affairs	156,027
AHEC	109,065
UNC-Charlotte	5,533,240
UNC-Greensboro	2,700,991
UNC-Pembroke	732,505
UNC-School of the Arts	171,931
UNC-Wilmington	2,490,699
Western Carolina University	750,510
Winston-Salem State University	798,672
General Administration	(410,863)
University Institutional Programs	(132,260,448)
Related Educational Programs	13,862,815
UNC Financial Aid Private Colleges	4,488,129
NC School of Science & Math	80,851
UNC Hospitals	(15,000,000)
Total University of North Carolina – Board of Governors	\$ (98,056,583)

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Central Management and Support	\$ (1,794,959)
Division of Aging and Adult Services	100,000
Division of Blind Services/Deaf/HH	(707,912)

1	Division of Child Development	(29,959,584)
2	Office of Education Services	(2,885,539)
3	Division of Health Service Regulation	(1,915,531)
4	Division of Medical Assistance	(315,078,617)
5	Division of Mental Health, Dev. Disabilities and Sub. Abuse	16,985,760
6	NC Health Choice	3,135,450
7	Division of Public Health	(5,919,724)
8	Division of Social Services	(11,126,752)
9	Division of Vocation Rehabilitation	(1,805,713)
10	Total Health and Human Services	\$ (350,973,121)
11		
12	NATURAL AND ECONOMIC RESOURCES	
13		
14	Department of Agriculture and Consumer Services	\$ 826,343
15		
16	Department of Commerce	
17	Commerce	18,250,959
18	Commerce State-Aid	10,630,564
19	NC Biotechnology Center	4,274,905
20	Rural Economic Development Center	3,933,378
21		
22	Department of Environment and Natural Resources	3,490,981
23		
24	Department of Labor	(902,555)
25		
26	JUSTICE AND PUBLIC SAFETY	
27		
28	Department of Correction	\$ (43,269,273)
29		
30	Department of Crime Control and Public Safety	(1,106,592)
31		
32	Judicial Department	(11,216,251)
33	Judicial Department – Indigent Defense	(4,056,626)
34		
35	Department of Justice	(2,979,760)
36		
37	Department of Juvenile Justice and Delinquency Prevention	(77,804)
38		
39	GENERAL GOVERNMENT	
40		
41	Department of Administration	\$ (734,950)
42		
43	Department of State Auditor	(473,265)
44		
45	Office of State Controller	8,375,323
46		
47	Department of Cultural Resources	
48	Cultural Resources	(2,137,000)
49	Roanoke Island Commission	(71,663)
50		

1	State Board of Elections	380,559
2		
3	General Assembly	(2,229,859)
4		
5	Office of the Governor	
6	Office of the Governor	(217,832)
7	Office of State Budget and Management	(242,610)
8	OSBM – Reserve for Special Appropriations	496,661
9	Housing Finance Agency	(525,903)
10		
11	Department of Insurance	
12	Insurance	(2,213,620)
13		
14	Office of Lieutenant Governor	(33,539)
15		
16	Office of Administrative Hearings	(160,963)
17		
18	Department of Revenue	(2,319,341)
19		
20	Department of Secretary of State	(415,575)
21		
22	Department of State Treasurer	
23	State Treasurer	(380,086)
24		
25	RESERVES, ADJUSTMENTS, AND DEBT SERVICE	
26		
27	State Retirement System Contributions	\$ 40,000,000
28		
29	Judicial Retirement System Contributions	1,000,000
30		
31	Firemen's and Rescue Squad Workers System Contributions	1,000,000
32		
33	Job Development Investment Grants (JDIG)	(6,600,000)
34		
35	Reserve for Modernization of 1040 e-File Platform	1,504,718
36		
37	Debt Service	
38	General Debt Service	(9,799,385)
39		
40	TOTAL CURRENT OPERATIONS – GENERAL FUND	\$ (693,409,804)
41		

Senate and House Differ

Senate Version

GENERAL FUND AVAILABILITY STATEMENT

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

	FY 2010-2011
Unappropriated Balance Remaining from Previous Year	3,702,182
Adjustment from Estimated to Actual 2009-2010 Beginning Unreserved Balance	270,080
Beginning Unreserved Fund Balance	3,972,262
Revenues Based on Existing Tax Structure	18,199,339,016
Nontax Revenues	
Investment Income	57,500,000
Judicial Fees	239,100,000
Disproportionate Share	100,000,000
Insurance	67,000,000
Other Nontax Revenues	182,700,000
Highway Trust Fund/Use Tax Reimbursement Transfer	72,800,000
Highway Fund Transfer	17,600,000
Subtotal Nontax Revenues	736,700,000
Total General Fund Availability	18,940,011,278
Adjustments to Availability: Senate Bill 897	
IRC Conformity	(1,200,000)
Cap Tax Rate on Family-Owned and Other Small Business Income	(39,700,000)
Lower Sales Tax Compliance Burden on Small Retailers	(7,000,000)
Relieve Annual Report Compliance Burden on Small Business	(400,000)
Extend Sunset on Expiring Tax Incentive Income Tax Credits and Sales Tax Refunds One Year	(3,500,000)
Modernize Sales Tax On Accommodations	1,700,000
Modernize Admissions Tax and Restore Amenities Exclusion	(700,000)
Improve Tax and Debt Collection Process	3,000,000
Reduce Franchise Tax Burden On Construction Companies	(1,500,000)
Department of Revenue Corporate Settlement Initiative	110,000,000
Loss of Estate Tax Revenues for FY 2010-2011	(85,000,000)
Transfer from Disproportionate Share Reserve	35,000,000
Adjust Highway Fund Transfer – Commerce Executive Aircraft Transfer	(500,000)
Increase Justice and Public Safety Fees	22,214,722
Transfer From Severance Reserve Expenditure Account	30,000,000
Commerce Business Recruitment Initiatives (Pending Legislation)	(10,000,000)
Transfer from Tobacco Trust Fund	2,500,000
Subtotal Adjustments to Availability: Senate Bill 897	54,914,722

Revised General Fund Availability	18,994,926,000
Less: General Fund Appropriations	18,989,677,375
Unappropriated Balance Remaining	5,248,625

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

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

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

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

House Version

GENERAL FUND AVAILABILITY STATEMENT

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

	FY 2010-2011
Unappropriated Balance Remaining from Previous Year	3,702,182
Adjustment from Estimated to Actual FY 2009-2010 Beginning Unreserved Fund Balance	270,080
Beginning Unreserved Fund Balance	3,972,262
Revenues Based on Existing Tax Structure	18,199,339,016
Nontax Revenues	
Investment Income	57,500,000
Judicial Fees	239,100,000
Disproportionate Share	100,000,000
Insurance	67,000,000
Other Nontax Revenues	182,700,000
Highway Trust Fund/Use Tax Reimbursement Transfer	72,800,000
Highway Fund Transfer	17,600,000
Subtotal Nontax Revenues	736,700,000
Total General Fund Availability	18,940,011,278
Adjustments to Availability: Senate Bill 897	
Internal Revenue Code Conformity	(7,700,000)
Tax Benefits for Investments in Small Business	(3,600,000)
Tax Benefits for Small Businesses That Provide Health Insurance	(7,200,000)
Tax Benefits for Putting People Back to Work	(7,200,000)
Reserve for Pending Finance Legislation	(34,300,000)
Department of Revenue Settlement Initiative	110,000,000
Transfer from Disproportionate Share Reserve	35,000,000
Loss of Estate Tax Revenue	(85,000,000)
Cap on Transfer to Wildlife Resources Commission	3,000,000
Divert Funds from Scrap Tire Disposal Account	2,500,000
Divert Funds from White Goods Fund	1,200,000
Transfer from Mercury Pollution Prevention Fund	2,250,000
Transfer from Express Permitting Fund	600,000
Transfer from Bladen Lakes Special Fund	500,000
Transfer from Aquariums Fund	2,000,000
Transfer Funds from ECU Magnetic Resonance Imaging Lease and Equipment Fund	2,000,000
Adjust Transfer from Insurance Regulatory Fund	(2,213,620)
Adjust Transfer from Treasurer's Office	(380,086)
Subtotal Adjustments to Availability: Senate Bill 897	11,456,294

Revised General Fund Availability	18,951,467,572
Less General Fund Appropriations	18,875,484,772
Balance Remaining for Savings Reserve Account	75,982,800

SECTION 2.2.(b) Except for funds transferred in Section 2.3 of this act and notwithstanding G.S. 143C-4-2 and G.S. 143C-4-3, the State Controller shall reserve the remaining balance specified in Section 2.1 of this act to the Savings Reserve Account.

SECTION 2.2.(c) Notwithstanding the provisions of G.S. 105-187.19(b), effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the Scrap Tire Disposal Account.

SECTION 2.2.(d) Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management Account.

SECTION 2.2.(e) The Brody School of Medicine (formerly known as the East Carolina University School of Medicine) shall transfer the sum of two million dollars (\$2,000,000) from Budget Code 06067, Fund Code 0142, to the Office of State Controller for deposit to Nontax Budget Code 19978 (Intrastate Transfers) for the 2010-2011 Fiscal Year.

SECTION 2.2.(f) Section 2.2(g) of S.L. 2009-451, as amended by Section 2 of S.L. 2009-575, reads as rewritten:

"SECTION 2.2.(g) Notwithstanding any other provision of law to the contrary, effective July 1, 2009, the following amounts shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the ~~2009-2011 fiscal biennium~~ 2009-2010 fiscal year.

			FY 2009-2010	FY 2010-2011
Budget Code	Fund Code	Description	Amount	Amount
67425		Trust Telecommunication	4,500,000	0
23515	2510	DPI IT Projects – Legacy Updates	3,000,000	0
63501	6801	DPI Trust Special-Teaching Fellows	5,500,000	0
63501	6112	Computer Loan Revolving Fund	120,677	0
63501	6117	Business and Education Technology Alliance	26,336	0
24600	2553	Grape Growers Council	194,929	0
24600	2821	Credit Union Supervision	760,411	0
24600	2851	Cemetery Commission	259,036	0
54600		Commerce Enterprise	10,501,726	0
64605		Utilities Commission/Public Staff	12,008,720	0
64612		NC Rural Electrification Authority	210,240	0
24308	2815	VRS Geodetic Survey & DOT	5,328	0
24317	2339	ADM Fines & Penalties	230,902	0
Nurse Educators of Tomorrow Scholarship Loan			1,000,000	0"

SECTION 2.2.(g) Notwithstanding any other provision of law to the contrary, effective July 1, 2010, the following amounts shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code as determined by

1 the State Controller. These funds shall be used to support the General Fund appropriations as
2 specified in this act for the 2010-2011 fiscal year.

3
4 **FY 2010-2011**

5	Budget	Fund		
6	Code	Code	Description	Amount
7				
8	24300	2119	Mercury Pollution Prevention	2,250,000
9	24300	2221	Forestry – Bladen Lakes	500,000
10	24300	2356	Express Permitting	600,000
11	24300	2865	N.C. Aquariums	2,000,000

12
13 **SECTION 2.2.(h)** Section 2.2(h) of S.L. 2009-451 reads as rewritten:
14 "SECTION 2.2.(h) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust,
15 the sum of five million dollars (\$5,000,000) shall be transferred from the Department of Agriculture
16 and Consumer Services, Budget Code 23703 (Tobacco Trust Fund), to the State Controller to be
17 deposited in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund
18 appropriations for the 2009-2010 and 2010-2011 fiscal years. These funds shall be transferred on or
19 after April 30, ~~2010~~, 2011."
20

1 **House Only**

2 **DESIGNATE EXCESS FUNDS GENERATED BY THE DEPARTMENT OF REVENUE**
3 **SETTLEMENT INITIATIVE TO SUPPLEMENT CONTRIBUTION TO THE STATE**
4 **RETIREMENT SYSTEM**

5 **SECTION 2.3.(a)** The General Assembly finds that losses to the Teachers' and State
6 Employees' Retirement System are substantial due to the decline in the State and national
7 economies beginning in 2007. The General Assembly also finds that the Teachers' and State
8 Employees' Retirement System is in need of additional funds to help rebuild the System's financial
9 stability and provide assurance to the State's current and future employees and retirees of a sound
10 retirement benefit. Therefore, it is the General Assembly's intent to address the System's financial
11 needs and to establish a means to increase funding to the System by using certain excess revenue in
12 the State's General Fund.

13 **SECTION 2.3.(b)** In the event that the State's General Fund revenues, including all
14 transfers to the General Fund authorized by law, are at or above those projected by the Governor (or
15 that officer's designee) and by the Fiscal Research Division and are sufficient to meet the level of
16 appropriations authorized by law from the General Fund for the 2010-2011 fiscal year, any excess
17 accruing from additional tax revenue generated by the Department of Revenue Settlement Initiative
18 to resolve outstanding disputes with businesses that owe taxes to the State shall be transferred to the
19 Reserve for the Teachers' and State Employees' Retirement System.

20 **SECTION 2.3.(c)** Excess revenue realized pursuant to subsection (b) of this section is
21 hereby appropriated for the 2010-2011 fiscal year up to the amount of one hundred thirty-five
22 million dollars (\$135,000,000) and is to be transferred from the Reserve for Teachers' and State
23 Employees' Retirement System to the Pension Accumulation Fund of the Teachers' and State
24 Employees' Retirement System as provided for in G.S. 135-8(d).

Senate and House Differ

Senate Version

CURRENT OPERATIONS/HIGHWAY FUND

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

2010-2011

Department of Transportation	
Administration	\$ 1,663,695
Division of Highways	
Administration	0
Construction	3,840,718
Maintenance	(7,709,150)
Planning and Research	0
OSHA Program	0
Ferry Operations	11,349,869
State Aid	
Municipalities	(785,319)
Public Transportation	0
Airports	500,000
Railroads	6,325,000
Governor's Highway Safety Program	0
Division of Motor Vehicles	617,223
Transfers to Other State Agencies, Reserves	37,087,964
TOTAL	\$ 52,890,000

House Version

CURRENT OPERATIONS/HIGHWAY FUND

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

2010-2011

Department of Transportation	
Administration	\$ (1,360,746)
Division of Highways	
Administration	0
Construction	3,840,718
Maintenance	(2,078,811)
Planning and Research	0
OSHA Program	0
Ferry Operations	11,349,869
State Aid	
Municipalities	(785,319)
Public Transportation	0
Airports	500,000
Railroads	6,325,000
Governor's Highway Safety Program	0
Division of Motor Vehicles	200,325
Transfers to Other State Agencies, and Reserves	34,898,964
TOTAL	\$ 52,890,000

Senate and House Differ

Senate Version

HIGHWAY FUND AVAILABILITY

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

Highway Fund Availability Statement	2010-2011
Unappropriated Balance From Previous Year	0
Beginning Fund Balance	0
Estimated Revenue	1,792,540,000
Total Highway Fund Availability	\$1,792,540,000

House Version

HIGHWAY FUND AVAILABILITY

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

Highway Fund Availability Statement	2010-2011
Unappropriated Balance from Previous Year	\$0
Beginning Fund Balance	\$0
Estimated Revenue	\$1,792,540,000
Total Highway Fund Availability	\$1,792,540,000

Unappropriated Balance	\$0
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Senate and House Differ

Senate Version

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

Total Highway Trust Fund Availability	\$ 928,730,000
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House Version

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

Total Highway Trust Fund Availability	\$928,730,000
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Senate and House Differ

Senate Version

EDUCATION LOTTERY

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

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

(1)	Class Size Reduction	\$ 136,038,041
(2)	Prekindergarten Program	84,635,709
(3)	Public School Building Capital Fund	176,539,000
(4)	Scholarships for Needy Students	44,134,750
	Total	\$ 441,347,500

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

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

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

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

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

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

House Version

EDUCATION LOTTERY

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

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

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

SECTION 5.1.(d) Notwithstanding G.S. 18C-164(b), funds in the amount of sixteen million eight hundred eight thousand seventy-six dollars (\$16,808,076) shall be transferred from the Education Lottery Reserve Fund to the Education Lottery Fund to support appropriations made in this act. These funds shall be allocated for class size reduction.

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

(1)	Class Size Reduction	\$ 226,038,041
(2)	Prekindergarten Program	84,635,709
(3)	Public School Building Capital Fund	130,008,122
(4)	Scholarships for Needy Students	36,807,021
	Total	\$ 477,488,893

SECTION 5.1.(f) Funds appropriated in subsection (e) of this section to the Public School Building Capital Fund for the 2010-2011 fiscal year shall be allocated to counties in accordance with G.S. 115C-546.2.

Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2010-2011 fiscal year exceed the amounts appropriated in subsection (e) of this section, the excess net revenues shall be allocated on the basis of average daily membership to local school administrative units that did not qualify for funding for the 2010-2011 fiscal year pursuant to G.S. 115C-546.2(d)(2). The maximum allocation shall be the amount received by other units pursuant to G.S. 115C-546.2(d)(2) on the basis of per average daily membership.

SECTION 5.1.(g) Counties may authorize local school administrative units to use funds received from the Public School Capital Fund pursuant to subsection (f) of this section for one or more of the following purposes only: (i) for school construction projects in accordance with G.S. 115C-546.2(d), (ii) to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003, in accordance with G.S. 115C-546.2(d), and (iii) for classroom teachers. A county may authorize the use of these funds for classroom teachers only upon the request of the local board of education. Funds used for classroom teachers shall supplement and not supplant existing local current expense funding for the public schools.

SECTION 5.1.(h) Subsections (b) and (c) of this section become effective June 30, 2010.

Senate Only

INFORMATION TECHNOLOGY AVAILABILITY AND APPROPRIATION

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

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

Office of Information Technology Services	FY 2009-2010	FY 2010-2011
Information Technology Operations	\$5,350,000	\$4,990,000
<u>Center for Geographic Information and Analysis</u>		\$740,000
<u>Enterprise Security and Risk Management Office</u>		1,101,296
<u>Enterprise Project Management Office</u>		1,795,000
<u>Architecture and Engineering</u>		648,000
<u>Total Information Technology Operations</u>	<u>\$5,350,000</u>	<u>\$4,284,296</u>
Information Technology Projects	\$4,462,733	\$4,077,467
<u>Enterprise Licensing</u>		\$300,000
<u>State Portal</u>		500,000
<u>Enterprise Identity Management</u>		1,250,000
<u>IT Consolidation</u>		2,079,467
<u>Electronic Forms/Digital Signatures</u>		653,704
<u>Total Information Technology Projects</u>	<u>\$4,462,733</u>	<u>\$4,783,171</u>
Budget and Performance Management System	\$1,021,985	0
Budget/Committee Reporting System	\$500,000	0
Total	\$11,334,718	\$9,067,467"

Senate and House Differ

Senate Version

BUDGET ADJUSTMENTS AUTHORIZED

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

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

House Version

BUDGET ADJUSTMENTS AUTHORIZED

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

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

Senate and House Differ

Senate Version

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.

House Version

LEGISLATIVE BUDGET PRIORITIES FOR ECONOMIC DEVELOPMENT

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 to make loans available to businesses.
- (4) Preservation of access to health care for vulnerable populations.
- (5) Financial aid to needy college and community college students.
- (6) Full funding for 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, Marketing, and Agricultural and Business International Trade funds to create export opportunities and increase investment in North Carolina.
- (9) One North Carolina Small Business matching grants for federal incentives.
- (10) One North Carolina Fund to enhance business recruitment.
- (11) Job Maintenance and Capital Development Fund for employment in Tier 1 counties.
- (12) Energy Research Grants that match federal funds for research in energy and green jobs.
- (13) Full funding for the seven Regional Economic Development Commissions.
- (14) Home Grown Jobs to help rural communities compete for businesses.
- (15) Main Street Solutions grants for downtown improvements that support small businesses.
- (16) Biofuels Center working to develop North Carolina's biofuels industry.
- (17) North Carolina Biotechnology Center developing the State's biotechnology industry.
- (18) Indian Economic Development initiatives to assist Indian communities with job creation.
- (19) Family Farm Opportunity and Innovation grants to stimulate jobs and innovation on small farms.
- (20) Got to Be NC Marketing to promote North Carolina agricultural products.
- (21) Agricultural Development and Farmland Preservation funds to sustain working farms and promote agribusiness.
- (22) Natural Gas and Petroleum Exploration to understand the State's natural gas and petroleum potential.
- (23) Funding restored for mental health programs.
- (24) Tar Heel Works Program providing work-based training.
- (25) UNCC Energy Production Infrastructure Center (EPIC).
- (26) ECU Dental School Operations.
- (27) NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering.

- 1 (28) NC A&T College of Engineering.
- 2 (29) Full funding for Clean Water State Revolving Fund.
- 3 (30) Full funding for Drinking Water State Revolving Fund.
- 4 (31) Minority Support Center funds for loans to small businesses with limited access
- 5 to credit.
- 6 (32) Tourism Marketing funds to promote North Carolina as a tourist destination.
- 7 (33) In-Source NC creating buyer-supplier networks among businesses in North
- 8 Carolina.
- 9 (34) Capital projects.
- 10 (35) Basic Skills Plus providing accelerated job training for people seeking their high
- 11 school diploma or its equivalent.
- 12 (36) Minority Male Mentoring Program.
- 13

Senate and House Differ

Senate Version

AMEND ARRA FUNDS

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

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

House Version

AMEND ARRA FUNDS

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

"**SECTION 6.6C.(b)** Appropriation of ARRA Funds. – Funds received from ARRA grants and receipts not specified in this act are hereby appropriated in the amounts provided in the notification of award from the federal government or any entity acting on behalf of the federal government to administer federal ARRA funds. ~~Prior to allocation of funds not expressly delineated in this act, the~~ Within 30 days after notification of the allocation of federal funds, OSBM and affected ~~state~~ State agencies shall ~~consult with report to~~ the Joint Legislative Commission on Governmental ~~Operations.~~ Operations on ARRA grants received that are not expressly delineated in this act."

Senate and House Differ

Senate Version

INFORMATION TECHNOLOGY OPERATIONS

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

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

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

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

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

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

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

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

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the Office of Information Technology Services calculation of rates before the Office of State Budget and Management annually approves the proposed rates. The

1 Office of Information Technology Services shall report to the Office of State Budget and
2 Management on any State agency budget impacts resulting from multiyear contracts.

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

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

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

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

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

22 **"SECTION 6.7.(g)** The State CIO shall ensure that the agency bills from ITS for information
23 technology goods and services are easily understood and fully transparent."
24

House Version

INFORMATION TECHNOLOGY OPERATIONS

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

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

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

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

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

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

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

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

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

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

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

7 (1) Using an outside contractor would be more cost-effective for the State.

8 (2) The Office of Information Technology Services does not have the technical
9 capabilities required to host the application.

10 (3) Valid security requirements preclude the use of State infrastructure, and a
11 contractor can provide a more secure environment.

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

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

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

22 **"SECTION 6.7.(h)** If a State agency fails to pay its Information Technology Internal Service
23 Fund bills within 30 days of receipt, the Office of State Budget and Management may transfer funds
24 to cover the cost of the bill from that agency to the IT Internal Service Fund."
25

Senate and House Differ

Senate Version

CRIMINAL JUSTICE LAW ENFORCEMENT AUTOMATED DATA SERVICES (CJLEADS)

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

(1) Continue the implementation of the Criminal Justice Data Integration Pilot Program, which is now known as the Criminal Justice Law Enforcement Automated Data Services (CJLEADS), in Wake County; and

(2) Begin the transfer of the hosting of CJLEADS to the Department of Justice.

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

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

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

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

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

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

1 **House Version**

2 **CRIMINAL JUSTICE LAW ENFORCEMENT AUTOMATED DATA SERVICES**
3 **(CJLEADS)**

4 **SECTION 6.10.(a)** The Department of Justice and the Office of the State Controller, in
5 cooperation with the State Chief Information Officer, shall:

- 6 (1) Continue the implementation of the Criminal Justice Data Integration Pilot
7 Program, which is now known as the Criminal Justice Law Enforcement
8 Automated Data Services (CJLEADS), in Wake County;
9 (2) Develop a plan to transition CJLEADS to the Department of Justice beginning
10 July 1, 2011, with all the elements of a Type I transfer as defined in G.S. 143A-6,
11 and
12 (3) Provide quarterly reports on the status of the Program and the transition plan to
13 the Joint Legislative Oversight Committee on Information Technology beginning
14 October 1, 2010.

15 The Office of the State Controller shall not expand CJLEADS beyond Wake County without prior
16 coordination with the Department of Justice.

17 **SECTION 6.10.(b)** The Department of Justice shall administer CJLEADS with the
18 assistance of a Leadership Council consisting of:

- 19 (1) The Attorney General;
20 (2) The Director of Administrative Office of the Courts;
21 (3) The Secretary of the Department of Correction;
22 (4) The Secretary of Crime Control and Public Safety;
23 (5) The Secretary of the Department of Juvenile Justice and Delinquency Prevention;
24 (6) The Commissioner of Motor Vehicles, Department of Transportation;
25 (7) The President of The North Carolina Association of Chiefs of Police;
26 (8) The Executive Director of the North Carolina Sheriffs' Association;
27 (9) A representative of the Federal Bureau of Investigation who shall be a nonvoting
28 member;
29 (10) The State Controller; and
30 (11) The State Chief Information Officer.

31 **SECTION 6.10.(c)** The transfer of the hosting of CJLEADS to the Department of
32 Justice shall be completed by July 1, 2012.
33

Senate and House Differ

Senate Version

ITS NETWORK INTEGRATION

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

"SECTION 6.13.(c) Following completion of the feasibility study by the Office of Information and Technology Services and the Office of State Budget and Management, and if the Program Evaluation Division and the Fiscal Research Division can verify that the efficiencies and savings identified in the study are valid, accurate, and substantial enough to justify increased coordination, then the Office of Information Technology Services and MCNC shall develop a plan to identify areas in which it may be feasible to coordinate their operations. The coordination plan shall include at least the following:

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

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

House Version

ITS NETWORK INTEGRATION

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

"SECTION 6.13.(c) Following completion of the feasibility study by the Office of Information and Technology Services and the Office of State Budget and Management, and if the Program Evaluation Division and the Fiscal Research Division can verify that the efficiencies and savings identified in the study are valid, accurate, and substantial enough to justify increased coordination, then the Office of Information Technology Services and MCNC shall develop a plan to identify areas in which it may be feasible to coordinate their operations. The coordination plan shall include at least the following:

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

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

Senate and House Differ

Senate Version

INFORMATION TECHNOLOGY CONTRACTED PERSONNEL

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

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

- (1) No contract for information technology personal services, or providing personnel to perform information technology functions, may be established or renewed ~~for any term longer than 12 months unless otherwise specifically required by a contract in effect on June 30, 2009, without the express written approval of the~~ Statewide Information Technology Procurement Office.
- (2) Before any State agency, department, or institution may renew a contract position for information technology personnel the State agency must report to the Statewide Information Technology Procurement Office (SITPO), Office of State Budget and Management (OSBM), to the Office of State Personnel (OSP), to the Office of Information Technology Services (ITS), and to the Fiscal Research Division (FRD) of the Legislative Services Office on the justification for the contract. The report shall explain:
 - a. The proposed duration of the contract position. If the contract term is for more than 12 months, why recruitment for an in-house State employee position is not feasible.
 - b. Whether the contract position requires unique skills for which the State has a short-term need.
 - c. Whether the contract position is required by a specific information technology project and if the position will be terminated upon completion of the project.
 - d. The specific work products and completion time lines for the contract position.
- (3) Contract positions subject to this subsection shall be reviewed and approved by the Statewide Information Technology Procurement Office and shall be entered in the project portfolio management tool.
- (4) Once approved, contract positions will be reviewed by the Office of State Personnel to determine what the market rate is for the type of contractor required, as well as to determine the comparable cost for a State employee. Agencies may not exceed the market rate determined by OSP.
- (5) After OSP provides cost data, OSBM must approve funding for the position.
- (6) Whenever a State agency, department, or institution determines that only a contractor can fill a position and the position is required to perform an ongoing function within the agency, the head of the State agency must develop and implement a plan to hire or train a qualified State employee to fill that position within 12 months. Within 60 days of hiring the contractor, this plan shall be forwarded to the Office of State Budget and Management, to the Office of State Personnel, to the Office of Information Technology Services, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the Legislative Services Office.

- 1 (7) Any contract position requiring information technology skills is subject to this
2 provision. OSBM may immediately terminate the funding for any information
3 technology position that is filled without following defined procedures.
- 4 (8) All information technology personnel contracts shall be competitive and shall be
5 subject to competition each time they expire. Exceptions must be approved by
6 ITS, OSP, and OSBM and can only be approved once for a particular individual.
7 Approved exceptions must be immediately reported to the Joint Legislative
8 Oversight Committee on Information Technology and to the Fiscal Research
9 Division of the Legislative Services Office.

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

- 17 (1) For each contracted information technology position:
- 18 a. The title of the position, a brief synopsis of the essential functions of the
19 position, and how long the position has existed.
 - 20 b. The name of the individual filling the position and the vendor company, if
21 any, that regularly employs that individual.
 - 22 c. The type, start date, and the termination date of the contract.
 - 23 d. The length of time that the individual filling the contracted position has
24 been employed as a contractor.
 - 25 e. The contracted position salary or hourly rate, the number of hours per
26 year, and the total annualized cost of the contracted position.
 - 27 f. The salary and benefits cost for a State employee performing the same
28 function.
 - 29 g. The purchase order number for the position.
 - 30 h. Whether the position can be converted to a State employee position. This
31 determination shall be made by the SITPO.
 - 32 i. When the agency anticipates converting the position to a State employee.
- 33 (2) The total annual cost for information technology contractors and the total annual
34 salary and benefits cost for filling the contract positions with State employees.
- 35 (3) A determination of whether the information technology functions performed by
36 contractors can be performed by State employees, which shall be validated by the
37 Statewide Information Technology Procurement Office.
- 38 (4) All information required by this subsection related to information technology
39 contractors regardless of the contracting source.
- 40 (5) A detailed explanation for any differences between the agency report and the
41 Information Technology Expenditures Report annually published by the Office
42 of the State Controller.

43 **"SECTION 6.18.(c)** This section does not apply to The University of North Carolina and its
44 constituent institutions."
45

House Version

INFORMATION TECHNOLOGY CONTRACTED PERSONNEL

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

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

- (1) No contract for information technology personal services, or providing personnel to perform information technology functions, may be established or renewed ~~for any term longer than 12 months unless otherwise specifically required by a contract in effect on June 30, 2009, without the express written approval of the Statewide Information Technology Procurement Office (SITPO). If a State agency is unable to hire an appropriately qualified permanent State employee to perform specialized industry unique information technology skills for any of the reasons set out in sub-subdivisions a. through c. of this subdivision, then the agency may renew the contract, if necessary, subject to the approval of the SITPO and documentation that sufficient funds are available to renew the contract. The renewed contract term shall be terminated when all of the following are available: (i) adequate recurring funding, (ii) appropriate classified positions, and (iii) qualified candidates. The reasons for which a contract may be renewed under this subdivision are as follows:~~
 - a. There are no available or approved vacant positions.
 - b. There are no applicants or there are only unqualified applicants.
 - c. Failure to renew an existing contractor beyond the current contract termination date would result in significant risk, hardship, liability, exposure, loss of investment, or inability to conduct the agency's duties on behalf of the State.
- (2) Before any State agency, department, or institution may renew a contract position for information technology personnel the State agency must report to the SITPO, Office of State Budget and Management (OSBM), to the Office of State Personnel (OSP), to the Office of Information Technology Services (ITS), and to the Fiscal Research Division (FRD) of the Legislative Services Office on the justification for the contract. The report shall explain:
 - a. The proposed duration of the contract position. If the contract term is for more than 12 months, why recruitment for an in-house State employee position is not feasible.
 - b. Whether the contract position requires unique skills for which the State has a short-term need.
 - c. Whether the contract position is required by a specific information technology project and if the position will be terminated upon completion of the project.
 - d. The specific work products and completion time lines for the contract position.
- (3) Contract positions subject to this subsection shall be reviewed and approved by the Statewide Information Technology Procurement Office and shall be entered in the project portfolio management tool.
- (4) Once approved, contract positions will be reviewed by the Office of State Personnel to determine what the market rate is for the type of contractor required, as well as to determine the comparable cost for a State employee. Agencies may not exceed the market rate determined by OSP.
- (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 a
2 contractor can fill a position and the position is required to perform an ongoing
3 function within the agency, the head of the State agency must develop and
4 implement a plan to hire or train a qualified State employee to fill that position
5 within 12 months. Within 60 days of hiring the contractor, this plan shall be
6 forwarded to the Office of State Budget and Management, to the Office of State
7 Personnel, to the Office of Information Technology Services, to the Joint
8 Legislative Oversight Committee on Information Technology, and to the Fiscal
9 Research Division of the Legislative Services Office.
- 10 (7) Any contract position requiring information technology skills is subject to this
11 provision. OSBM may immediately terminate the funding for any information
12 technology position that is filled without following defined procedures.
- 13 (8) All information technology personnel contracts shall be competitive and shall be
14 subject to competition each time they expire. Exceptions must be approved by
15 ITS, OSP, and OSBM and can only be approved once for a particular individual.
16 Approved exceptions must be immediately reported to the Joint Legislative
17 Oversight Committee on Information Technology and to the Fiscal Research
18 Division of the Legislative Services Office.
- 19 (9) Deviations from these requirements shall be approved in advance only by the
20 SITPO.

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 Office.
27 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 the
30 position, and how long the position has existed.
31 b. The name of the individual filling the position and the vendor company, if
32 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 has
35 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 same
39 function.
40 g. The purchase order number for the position.
41 h. Whether the position can be converted to a State employee position. This
42 determination shall be made by the SITPO.
43 i. When the agency anticipates converting the position to a State employee.
- 44 (2) The total annual cost for information technology contractors and the total annual
45 salary and benefits cost for filling the contract positions with State employees.
- 46 (3) A determination of whether the information technology functions performed by
47 contractors can be performed by State employees, which shall be validated by the
48 Statewide Information Technology Procurement Office.
- 49 (4) All information required by this subsection related to information technology
50 contractors regardless of the contracting source.

1 (5) A detailed explanation for any differences between the agency report and the
2 Information Technology Expenditures Report annually published by the Office
3 of the State Controller.
4 "SECTION 6.18.(c) This section does not apply to The University of North Carolina and its
5 constituent institutions."
6

Senate and House Differ

Senate Version

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

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

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

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

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

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

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

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

"SECTION 6.20.(b) Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals, and to negotiate and review contracts associated with TIMS and the additional components of the Planning and Design Project (PDP) (Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services).

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

9 The members of the Committee shall include the following:

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

20 The State Budget Director shall serve as chair of the Committee. The Committee shall set its
21 meeting schedule and adopt its rules of operation by majority vote. A majority of the members
22 constitutes a quorum. Vacancies shall be filled by the appointing authority. Administrative support
23 staff shall be provided by the Department of Revenue. Members of the Committee shall receive
24 reimbursements for subsistence and travel expenses as provided by Chapter 138 of the General
25 Statutes. The Committee shall terminate on ~~June 30, 2014~~June 30, 2015.

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

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

House Version

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

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

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

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

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

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

If the Department of Revenue finds that it cannot generate additional benefits totaling forty-one million dollars (\$41,000,000) in the 2009-2011 biennium, through June 30, 2015, or that total costs exceed the total available appropriations and earned benefits, then the Department shall do all of the following: (i) immediately notify the Chairs of the House of Representatives and Senate Appropriations Committees and Fiscal Research Division, (ii) identify any obligations to vendors, (iii) identify options for meeting obligations to vendors, and (iv) provide costs associated with each option. The Department shall ensure that this notification is made in sufficient time to allow the General Assembly to properly evaluate the options presented.

"SECTION 6.20.(b) Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals, and to negotiate and review contracts associated with TIMS and the additional components of the Planning and Design Project (PDP) (Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services).

"SECTION 6.20.(c) There is established within the Department of Revenue the Oversight Committee for reviewing and approving the benefits measurement methodology and calculation process. The Oversight Committee shall review and approve all contracts executed under this

1 section. This shall include (i) details of each public-private contract, (ii) the benefits from each
2 contract, and (iii) a comprehensive forecast of the benefits of using public-private agreements to
3 implement TIMS and the additional PDP components, including the measurement process
4 established for the Secretary of Revenue. The Oversight Committee shall approve all of the fund
5 transfers for this project.

6 The members of the Committee shall include the following:

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

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

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

35 "**SECTION 6.20.(e)** In addition to the oversight provided by the Oversight Committee
36 established in subsection (c) of this section, the TIMS project shall be subject to existing
37 Information Technology project oversight legislation, including, but not limited to, G.S. 147-33.72C
38 and G.S. 147-33.72E."
39

Senate Only

INMATE MEDICAL COST CONTAINMENT

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

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

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

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

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

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

- (1) Contracting with a private third party to manage and provide all inmate medical services;
- (2) Partnering with the federal government to allow for treatment of State inmates in federal correctional hospitals; and
- (3) Purchasing a fixed number of beds at a hospital.

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

1 (1) The Department's progress with the RFP process initiated pursuant to Section
2 19.20(b) of S.L. 2009-451, as rewritten by Section 15A of S.L. 2009-575, to
3 contract for claims processing, medical management services, and the
4 development and management of a medical professional and facility provider
5 network.

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

10 a. The types and volumes of services that the new and updated facilities will
11 provide that previously would have been provided by community
12 providers; and

13 b. The projected types and volumes of services that will still be referred to
14 community providers.

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

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

22 (1) The volume of services provided by community medical providers that can be
23 scheduled in advance and, of that volume, the percentage of those services that
24 are provided by contracted providers; and

25 (2) The volume of services provided by community medical providers that cannot be
26 scheduled in advance and, of that volume, the percentage of those services that
27 are provided by contracted providers.

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

1 **House Only**

2 **ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES**

3 **SECTION 6.17.(a)** Under the direction of the State Chief Information Officer (SCIO),
4 the State shall plan, develop, and implement a coordinated enterprise electronic forms and digital
5 signatures capability. In developing this capability, the SCIO shall complete an inventory of paper
6 and electronic forms currently in use by executive branch agencies within the State, determine the
7 cost of converting forms to an electronic format, determine priorities for converting forms, and
8 establish milestones for completing this conversion.

9 The SCIO's effort shall include integrating executive branch agencies already in the
10 process of developing electronic forms and digital signatures projects. Before beginning this effort,
11 the SCIO shall determine specific agency requirements and incorporate their requirements into its
12 planning efforts.

13 **SECTION 6.17.(b)** Beginning October 1, 2010, the SCIO shall present quarterly
14 reports on the status of the project to the Joint Legislative Oversight Committee on Information
15 Technology.

House Only

ADDRESS NEEDS FOR BROADBAND FOR EDUCATION AND ECONOMIC DEVELOPMENT/CREATE JOINT BROADBAND TASK FORCE

SECTION 6.18.(a) There is created the Joint Broadband Task Force (Task Force). The purpose of the Task Force is to bring together public and private Internet access providers, legislators, and others to:

- (1) Examine issues related to last mile broadband deployments in the State and to improving the rate at which the general public accesses high-speed broadband.
- (2) Consider incentives and other funding mechanisms to advance last mile deployments.
- (3) Review the best and most cost-effective ways to address the needs of communities and households that lack broadband access.
- (4) Consider any other matters relating to last mile broadband deployment in this State.

SECTION 6.18.(b) The Task Force shall consist of 21 voting members appointed as follows:

- (1) Ten members appointed by the Speaker of the House of Representatives, including:
 - a. Five members of the House of Representatives.
 - b. One representative of the North Carolina League of Municipalities.
 - c. One representative of the North Carolina Association of County Commissioners.
 - d. One representative of a large telephone company that provides high-speed Internet service to 200,000 or more access lines.
 - e. One representative of a wireless high-speed Internet access provider.
 - f. One member of the general public.
- (2) Ten members appointed by the President Pro Tempore of the Senate, including:
 - a. Five members of the Senate.
 - b. One representative of the North Carolina League of Municipalities.
 - c. One representative of the North Carolina Association of County Commissioners.
 - d. One representative of a small telephone company that provides high-speed Internet service to less than 200,000 access lines.
 - e. One representative of a cable television company that provides high-speed Internet access.
 - f. One member of the general public.
- (3) One member elected by a vote of the other members of the Task Force from nominees recommended by municipalities providing high-speed Internet access within the State.

SECTION 6.18.(c) The State Chief Information Officer, a member of the Utilities Commission, the Secretary of the Department of Transportation (or the Secretary's designee), and a representative of the e-NC Authority shall serve as nonvoting ex officio members of the Task Force.

SECTION 6.18.(d) The Speaker of the House of Representatives and the President Pro Tempore of the Senate each shall appoint a cochair for the Task Force. The Task Force may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. Clerical staff shall be furnished through the offices of the House of Representatives' and the Senate's Directors of Legislative Assistants. The Task Force may meet in the Legislative Building or the Legislative Office Building upon the approval of the

1 Legislative Services Commission. The appointing authority shall fill vacancies. The Task Force,
2 while in the discharge of its official duties, may exercise all the powers provided under the
3 provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents,
4 agencies, and departments of the State to provide any information, data, or documents within their
5 possession, ascertainable from their records, or otherwise available to them and the power to
6 subpoena witnesses. Members of the Task Force shall receive per diem, subsistence, and travel
7 allowances as follows:

- 8 (1) Members of the General Assembly, at the rate established in G.S. 120-3.1.
- 9 (2) Members who are officials or employees of the State or of local government
10 agencies, at the rate established in G.S. 138-6.
- 11 (3) All other members, at the rate established in G.S. 138-5.

12 **SECTION 6.18.(e)** Beginning December 1, 2010, the Task Force shall provide
13 quarterly reports to the Joint Legislative Oversight Committee on Information Technology and shall
14 terminate upon filing its final report.

1 **House Only**

2 **SMART CARDS FOR EFFICIENCY, ENHANCED SERVICES, AND REDUCED FRAUD**

3 **SECTION 6.19.** E-procurement receipts, in excess of required vendor payments, up to
4 the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year may be used to develop
5 integrated circuit cards, or "smart cards," that have the capability to support financial and health
6 services transactions, particularly validation of the cardholder through the use of biometrics.
7 Development of any such systems shall be coordinated by the State Chief Information Officer with
8 other State agencies (including the Department of Health and Human Services) that have programs
9 for which the use of the cards are appropriate. Beginning October 1, 2010, the State Chief
10 Information Officer shall submit quarterly progress reports to the Joint Legislative Oversight
11 Committee on Information Technology on the implementation of this section.

Senate and House Differ

Senate Version

STATE FISCAL STABILIZATION FUND APPROPRIATION

SECTION 7.3. In order to ensure compliance with the requirements of Title XIV of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other provision of law, the Office of State Budget and Management shall adjust the State Fiscal Stabilization Fund appropriation amounts, including any associated budget reductions, between the State Public School Fund and The University of North Carolina budget to align with the requirements of the North Carolina State Fiscal Stabilization Fund application as amended for 2010-2011.

House Version

STATE FISCAL STABILIZATION FUND APPROPRIATION

SECTION 7.3. In order to ensure compliance with the requirements of Title XIV of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other provision of law, the Office of State Budget and Management shall adjust the State Fiscal Stabilization Fund appropriation amounts, including any associated budget reductions, between the State Public School Fund and The University of North Carolina budget to align with the requirements of the North Carolina State Fiscal Stabilization Fund application as amended for 2010-2011. If associated budget reductions are required within the State Public School Fund, the Office of State Budget and Management shall first adjust the Classroom Materials/Instructional Supplies/Equipment allotment prior to adjusting any other allotments within the State Public School Fund.

Senate Only

NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS ALLOTMENT FORMULA

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

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

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

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

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

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

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

Senate and House Differ

Senate Version

MORE AT FOUR PROGRAM

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

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

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

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

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

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

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

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

12 **SECTION 7.5.(g)** The Office of Early Learning shall contract with an independent
13 research organization not affiliated with the Department of Health and Human Services, the
14 Department of Public Instruction, the Office of the Governor, or any entity currently funded by or
15 affiliated with the Department of Health and Human Services, the Department of Public Instruction,
16 or the Office of the Governor to produce an annual report to include longitudinal review of the
17 More at Four program and academic, behavioral, and other child-specific outcomes. The review
18 shall include a quasi-experimental research design of a representative sample of children who
19 complete the More at Four program every year and shall report on their sustained progress until the
20 end of **grade 9**. The review shall also study a representative sample of children who do not enter the
21 More at Four program but who are of the same grade level and demographic as those who complete
22 the program, and their sustained progress shall also be reviewed until the end of **grade 9**. The review
23 shall be presented to the Joint Legislative Oversight Committee on Education by January 31 of
24 every year.
25

House Version

MORE AT FOUR PROGRAM

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

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

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

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

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

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

SECTION 7.5.(e) The More at Four program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of existing four-year-old classrooms with More at Four program funding shall be permitted when current

1 funding is eliminated, reduced, or redirected as required to meet other specified federal or State
2 mandates.

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

9 **SECTION 7.5.(g)** The Office of Early Learning shall contract with an independent
10 research organization not affiliated with the Department of Health and Human Services, the
11 Department of Public Instruction, the Office of the Governor, or any entity currently funded by or
12 affiliated with the Department of Health and Human Services, the Department of Public Instruction,
13 or the Office of the Governor to produce an annual report to include longitudinal review of the
14 More at Four program and academic, behavioral, and other child-specific outcomes. The review
15 shall include a quasi-experimental research design of a representative sample of children who
16 complete the More at Four program every **other** year and shall report on their sustained progress
17 until the end of **grade 6**. The review shall also study a representative sample of children who do not
18 enter the More at Four program but who are of the same grade level and demographic as those who
19 complete the program, and their sustained progress shall also be reviewed until the end of **grade 6**.
20 The review shall be presented to the Joint Legislative Oversight Committee on Education by
21 January 31 of every year.

22 **SECTION 7.5.(h)** To consolidate all of the regulatory functions regarding the
23 monitoring of early care and education providers in certain private settings, it is the intent of the
24 General Assembly that the Department of Health and Human Services and the Department of Public
25 Instruction authorize Division of Child Development staff to assume the regulatory functions of the
26 More at Four program in private classroom settings. The Department of Public Instruction shall
27 provide Division of Child Development staff with the training necessary to monitor compliance
28 with the More at Four program. The Division of Child Development shall continue its current
29 licensing functions for those classrooms voluntarily licensed in public settings.
30

Senate and House Differ

Senate Version

LEADERSHIP ACADEMY

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

House Version

LEADERSHIP ACADEMY

SECTION 7.6. Of the funds appropriated in this act to the Department of Public Instruction for the 2010-2011 fiscal year, up to two hundred thousand dollars (\$200,000) may be used to support a Leadership Academy that provides professional development to principals and assistant principals to address critical areas such as student achievement and teacher recruitment and retention. The Leadership Academy is encouraged to utilize webinars and other technologies to reduce travel expenses and to reach additional participants.

Senate and House Differ

Senate Version

CAREER AND COLLEGE – READY, SET, GO!

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

- (1) Are prepared to be successful in school and can successfully progress through PK-20 education. This includes, but is not limited to:
 - a. Establishment of the Governor's Child Advocacy Council to increase ways for all children to come to school healthy and ready to learn;
 - b. Investment in early child development programs like Smart Start and More at Four;
 - c. Investment in smaller class sizes in K-3;
 - d. Implementation of student diagnostics in grades K-3 and 5 to ensure that all students at a minimum possess grade-level reading, writing, and math skills;
 - e. Implementation of student diagnostics for career and college readiness in grades 8 and 11 so students graduate prepared for work, college, or technical training; and
 - f. Implementation of the Student Learning Conditions Survey for grades 7, 9, and 11 that is aligned with the Teacher Working Conditions Survey.
- (2) Receive clear standards and high expectations, and benefit from the best teachers and principals that can most effectively help students reach those standards. This includes, but is not limited to:
 - a. Adoption of the State-led National Common Standards, including Career and College Ready Skills and assessments that prepare students for the global economy;
 - b. Evaluation of Teacher Preparation programs to identify best practices and programs that produce effective teachers;
 - c. Increased access to virtual learning opportunities for students and teachers like those provided through the NC Virtual Public School;
 - d. Increased access to Science, Technology, Engineering and Mathematics (STEM) opportunities;
 - e. Development of leadership academies that recruit and prepare effective principals;
 - f. Development of a PK-20 data system to provide comprehensive information on students;
 - g. Reduction and eventual elimination of low-performing status in North Carolina schools; and
 - h. Job-imbedded professional development for teachers and principals.
- (3) Fully understand and complete the prerequisites for the career, certification, or degree of choice that promotes workforce success. This includes, but is not limited to:
 - a. Development of academic boot camps for high school students who need additional support in reading, composition, and math;

- b. Consolidation of high school transition courses to provide high school students with more college level or career and technical courses;
- c. Increased access to virtual college level and specific career and technical courses for high school students;
- d. Alignment between high school and college curricula so that all students are prepared for higher education work; and
- e. Implementation of NCSuccess, a program designed to increase the number of certificates and associate or bachelor's degrees in higher education.

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

House Version

CAREER AND COLLEGE – READY, SET, GO!

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

- (1) Are prepared to be successful in school and can successfully progress through PK-20 education. This includes, but is not limited to:
 - a. Establishment of the Governor's Child Advocacy Council to increase ways for all children to come to school healthy and ready to learn;
 - b. Investment in early child development programs like Smart Start and More at Four;
 - c. Investment in smaller class sizes in K-3;
 - d. Implementation of student diagnostics in grades K-3 and 5 to ensure that all students at a minimum possess grade-level reading, writing, and math skills;
 - e. Implementation of student diagnostics for career and college readiness in grades 8 and 11 so students graduate prepared for work, college, or technical training; and
 - f. Implementation of the Student Learning Conditions Survey for grades 7, 9, and 11 that is aligned with the Teacher Working Conditions Survey.
- (2) Receive clear standards and high expectations, and benefit from the best teachers and principals that can most effectively help students reach those standards. This includes, but is not limited to:
 - a. Adoption of the State-led National Common Standards, including Career and College Ready Skills and assessments that prepare students for the global economy;
 - b. Evaluation of Teacher Preparation programs to identify best practices and programs that produce effective teachers;
 - c. Increased access to virtual learning opportunities for students and teachers like those provided through the NC Virtual Public School;
 - d. Increased access to Science, Technology, Engineering and Mathematics (STEM) opportunities;
 - e. Development of leadership academies that recruit and prepare effective principals;
 - f. Development of a PK-20 data system to provide comprehensive information on students;
 - g. Reduction and eventual elimination of low-performing status in North Carolina schools; and
 - h. Job-imbedded professional development for teachers and principals.
- (3) Fully understand and complete the prerequisites for the career, certification, or degree of choice that promotes workforce success. This includes, but is not limited to:
 - a. Development of academic boot camps for high school students who need additional support in reading, composition, and math;
 - b. Consolidation of high school transition courses to provide high school students with more college-level or career and technical courses;

- c. Increased access to virtual college-level and specific career and technical courses for high school students;
- d. Alignment between high school and college curricula so that all students are prepared for higher education work; and
- e. Implementation of NCSuccess, a program designed to increase the number of certificates and associate or bachelor's degrees in higher education.

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

Senate and House Differ

Senate Version

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.

House Version

SCHOOL CONNECTIVITY INITIATIVE

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

SECTION 7.9.(b) Up to three hundred fifty thousand dollars (\$350,000) of the funds for the School Connectivity Initiative may be used for this and subsequent fiscal years by the Office of the Governor for education innovation and the education E-learning portal. These funds may be used to provide services to coordinate e-learning activities across all education agencies and to support the operating of the E-learning portal.

Senate and House Differ

Senate Version

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."

House Version

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 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, October 15, 2010,~~ on the administration of the pilot program, cost-savings realized by it, and its impact on student achievement."

Senate and House Differ

Senate Version

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.

House Version

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 commencement of cash repayment shall begin 12 months following the disbursement of the loan funds. The State Education Assistance Authority may forgive the loan upon the death of the teacher or upon an injury deemed to leave the teacher totally and permanently disabled.

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.

SECTION 7.11.(c) The Joint Legislative Education Oversight Committee is directed to recommend a plan for implementing a National Board Certification Program for Principals in conjunction with the pilot program being developed by the National Board for Professional Teaching Standards. The Committee shall report its recommendation to the 2011 General Assembly by March 1, 2011.

Senate and House Differ

Senate Version

PROTECTION OF THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY

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

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

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

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

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

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

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

House Version

PROTECTION OF THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY

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

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

(1) Shall authorize the transfer of textbook funds to other allotments to manage funding cuts; and

(2) Shall not permit the transfer of funds from school-based positions to the central office.

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

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

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

"SECTION 7.8.(e) For the 2010-2011 fiscal year, local school administrative units shall make every effort to reduce spending from Career Technical Education – State: Program Support Funds before making any reductions to Career Technical Education – State: Months of Employment funds."

1 **Senate Only**

2 **PROBATIONARY TEACHERS**

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

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

9 If a probationary teacher in a full-time permanent position resigns or is not
10 renewed because of a reduction in force and is subsequently rehired by the same
11 school system within three years, there shall be deemed to be no break in the
12 continuity in consecutive years of service for such teacher up to a maximum of
13 three consecutive years towards career status. If, at the time the teacher resigns or
14 is not renewed because of a reduction in force, the teacher had been employed by
15 a school system for four consecutive years pursuant to G.S. 115C-325(c)(1), or
16 one year pursuant to G.S. 115C-325(c)(2), and the board subsequently rehires
17 such teacher within three years, the board may grant career status immediately
18 upon reemploying the teacher, or vote on the teacher's career status pursuant to
19 G.S. 115C-325(c)(1) or (c)(2) after one additional year of employment."

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

1 **Senate Only**

2 **LEARN AND EARN ONLINE**

3 **SECTION 7.15.** Section 7.10(j) of S.L. 2009-451 reads as rewritten:

4 "SECTION 7.10.(j) For the 2009-2011 biennium, high school students attending a nonpublic
5 school may enroll in any Learn and Earn Online ~~course with space available that has been offered to~~
6 ~~but not filled by any eligible public school student.~~ course. Notwithstanding subsection (h) of this
7 section, nonpublic school students shall be responsible for supplying their own textbooks and other
8 instructional materials."

House Only

JOINT LEGISLATIVE STUDY COMMITTEE ON THE CONSOLIDATION OF EARLY CHILDHOOD EDUCATION AND CARE

SECTION 7.16.(a) Committee Established. – There is created the Joint Legislative Study Committee on the Consolidation of Early Childhood Education and Care. The Committee shall consist of 18 members to be appointed as follows:

- (1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Seven ex officio nonvoting members as follows:
 - a. The Secretary of the Department of Health and Human Services.
 - b. The Chairman of the State Board of Education.
 - c. The President of the North Carolina Partnership for Children, Inc.
 - d. The Executive Director of the Office of Early Learning at the Department of Public Instruction.
 - e. The Director of the Head Start State Collaboration Office at the Office of Early Learning at the Department of Public Instruction.
 - f. The President of the Child Care Services Association.
 - g. The Executive Director of the North Carolina Licensed Child Care Association.

(4) A developmental pediatrician appointed by the Governor as a nonvoting member. The Speaker of the House of Representatives shall designate one representative as cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair. Vacancies on the Committee shall be filled by the same appointing authority making the initial appointment.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet at any time upon the joint call of the cochairs. The Committee may meet in the Legislative Building or the Legislative Office Building. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee.

SECTION 7.16.(b) Duties. – The Committee shall continue the work of the Task Force on the Consolidation of Early Childhood Education and Care created under S.L. 2009-451 by continuing to work toward the development of an integrated system of early childhood education and care. To that end, the Committee may consult with and receive reports from the appropriate State departments, agencies, and board representatives on issues related to early childhood education and care and consider any other issues the Committee deems relevant.

The Committee shall closely coordinate its activities with the Governor's State Advisory Council on Early Childhood Education and Care.

SECTION 7.16.(c) Report. – The Committee shall make a final report of its findings and recommendations to the 2011 Regular Session of the General Assembly. The Committee shall terminate on December 31, 2010.

1 **House Only**

2 **UNIFORM BUDGET FORMAT**

3 **SECTION 7.17.** G.S. 115C-426(c) reads as rewritten:

4 "(c) The uniform budget format shall require the following funds:

5 (1) The State Public School Fund.

6 (2) The local current expense fund.

7 (3) The capital outlay fund.

8 In addition, other funds may be ~~required~~ used to account for reimbursements, including indirect
9 costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method
10 pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds,
11 ~~federal grants restricted as to use,~~ federal appropriations made directly to local school
12 administrative units, funds received for prekindergarten programs, and special programs. Each local
13 school administrative unit shall maintain those funds shown in the uniform budget format that are
14 applicable to its operations."

House Only

LEGISLATIVE COMMISSION ON DIVERSITY IN THE PUBLIC SCHOOLS

SECTION 7.18.(a) There is created the Legislative Commission on Diversity in the Public Schools.

SECTION 7.18.(b) The Commission shall consist of 15 members as follows:

- (1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Five public members appointed by the Governor.

SECTION 7.18.(c) The Speaker of the House of Representatives shall designate one representative as cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment. A quorum of the Commission shall be a majority of its members.

SECTION 7.18.(d) The Commission shall study the effects of student diversity in public school enrollment. As part of this study, the Commission shall:

- (1) Consider whether schools in which students of various racial, ethnic, and socioeconomic characteristics are balanced improve the quality of the learning experience and the academic achievement of all students as compared to schools with more homogeneous student enrollments.
- (2) Examine whether diverse public schools are successful in closing the achievement gap.
- (3) Explore the level of parental involvement in schools with a diverse student population.
- (4) Examine best practices for creating and maintaining student diversity in schools and school systems in other states.
- (5) Consider whether diverse public schools improve student discipline.
- (6) Consider the fiscal impact and efficiency of State funding streams given the data accumulated in items (1) through (5).
- (7) Study any other issue the Commission considers relevant.

SECTION 7.18.(e) The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at anytime upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

SECTION 7.18.(f) The Commission shall submit a final report of the results of its study and its recommendations to the 2011 General Assembly. The Commission shall terminate on March 1, 2011, or upon the filing of its final report, whichever occurs first.

1 **House Only**

2 **DROPOUT PREVENTION GRANTS**

3 **SECTION 7.19.(a)** Notwithstanding Section 7.13 of S.L. 2009-451, the Committee on
4 Dropout Prevention shall provide grants of one million dollars (\$1,000,000) each to the following
5 three evidence-based operators of dropout prevention initiatives:

- 6 (1) Communities in Schools of North Carolina, Inc., to expand service to existing
7 local programs, enable establishment of new local CIS programs, and, as
8 matching or sustaining funds become available, support the placement of
9 graduation coaches or creation of new Performance Learning Centers (PLCs).
10 (2) North Carolina Congress of Parents and Teachers, Incorporated, to implement
11 the PTA Parental Involvement Initiative in additional school sites.
12 (3) One other recipient selected by the Committee.

13 **SECTION 7.19.(b)** The Committee on Dropout Prevention shall identify a minimum of
14 three additional recipients of Dropout Prevention Grants that the Committee feels show promise as
15 statewide models for dropout prevention interventions. The Committee on Dropout Prevention shall
16 report its selected grantees and the reasons why they were chosen to the Joint Legislative Education
17 Oversight Committee and the Joint Legislative Commission on Dropout Prevention and High
18 School Graduation by March 15, 2011.

1 **House Only**

2 **UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS**

3 **SECTION 7.20.(a)** Funds appropriated for the Uniform Education Reporting System
4 shall not revert at the end of the 2009-2010 fiscal year.

5 **SECTION 7.20.(b)** This act becomes effective June 30, 2010.

1 **House Only**

2 **COOPERATIVE AND INNOVATIVE HIGH SCHOOLS**

3 **SECTION 7.21.(a)** G.S. 115C-238.50(e) reads as rewritten:

4 "(e) Cooperative innovative high school programs may include the creation of a school
5 within a school, a technical high school, ~~or a high school or technical center located on the campus~~
6 of a college or ~~university~~. university, or a five-year career academy operating as part of an existing
7 high school."

8 **SECTION 7.21.(b)** G.S. 115C-238.54 reads as rewritten:

9 "**§ 115C-238.54. Funds for programs.**

10 (a) The Department of Public Instruction shall assign a school code for each program that is
11 approved under this ~~Part~~. Part, with the exception of a five-year career academy operating as part of
12 an existing high school, which shall continue to use the existing school code. All positions and other
13 State and federal allotments that are generated for this program shall be assigned to that school
14 code. Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the local
15 board of education may use these funds for the program and may transfer these funds between
16 funding allotment categories.

17 (a1) A five-year career academy operating as part of an existing high school shall maintain
18 records to identify and evaluate students enrolled in the five-year career academy program distinct
19 from the general school population.

20"

21 **SECTION 7.21.(c)** The Department of Public Instruction shall study the fiscal impacts
22 of the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the
23 General Statutes). The Department shall report the results of its study to the Joint Legislative
24 Education Oversight Committee and the Fiscal Research Division by March 15, 2011. The report
25 shall include historical data on the number of new schools created each fiscal year attributable to the
26 Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General
27 Statutes).

28 **SECTION 7.21.(d)** The State Board of Education shall not approve any additional
29 schools under the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter
30 115C of the General Statutes) after July 1, 2010, unless the school has received an explicit
31 appropriation from the General Assembly.

32 **SECTION 7.21.(e)** Subsections (a) and (b) of this section are effective when this act
33 becomes law and apply beginning with the 2010-2011 school year.

1 **House Only**

2 **ELIMINATION OF CERTAIN REPORTS**

3 **SECTION 7.22.(a)** G.S. 115C-301(g) reads as rewritten:

4 "(g) Waivers and Allotment Adjustments. – Local boards of education shall report exceptions
5 to the State Board of Education as provided in G.S. 115C-47(10), and shall request allotment
6 adjustments or waivers from the standards set out above. Within 45 days of receipt of reports, the
7 State Board of Education, within funds available, may allot additional positions or grant waivers for
8 the excess class size or daily load.

9 (1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts
10 of God, (ii) large changes in student population, (iii) organizational problems
11 caused by remote geographic location, or (iv) classes organized for a solitary
12 curricular area, and

13 (2) If the local board cannot organizationally correct the exception.

14 ~~All allotment adjustments and waivers submitted under this provision shall be reported to the~~
15 ~~Director of the Budget and to the General Assembly by May 15 of each year."~~

16 **SECTION 7.22.(b)** Sections 4 through 6 of S.L. 2007-453 are repealed.

17 **SECTION 7.22.(c)** Section 7.60 of S.L. 2005-276 is repealed.

18 **SECTION 7.22.(d)** Section 7.61(b) of S.L. 2005-276 reads as rewritten:

19 "**SECTION 7.61.(b)** To remain eligible for funds appropriated for the At-Risk/Alternative
20 Schools allotment and the Improving Student Accountability allotment, local school administrative
21 units must submit a report to the State Board of Education by October 31 of each year detailing the
22 expenditure of the funds and the impact of these funds on student achievement. ~~The State Board of~~
23 ~~Education shall report this information annually by October 31 to the Office of State Budget and~~
24 ~~Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research~~
25 ~~Division."~~

1 **House Only**

2 **DISADVANTAGED STUDENTS SUPPLEMENTAL FUNDING**

3 **SECTION 7.23.** In determining whether to approve a local school administrative unit's
4 plan for the expenditure of funds allocated to it for disadvantaged student supplemental funding, the
5 State Board of Education shall take into consideration the extent to which the local school
6 administrative unit's policies or expenditures have contributed to or is contributing to increased
7 segregation of schools on the basis of race or socioeconomic status.

1 **House Only**

2 **COMMUNITY COLLEGE COURSES FOR HIGH SCHOOL STUDENTS**

3 **SECTION 7.24.(a)** It is the intent of the General Assembly to implement a funding
4 formula in the 2011-2012 school year that will provide money to local school administrative units
5 for the purpose of paying the tuition of high school students taking community college courses for
6 which tuition is required.

7 **SECTION 7.24.(b)** It is the intent of the General Assembly to eliminate the tuition
8 waiver for courses taken by high school students at community colleges set forth in G.S. 115D-5(b)
9 effective July 1, 2011, except for the waiver that applies to students in cooperative innovative high
10 school programs established pursuant to Part 9 of Article 16 of Chapter 115C of the General
11 Statutes. Tuition shall continue to be waived for students in cooperative innovative high school
12 programs.

13 **SECTION 7.24.(c)** For the 2011-2012 school year, the North Carolina Community
14 College System General Fund appropriations shall be reduced by an amount calculated by
15 multiplying the number of FTE high school students for whom tuition is required by the per capita
16 budgeted receipts for community college curriculum instruction. This amount of funds shall be
17 transferred to the State Board of Education for distribution to the local school administrative units.

18 **SECTION 7.24.(d)** For the 2011-2012 school year, the State Public School Fund shall
19 be reduced by an amount calculated by (i) subtracting the per capita budgeted receipts for
20 community college curriculum instruction from the in-State tuition amount per FTE and (ii)
21 multiplying the result by the number of FTE high school students for whom tuition is required. This
22 amount of funds shall be available to the State Board of Education for distribution to the local
23 school administrative units.

24 The State Board of Education shall ensure that appropriate and reliable data is corrected
25 in order to implement this section.

26 **SECTION 7.24.(e)** The amounts transferred to the State Board of Education under
27 subsections (c) and (d) of this section shall be distributed to local school administrative units based
28 on the pro rata share of each local school administrative unit's number of FTE high school students
29 for whom tuition is required.

30 **SECTION 7.24.(f)** The amounts allocated to local school administrative units under
31 this section shall not be transferred to other uses and shall only be available for paying the tuition of
32 high school students taking community college courses for which tuition is required.

1 **House Only**

2 **ENVIRONMENTAL ENGINEER/SUPPORT SERVICES DIVISION**

3 **SECTION 7.25.** The State Board of Education may use up to two hundred thousand
4 dollars (\$200,000) of funds available to provide an environmental engineer in the Department of
5 Public Instruction, Support Services Division, to address increasing environmental concerns in the
6 public schools of North Carolina.

1 **House Only**

2 **ELIMINATION GEOMETRY END-OF-COURSE TEST**

3 **SECTION 7.27.** The geometry end-of-course test is hereby eliminated. Recurring
4 funds in the amount of five hundred eighty-five thousand four hundred fifty-nine dollars (\$585,459)
5 that are not needed for the eliminated test shall be added to the instructional supplies allotment.

1 **House Only**

2 **ELIMINATION OF CERTAIN STATE-ADMINISTERED TESTS**

3 **SECTION 7.28.(a)** The following end-of-course tests are hereby eliminated:

- 4 (1) United States History.
5 (2) Civics and Economics.
6 (3) Physical Science.

7 **SECTION 7.28.(b)** Recurring funds in the amount of two million one hundred twenty-
8 five thousand ninety-four dollars (\$2,125,094) that are not needed for the state-administered tests
9 eliminated in subsection (a) of this section shall be added to the instructional supplies allotment.

1 **House Only**

2 **CAREER AND TECHNICAL EDUCATION SUPPORT**

3 **SECTION 7.29.** Notwithstanding any other provisions of this act, the funding for the
4 Career and Technical Education (CTE) programs in the Department of Public Instruction is
5 increased by the sum of six million fifty-five thousand two hundred forty-five dollars (\$6,055,245)
6 in recurring funds, thus eliminating the budget reduction and thereby expanding the allotment for
7 the CTE programs by four million fifty-five thousand two hundred forty-five dollars (\$4,055,245).
8 The increased funding under this section shall be used to assist LEAs in expanding, improving,
9 modernizing, and developing quality Career and Technical Education education programs.

Senate and House Differ

Senate Version

TUITION FOR PRISON INMATES

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

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

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

- (1) The implementation of the new funding structure and requirements.
- (2) Strategies for implementing their recommendations to:
 - a. Enhance measurable goals, objectives, and outcomes.
 - b. Enhance and standardize data collection.
 - c. Strengthen the continuum of programming from entry to exit, based on assessment of skills and needs.
 - d. Give individuals the opportunity to use specific skills through work assignments that meet system needs.
 - e. Tailor programs to specific inmate needs.
 - f. Increase Cognitive Behavioral Interventions (CBI) courses.
 - g. Develop an offender-specific human resources development course.
 - h. Explore additional funding sources.
 - i. Explore federal grant for wiring courses.
- (3) Strategies for reasonably limiting the number of courses an individual takes while in prison.

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

House Version

EDUCATION FOR PRISON INMATES

SECTION 8.3.(a) Funds appropriated for community college courses for prison inmates shall be used only for inmates in State prisons. The first priority for the use of these funds shall be to restore the FTE for basic skills courses to the FY 2008-2009 level. Funds not needed for this purpose may be used for continuing education and curriculum courses related to job skills training. These funds shall not be used for Associate of Arts, Associate of Science, or Associate of General Education degrees.

SECTION 8.3.(b) Courses in federal prisons or local jails shall not earn regular budget full-time equivalents, but may be offered on a self-supporting basis. For the 2010-2011 fiscal year only, prison education funds shall be allocated to colleges based on the number of FTE served in local jails, State prisons, and federal prisons during the 2009-2010 fiscal year.

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

- (1) The implementation of the new funding structure and requirements.
- (2) Strategies for implementing their recommendations to:
 - a. Enhance measurable goals, objectives, and outcomes.
 - b. Enhance and standardize data collection.
 - c. Strengthen the continuum of programming from entry to exit, based on assessment of skills and needs.
 - d. Give individuals the opportunity to use specific skills through work assignments that meet system needs.
 - e. Tailor programs to specific inmate needs.
 - f. Increase Cognitive Behavioral Interventions (CBI) courses.
 - g. Develop an offender-specific human resources development course.
 - h. Explore additional funding sources.
 - i. Explore federal grant for wiring courses.
- (3) Strategies for reasonably limiting the number of courses an individual takes while in prison.

SECTION 8.3.(d) G.S. 115D-5(c) reads as rewritten:

"(c) No course of instruction shall be offered by any community college at State expense or partial State expense to any captive or co-opted group of students, as defined by the State Board of Community Colleges, without prior approval of the State Board of Community Colleges. All course offerings approved for State prison inmates must be tied to clearly identified job skills, transition needs, or both. Approval by the State Board of Community Colleges shall be presumed to constitute approval of both the course and the group served by that institution. The State Board of Community Colleges may delegate to the President the power to make an initial approval, with final approval to be made by the State Board of Community Colleges. A course taught without such approval will not yield any full-time equivalent students, as defined by the State Board of Community Colleges."

Senate and House Differ

Senate Version

TUITION WAIVERS

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

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

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

1 qualified as legal residents of North Carolina. ~~Provided further, tuition shall also~~
2 ~~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 accordance
5 with G.S. 115D-20(4) and this section."section; and

6 (13) Human resources development courses for any individual who (i) is unemployed;
7 (ii) has received notification of a pending layoff; (iii) is working and is eligible
8 for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and
9 earning wages at or below two hundred percent (200%) of the federal poverty
10 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 and
13 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 used
17 or for other reasons.
18

House Version

TUITION WAIVERS

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

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

- (1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent ~~certificate, for training certificate;~~
- (2) Training courses for (i) volunteer firemen, (ii) local fire department personnel, (iii) volunteer rescue and lifesaving department personnel, (iv) local rescue and lifesaving department personnel, (v) Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, ~~local~~—(vi) municipal, county, or State law-enforcement officers, (vii) inpatients in State alcoholic rehabilitation centers, (viii) all full-time custodial employees of the Department of Correction, and (ix) employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards ~~Commission, Commission;~~
- (3) Patients in State alcoholic rehabilitation centers; ~~trainees~~
- (4) Trainees enrolled in courses conducted under the ~~New and Expanding Industry Program, clients~~ Customized Training Program;
- (5) Clients of sheltered ~~workshops, clients~~ workshops;
- (6) Clients of adult developmental activity ~~programs, students~~ programs;
- (7) Students in Health and Human Services Development ~~Programs, juveniles~~ Programs;
- (8) Juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent ~~jurisdiction, members~~ jurisdiction;
- (9) Members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General ~~Statutes, and elementary~~ Statutes;
- (10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (~~CPR~~). ~~Provided further, tuition shall be waived for up (CPR);~~
- (11) Up to six hours of credit instruction and 96 contact hours one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina. Provided further, tuition shall also be waived for all Carolina;
- (12) All curriculum courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this ~~section.~~ section;

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

6 (14) Prison inmates."

7 **SECTION 8.4.(b)** G.S. 115D-39 is amended by adding a new subsection to read:

8 "(a1) In addition, any federal law enforcement officer whose permanent duty station is within
9 North Carolina shall also be eligible for the State resident community college tuition rate for law
10 enforcement training courses."

11 **SECTION 8.4.(c)** 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 and
13 of courses taken by local law enforcement officers.

14 **SECTION 8.4.(d)** The Fiscal Research Division, in consultation with the Community
15 Colleges System Office, shall make a comprehensive study of the currently authorized tuition
16 waivers and shall report to the 2011 General Assembly on waivers that should be modified or
17 abolished because they are not being used or for other reasons.
18

Senate and House Differ

Senate Version

COMMUNITY COLLEGE FINANCIAL AID LOANS

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

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

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

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

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

- (1) Students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college.

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

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

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

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

House Version

COMMUNITY COLLEGE FINANCIAL AID LOANS

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

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

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

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

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

- (1) Students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college.

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

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

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

SECTION 8.5.(c) Subsection (b) of this section becomes effective July 1, 2011, and expires July 1, 2012. The remainder of this section becomes effective July 1, 2010.

1 **House Only**

2 **CATAWBA VALLEY COMMUNITY COLLEGE MANUFACTURING SOLUTIONS**
3 **CENTER**

4 **SECTION 8.8.(a)** G.S. 115D-67.2(b)(7) reads as rewritten:

5 "(7) The Director of the ~~Hosiery Technology Center~~Manufacturing Solutions Center
6 at Catawba Valley Community College who shall serve ex officio as a nonvoting
7 member."

8 **SECTION 8.8.(b)** Notwithstanding any other provision of law, all fees collected by the
9 Manufacturing Solutions Center of Catawba Valley Community College for the testing of products
10 shall be retained by the Center and used for the operations of the Center. Purchases made by the
11 Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General
12 Statutes.

1 **House Only**

2 **COMMUNITY COLLEGE EQUIPMENT FUNDS**

3 **SECTION 8.9.** Of the expansion funds appropriated for the 2010-2011 fiscal year for
4 community college equipment, up to two hundred fifty thousand dollars (\$250,000) may be used for
5 virtual 3-D equipment.

1 **House Only**

2 **BASIC SKILLS PLUS**

3 **SECTION 8.10.** Section 8.2 of S.L. 2009-451 reads as rewritten:

4 ~~"SECTION 8.2."~~**SECTION 8.2.(a)** Notwithstanding any other provision of law, a local
5 community college may use up to five percent (5%) of the Literacy Funds allocated to it by the
6 State Board of Community Colleges to procure instructional technology for literacy labs. This
7 technology may include computers, instructional software and software licenses, scanners for
8 testing, and classroom projection equipment. The State Board may also authorize a local community
9 college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide
10 employability skills, job-specific occupational and technical skills, and developmental education
11 instruction to students concurrently enrolled in a community college course leading to a high school
12 diploma or equivalent certificate.

13 **"SECTION 8.2.(b)** Notwithstanding any other provision of law, if a community college
14 provides employability skills, job-specific occupational or technical skills, or developmental
15 education instruction, to students concurrently enrolled in a community college course leading to a
16 high school diploma or equivalent certificate, the college may waive the tuition and registration fees
17 associated with this instruction."

1 **House Only**

2 **MULTICAMPUS FUNDS**

3 **SECTION 8.11.** The funds appropriated for the 2010-2011 fiscal year for multi-campus
4 colleges shall be allocated under the existing funding formula to all multicampus community
5 colleges approved by the State Board of Community Colleges.

Senate and House Differ

Senate Version

STUDY FINANCIAL AID CONSOLIDATION

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

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

- (1) Design a unified need-based financial aid program that combines at a minimum the following three programs into a single need-based financial aid program: The University of North Carolina Need-Based Grant program, the North Carolina Community College Grant program, and the North Carolina Education Lottery Scholarship program established under Article 35A of Chapter 115C of the General Statutes. Currently each of these programs has its own award criteria, formulas, target populations, and funding sources (Escheat Fund, General Fund, and Lottery Funds). As part of its study, the work group shall determine what the appropriate parameters may be for such a unified program by using models that take into account income, expected family contribution, college expenses, type of college attended, and any other factors the work group deems relevant. In designing the program, the work group shall address the issue of proportionality of funding and shall take into account all of the following in its consideration of that issue: the proportionality of funding that currently exists among The University of North Carolina, the North Carolina Community College System, and the North Carolina private colleges and universities; funding sources; accounting for student enrollment change; monetary differences between certain categories of students and whether based on those monetary differences student financial aid should be based on cost of attendance or tuition and fees. The work group may also consider whether it is appropriate to redefine "need" for purposes of student financial aid and to develop a common formula for the distribution of financial aid and the consequences of any proposed modifications if the decision is made to redefine "need" and develop a common formula. The program shall be designed to: (i) distribute funds in a manner that is consistent with legislative intent, but more easily understood by potential students, and (ii) retain the ability to track lottery funds.
- (2) Design a "forgivable loans for service" program that combines at a minimum the following existing programs into one consolidated program that focuses on loans for services: the Nurse Educators of Tomorrow; Nurse Scholars Program; Nurse

1 Education Scholarship Loan Program; Board of Governors Medical Scholarship
2 Loans; Board of Governors Dental Scholarship Loans; Health, Science and
3 Mathematics Student Loan Program; Prospective Teacher Scholarship Loan
4 Program; and the Teacher Assistant Scholarship Program. This single
5 consolidated program shall initially focus on two high area needs: teaching and
6 health professions (including nursing, allied health and medical, dental, and
7 pharmacy careers). In designing this program, the work group may consider the
8 current allocation of funds among the various scholarship and forgivable loan
9 programs, whether it would be appropriate to allow the reallocation and award of
10 funds not distributed as forgivable loans in a specific service area to be awarded
11 as forgivable loans in a different service area, and, if so, what procedure and
12 methodology would be appropriate to trigger the reallocation of funds and
13 provide for the distribution of those funds as awards in a different service area.

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

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

33 **SECTION 9.2.(d)** The work group shall present its proposed program designs and
34 report its findings and recommendations to the Joint Select Committee on State Funded Student
35 Financial Aid by October 1, 2010. In its report the work group shall also identify options that may
36 vary from the proposed program designs but that are alternatives that the work group determines
37 may also be workable and consistent with the legislative intent of this study. The work group shall
38 also include in the report any legislative changes that may be needed to implement the program
39 designs and work group recommendations.
40

House Version

STUDY FINANCIAL AID CONSOLIDATION

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

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- (2) Design a "forgivable loans for service" program that combines at a minimum the following existing programs into one consolidated program that focuses on loans for services: the Nurse Educators of Tomorrow; Nurse Scholars Program; Nurse Education Scholarship Loan Program; Board of Governors Medical Scholarship Loans; Board of Governors Dental Scholarship Loans; Health, Science and Mathematics Student Loan Program; Prospective Teacher Scholarship Loan

1 Program; and the Teacher Assistant Scholarship Program. This single
2 consolidated program shall initially focus on two high area needs: teaching and
3 health professions (including nursing, allied health and medical, dental, and
4 pharmacy careers). In designing this program, the work group may consider the
5 current allocation of funds among the various scholarship and forgivable loan
6 programs, whether it would be appropriate to allow the reallocation and award of
7 funds not distributed as forgivable loans in a specific service area to be awarded
8 as forgivable loans in a different service area, and, if so, what procedure and
9 methodology would be appropriate to trigger the reallocation of funds and
10 provide for the distribution of those funds as awards in a different service area.

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

- 13 (1) The time period required to phase out student loans from any of the programs
14 affected by the program consolidation.
- 15 (2) How federal funding may affect student financial aid services.
- 16 (3) How to deal with current recipients of funds from programs affected by the
17 consolidation.
- 18 (4) How to deal with recipients who are paying back loans made through programs
19 affected by the consolidation.
- 20 (5) Whether the State Education Assistance Authority should be authorized to extend
21 the repayment period for forgivable loans in hardship circumstances when a good
22 faith effort has been made to repay the loan in a timely manner, and if so, what
23 the appropriate procedure may be for making that determination and extending
24 the repayment period.
- 25 (6) Whether there are, and if so how to address, any significant abuses of the
26 financial aid system, particularly by persons who intentionally apply for and
27 receive financial aid but who intend to drop out of school after securing financial
28 aid funds.
- 29 (7) The relationship and any appropriate linkage that should be established for
30 accountability purposes between financial aid, retention, and graduation rates.
- 31 (8) Any other issues the work group deems relevant to this study.

32 **SECTION 9.2.(d)** The work group shall present its proposed program designs and
33 report its findings and recommendations to the Joint Select Committee on State Funded Student
34 Financial Aid by October 1, 2010. In its report the work group shall also identify options that may
35 vary from the proposed program designs but that are alternatives that the work group determines
36 may also be workable and consistent with the legislative intent of this study. The work group shall
37 also include in the report any legislative changes that may be needed to implement the program
38 designs and work group recommendations.
39

Senate and House Differ

Senate Version

COASTAL DEMONSTRATION WIND TURBINES

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

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

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

...

"SECTION 9.14.(c) The North Carolina Utilities Commission is directed to facilitate and expedite wind energy pilot projects developed pursuant to this act that come within its jurisdiction to the extent allowed by law and consistent with State statute. A wind turbine constructed pursuant to this section shall be exempt from the requirements of G.S. 62-110.1. For such wind turbines owned by a public utility, upon an application by the public utility seeking a rider to recover the costs of such project, the Utilities Commission shall establish an annual rider for the public utility to recover the just and reasonable costs, including the utility's cost of debt and equity, of such project upon completion. Should the project development and construction of the demonstration wind turbines be unreasonably delayed beyond the date set forth in subsection (a) of this section for reasons outside the control of the public utility, all just and reasonable costs incurred by the public utility during project development and construction shall nonetheless be recoverable through an annual rider under this subsection, provided that the public utility shall bear the burden of proving by a preponderance of the evidence that the reasons for the delay were beyond its control and its execution of the project was reasonable and prudent. Should the demonstration wind turbines be abandoned prior to completion, the capital costs and AFUDC related to the project shall nonetheless be recoverable under this Article, provided that the utility shall bear the burden of proving by a preponderance of the evidence that the decision to abandon construction of the project was prudent.

..."

House Version

COASTAL DEMONSTRATION WIND TURBINES

SECTION 9.9. Section 9.14(a) of S.L. 2009-451 reads as rewritten:

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

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

1 **Senate Only**

2 **COASTAL WAVE ENERGY RESEARCH AND PROTOTYPE PROJECT**

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

11 **SECTION 9.10.(b)** With respect to the demonstration wave energy facility and
12 necessary support facilities authorized by subsection (a) of this section, the facilities authorized
13 under this act shall be constructed in accordance with the provisions of general law applicable to the
14 construction of State facilities, except that the State Property Office shall expedite and grant all
15 easements and use agreements required for construction of the facilities without payment of any fee,
16 royalty, or other cost. Notwithstanding any other provision of law, construction of the facilities
17 authorized by this section shall be exempt from the following statutes and rules implementing those
18 statutes: G.S. 143-48 through 143-64, 143-128, 143-129, 143-132, 113A-1 through 113A-10,
19 113A-50 through 113A-66, and 113A-116 through 113A-128. With respect to any other
20 environmental permits required for construction of the facilities, the Department of Environment
21 and Natural Resources is directed to expedite permitting of the project to the extent allowed by law
22 and shall waive any application fees that would be otherwise applicable to applications for permits
23 required for the facilities and, where possible under applicable law, issue all permits within 40 days
24 of receipt of a complete application.

1 **Senate Only**

2 **UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM**

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

4 **"§ 116-37. University of North Carolina Health Care System.**

5 (a) Creation of System. –

6 ...

7 (4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k) of
8 this section, the board of directors may adopt policies that make the authorities
9 and responsibilities established by one or more of said subsections ~~separately~~
10 applicable ~~either to the University of North Carolina Hospitals at Chapel Hill or~~
11 Hill, to the clinical patient care programs of the School of Medicine of the
12 University of North Carolina at Chapel Hill, or to both, or to other
13 persons or entities affiliated with or under the control of the University of North
14 Carolina Health Care System.

15 ...

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

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

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

35 b. No less than nine and no more than 21 members at large, which number
36 shall be determined by the board of directors, shall be appointed for
37 four-year terms, commencing on November 1 of the year of appointment;
38 provided, that the initial class of at-large members shall include the
39 persons who hold the appointed memberships on the board of directors of
40 the University of North Carolina Hospitals at Chapel Hill incumbent as of
41 October 31, 1998, with their terms of membership on the board of
42 directors of the University of North Carolina Health Care System to
43 expire on the last day of October of the year in which their term as a
44 member of the board of directors of the University of North Carolina
45 Hospitals at Chapel Hill would have expired. Vacant at-large positions
46 shall be filled by the appointment of persons from the business and
47 professional public at large who have special competence in business
48 management, hospital administration, health care delivery, or medical
49 practice or who otherwise have demonstrated dedication to the

1 improvement of health care in North Carolina, and who are neither
2 members of the Board of Governors, members of the board of trustees of
3 a constituent institution of The University of North Carolina, nor officers
4 or employees of the State. Members shall be appointed by the President
5 of the University, and ratified by the Board of Governors, from among a
6 slate of nominations made by the board of directors of the University of
7 North Carolina Health Care System, ~~said slate to include at least twice as~~
8 ~~many nominees as there are vacant positions to be filled.~~System. No
9 member may be appointed to more than two full four-year terms in
10 succession; provided, that persons holding appointed memberships on
11 November 1, 1998, by virtue of their previous membership on the board
12 of directors of the University of North Carolina Hospitals at Chapel Hill,
13 shall not be eligible, for a period of one year following expiration of their
14 term, to be reappointed to the board of directors of the University of
15 North Carolina Health Care System. Any vacancy in an unexpired term
16 shall be filled by an appointment made by the President, and ratified by
17 the Board of Governors, upon the nomination of the board of directors,
18 for the balance of the term remaining.

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

25 ...

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

47 (c) Officers. –

- 48 (1) The executive and administrative head of the University of North Carolina
49 Health Care System shall have the title of "Chief Executive Officer." The board
50 of directors, ~~in cooperation with~~ the board of trustees and the Chancellor of the

1 University of North Carolina at Chapel Hill, following such search process as the
2 boards and the Chancellor deem appropriate, shall identify, ~~in cooperation with~~
3 ~~the Chancellor,~~ two or more persons as candidates for the office, who, pursuant
4 to criteria agreed upon by the boards and the Chancellor, have the qualifications
5 for both the positions of Chief Executive Officer of the University of North
6 Carolina Health Care System and Vice-Chancellor for Medical Affairs of the
7 University of North Carolina at Chapel Hill. The names of the candidates so
8 ~~identified~~ identified, once approved by the board of directors and the board of
9 trustees, shall be forwarded by the Chancellor to the President of The University
10 of North Carolina, who if satisfied with the quality of one or more of the
11 candidates, will nominate one as Chief Executive Officer, subject to selection by
12 the Board of Governors. The individual serving as Chief Executive Officer shall
13 have complete executive and administrative authority to formulate proposals for,
14 recommend the adoption of, and implement policies governing the programs and
15 activities of the University of North Carolina Health Care System, subject to all
16 requirements of the board of directors. That same individual, when serving as
17 Vice-Chancellor for Medical Affairs, shall have all authorities, rights, and
18 responsibilities of a vice-chancellor of the University of North Carolina at Chapel
19 Hill.

20 ...

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

27"

Senate Only

UNC MANAGEMENT FLEXIBILITY REDUCTION

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

"SECTION 9.19. The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic mission and differences among The University of North Carolina entities. Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider reducing budgets for senior and middle management personnel, centers and institutes, low enrollment degree programs, speaker series, and nonacademic activities. The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of ~~the~~ The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets. In addition, the campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification. Budget reductions shall not be considered in funding available for need-based financial aid.

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

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

House Only

CAMPUS INITIATED TUITION INCREASES/FIFTY PERCENT FOR STUDENT FINANCIAL AID

SECTION 9.20.(a) Section 9.23 of S.L. 2009-451 is repealed.

SECTION 9.20.(b) All campus initiated tuition increases approved by the Board of Governors of The University of North Carolina may be implemented; however, each campus that implements the tuition increase shall expend fifty percent (50%) of the increase on student financial aid and may use as much of the remaining tuition income as needed to fully meet student financial aid needs on that campus.

House Only

REPEAL IN-STATE TUITION FOR NONRESIDENTS WHO RECEIVE FULL SCHOLARSHIPS

SECTION 9.25. G.S. 116-143.6 is repealed.

1 **Senate Only**

2 **INSTITUTE FOR OUTDOOR DRAMA**

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

5 **SECTION 9.14.(b)** Of the funds appropriated to the Department of Commerce,
6 Division of Tourism, Film, and Sports Development, the sum of one hundred fifty thousand dollars
7 (\$150,000) shall be transferred to the Board of Governors of The University of North Carolina for
8 the Institute for Outdoor Drama at East Carolina University.

Senate and House Differ

Senate Version

RECRUITMENT OF PHARMACY STUDENTS

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

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

House Version

RECRUITMENT OF PHARMACY STUDENTS

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

1 **House Only**

2 **SUCCESS NC REPORT**

3 **SECTION 9.16.** The Executive Director of UNC Tomorrow and the Executive Vice
4 President of the North Carolina Community College System shall report to the Joint Legislative
5 Education Oversight Committee by December 1, 2010, regarding the progress in implementing
6 Success NC. Success NC is a program that represents a collaborative effort between The University
7 of North Carolina and the North Carolina Community College System with the goal of increasing
8 the number of North Carolinians with college degrees and workplace relevant credentials to prepare
9 them for success in today's 21st century knowledge-based workforce.

1 **House Only**

2 **APPALACHIAN STATE UNIVERSITY CENTER AT HICKORY**

3 **SECTION 9.17.(a)** Section 8.25 of S.L. 2009-451 is repealed.

4 **SECTION 9.17.(b)** Of the funds appropriated by this act to the Community Colleges
5 System Office and allocated to the Hickory Metropolitan Higher Education Center for the
6 2010-2011 fiscal year the sum of two hundred sixty-four thousand eight hundred thirty-three dollars
7 (\$264,833) is transferred from the Community Colleges System Office to the Board of Governors of
8 The University of North Carolina to be allocated to Appalachian State University to assist with the
9 administrative costs of operating the Appalachian State University Center at Hickory.

1 **House Only**

2 **ECU DENTAL SCHOOL FUNDS/CONTINUING STATE FINANCIAL SUPPORT TO**
3 **HELP SECURE ACCREDITATION**

4 **SECTION 9.18.** It is the intent of the General Assembly to appropriate funds in the
5 amount of three million five hundred thousand dollars (\$3,500,000) for the 2011-2012 fiscal year
6 and the sum of one million five hundred thousand dollars (\$1,500,000) for the 2012-2013 fiscal year
7 to the Board of Governors of The University of North Carolina for East Carolina University to
8 provide continuing State financial support of the School of Dentistry at East Carolina University in
9 future fiscal years and to help secure accreditation of the School of Dentistry by the American
10 Dental Association's Commission on Accreditation.

1 **House Only**

2 **TRANSFER SURPLUS IN LEGISLATIVE TUITION GRANTS AND STATE GRANTS TO**
3 **STUDENTS AT CERTAIN PRIVATE INSTITUTIONS OF HIGHER EDUCATION TO**
4 **CONTRACTUAL SCHOLARSHIP FUND**

5 **SECTION 9.19.(a)** Notwithstanding any other provision of law, if the amount
6 appropriated by this act to the State Education Assistance Authority for the 2010-2011 fiscal year
7 for legislative tuition grants exceeds the amount required to pay the legislative tuition grants in the
8 amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina resident student
9 attending the State's private colleges, then the State Education Assistance Authority shall deposit
10 the surplus balance of the funds into the State Contractual Scholarship Fund and may use those
11 funds to provide additional scholarships for or to increase the scholarship amounts awarded to
12 students who have financial need.

13 **SECTION 9.19.(b)** Notwithstanding any other provision of law, if the amount
14 appropriated by this act to the State Education Assistance Authority for the 2010-2011 fiscal year
15 for State grants awarded under G.S. 116-43.5 exceeds the amount required to pay those grants in the
16 amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina resident student
17 attending the State's eligible institutions as defined by G.S. 116-43.5, then the State Education
18 Assistance Authority shall deposit the surplus balance of the funds into the State Contractual
19 Scholarship Fund and may use those funds to provide additional scholarships for or to increase the
20 scholarship amounts awarded to students who have financial need.

1 **House Only**

2 **PROJECTION OF UNC ENROLLMENT GROWTH/SECOND YEAR OF**
3 **BIENNIUM/LIMIT FUTURE APPROPRIATIONS FOR ENROLLMENT GROWTH**

4 **SECTION 9.22.(a)** G.S. 116-30.7 reads as rewritten:

5 **"§ 116-30.7. Biennial projection of enrollment growth for The University of North Carolina.**

6 By October 15 of each even-numbered year, the General Administration of The University of
7 North Carolina shall provide to the Joint Education Legislative Oversight Committee and to the
8 Office of State Budget and Management a projection of the total student enrollment in The
9 University of North Carolina that is anticipated for the next biennium. The enrollment projection
10 shall be divided into the following categories and shall include the projected growth for each year of
11 the biennium in each category at each of the constituent institutions: undergraduate students,
12 graduate students (students earning master's and doctoral degrees), first professional students, and
13 any other categories deemed appropriate by General Administration. The projection shall also
14 distinguish between on-campus and distance education students. The projections shall be considered
15 by the Director of the Budget when determining the amount the Director proposes to fund as the
16 continuation requirement for the enrollment increase in the university system pursuant to
17 G.S. 143C-3-5(b). The amount of the funds budgeted for enrollment growth for the biennium shall
18 not be increased in the second year of the biennium."

19 **SECTION 9.22.(b)** The General Assembly intends to appropriate funds for a maximum
20 of one percent (1%) growth in student credit hours in the 2011-2012 fiscal year.

1 **House Only**

2 **ASU HEALTH SCIENCES**

3 **SECTION 9.23.(a)** Of the funds appropriated to the Board of Governors of The
4 University of North Carolina for a "Strategic Initiatives Reserve," for the 2010-2011 fiscal year, the
5 sum of two hundred fifty thousand dollars (\$250,000) of the reserve shall be used to fund the
6 operating and staffing needs of the newly established College of Health Sciences and Allied
7 Professions at Appalachian State University.

8 **SECTION 9.23.(b)** By February 1, 2011, the President of The University of North
9 Carolina shall report to the House of Representatives Appropriations Subcommittee on Education
10 and the Senate Appropriations Committee on Education/Higher Education regarding the use of the
11 funds for the operating and staffing needs of the College of Health Sciences and Allied Professions
12 at Appalachian State University.

1 **House Only**

2 **NCSU/RESTORE MASTER GARDENER FUNDS**

3 **SECTION 9.24.** Of the funds appropriated by this act to the Board of Governors of The
4 University of North Carolina and allocated to North Carolina State University for the 2010-2011
5 fiscal year the sum of forty-eight thousand eight hundred seventy-eight dollars (\$48,878) shall be
6 restored to the master gardener account.

1 **House Only**

2 **AMEND TUITION WAIVER**

3 **SECTION 9.26.** G.S. 115B-2 reads as rewritten:

4 **"§ 115B-2. Tuition waiver authorized.**

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

- 8 (1) Repealed by Session Laws 2009-451, s. 8.11(a), effective July 1, 2009.
- 9 (2) Any person who is the survivor of a law enforcement officer, firefighter,
10 volunteer firefighter, or rescue squad worker killed as a direct result of a
11 traumatic injury sustained in the line of duty.
- 12 (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or
13 rescue squad worker who is permanently and totally disabled as a direct result of
14 a traumatic injury sustained in the line of duty.
- 15 (4) Any child, if the child is at least 17 years old but not yet ~~23 years old~~, 24 years
16 old, whose parent is a law enforcement officer, firefighter, volunteer firefighter,
17 or rescue squad worker who is permanently and totally disabled as a direct result
18 of a traumatic injury sustained in the line of duty. However, a child's eligibility
19 for a waiver of tuition under this Chapter shall not exceed: (i) ~~48 months~~, eight
20 academic semesters if the child is seeking a baccalaureate degree, or (ii) if the
21 child is not seeking a baccalaureate degree, the number of months required to
22 complete the educational program to which the child is applying.
- 23 (5) Any child, if the child (i) is at least 17 years old but not yet ~~23 years old~~, 24 years
24 old, (ii) is a ward of North Carolina or was a ward of the State at the time the
25 child reached the age of 18, (iii) is a resident of the State; and (iv) is eligible for
26 services under the Chaffee Education and Training Vouchers Program; but the
27 waiver shall only be to the extent that there is any tuition still payable after
28 receipt of other financial aid received by the student.

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

1 **House Only**

2 **REPEAL OF NONRESIDENT FULL SCHOLARSHIP TUITION WAIVER**

3 **SECTION 9.27.** Notwithstanding any other provisions of this act, the management
4 flexibility reduction in this act for the operating budget of The University of North Carolina for the
5 2010-2011 fiscal year is increased by the sum of six million fifty-five thousand two hundred forty-
6 five dollars (\$6,055,245) in recurring funds.

Senate and House Differ

Senate Version

ELECTRONIC BENEFITS TRANSFER SYSTEM

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

The Department shall monitor the implementation of the "smart card" system pilot program in Georgia and similar technology in other states. The Department shall submit a report 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 the implementation of Georgia's pilot program and other states' programs and provide any recommendations for a card system program in this State by May 1, 2011.

House Version

ELECTRONIC BENEFITS TRANSFER SYSTEM

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

The Department shall monitor the implementation of the "smart card" system pilot program in Georgia and implementation of the Medicaid Access Card in Texas. The Department shall submit a report 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 the implementation of Georgia's pilot program and Texas' Medicaid Access Card and provide any recommendations for a card system program in this State by May 1, 2011.

Senate and House Differ

Senate Version

REPEAL POLICIES TO FACILITATE AND EXPEDITE USE OF CHILD CARE SUBSIDY FUNDS

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

House Version

CHANGES TO POLICIES TO FACILITATE AND EXPEDITE USE OF CHILD CARE SUBSIDY FUNDS

SECTION 10.2.(a) Section 10.4 of S.L. 2009-451 reads as rewritten:

"SECTION 10.4. The Division of Child Development of the Department of Health and Human Services shall adopt temporary policies ~~that that:~~ (i) facilitate and expedite the prudent expenditure of child care subsidy funds. These policies will address the following:

- (1) ~~Permitting the local purchasing agencies to issue time limited vouchers to assist counties in managing onetime, nonrecurring subsidy funding.~~
- (2) ~~Extending the current 30/60 day job search policy to six months when a recipient experiences a loss of employment.~~
- (3) ~~Providing an upfront job search period of six months for applicants who have lost employment since October 1, 2008.~~
- (4) ~~Providing a job search period of six months for recipients who complete school and are entering the job market.~~
- (5) ~~Notwithstanding any other provision of law, extending the 24-month education time limit for an additional 12 months for a child care recipient who has lost a job since October 1, 2008, or otherwise needs additional training to enhance his or her marketable skills for job placement due to the economic downturn and who has depleted his or her 24-month allowable education time.~~
- (6) ~~Lowering funds, and (ii) address lowering the number of hours a parent must be working in orderwork to be eligible for subsidy to assist parents who are continuing to work but at reduced hourswork at least 20 hours per week."~~

SECTION 10.2.(b) This section becomes effective October 1, 2010.

1 **Senate Only**

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

3 **SECTION 10.4.** The Division of Public Health and the Division of Medical Assistance
4 shall coordinate with the North Carolina Partnership for Children, Inc., to cost share the
5 health-related expenditures with Medicaid. The Division of Child Development shall transfer the
6 amount of planned expenditures for health-related activities to the Division of Public Health to
7 coordinate the cost-sharing through local health departments. The Division of Child Development
8 shall report on these activities by October 1, 2010, to the Joint Legislative Commission on
9 Governmental Operations, the Senate Appropriations Committee on Health and Human Services,
10 the House of Representatives Appropriations Subcommittee on Health and Human Services, and the
11 Fiscal Research Division.

1 **Senate Only**

2 **MENTAL HEALTH CHANGES**

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

4 **"SECTION 10.12.(b)** Of the funds appropriated in this act to the Department of Health and
5 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse
6 Services, the sum of twenty million one hundred twenty-one thousand six hundred forty-four dollars
7 (\$20,121,644) for the 2009-2010 fiscal year and the sum of ~~twenty million one hundred twenty-one~~
8 ~~thousand six hundred forty-four dollars (\$20,121,644)~~ thirty-two million one hundred twenty-one
9 thousand six hundred forty-four dollars (\$32,121,644) for the 2010-2011 fiscal year shall be
10 allocated for the purchase of local inpatient psychiatric beds or bed days. These beds or bed days
11 shall be distributed across the State in all LME catchment areas and according to need as
12 determined by the Department. The Department shall enter into contracts with the LMEs and
13 community hospitals for the management of these beds or bed days. The Department shall work to
14 ensure that these contracts are awarded equitably around all regions of the State. Local inpatient
15 psychiatric beds or bed days shall be managed and controlled by the LME, including the
16 determination of which local or State hospital the individual should be admitted to pursuant to an
17 involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a
18 statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance
19 Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the
20 LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a
21 clean claim from the hospital and shall pay the hospital within 30 working days of receipt of
22 payment from the Division. If the Department determines (i) that an LME is not effectively
23 managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in
24 the local hospital not being utilized while demand for services at the State psychiatric hospitals has
25 not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this
26 subsection, the Department may contract with another LME to manage the beds or bed days, or,
27 notwithstanding any other provision of law to the contrary, may pay the hospital directly. The
28 Department shall develop reporting requirements for LMEs regarding the utilization of the beds or
29 bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or
30 bed days shall be used to purchase additional beds or bed days not currently funded by or through
31 LMEs and shall not be used to supplant other funds available or otherwise appropriated for the
32 purchase of psychiatric inpatient services under contract with community hospitals, including beds
33 or bed days being purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323.
34 Not later than March 1, 2010, the Department shall report to the House of Representatives
35 Appropriations Subcommittee on Health and Human Services, the Senate, the Joint Legislative
36 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse
37 Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i)
38 with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot,
39 and (iv) purchased using funds appropriated under this subsection.

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

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

- 42 (1) ~~The Department of Health and Human Services, Division of Mental Health,~~
43 ~~Developmental Disabilities, and Substance Abuse Services, shall continue~~
44 ~~implementation of the current Supports Intensity Scale (SIS) assessment tool~~
45 ~~pilot project if the pilot project has demonstrated that the SIS tool:~~
46 a. ~~Is effective in identifying the appropriate array and intensity of services,~~
47 ~~including residential supports or placement, for individuals assessed.~~

- 1 b. ~~Is valid for determining intensity of support related to resource allocation~~
2 ~~for CAP MR/DD, public and private ICF MR facilities, developmental~~
3 ~~disability group homes, and other State or federally funded services.~~
4 c. ~~Is used by an assessor that does not have a pecuniary interest in the~~
5 ~~determinations resulting from the assessment.~~
6 d. ~~Determines the level of intensity and type of services needed from~~
7 ~~developmental disability service providers.~~
8 (2) ~~The Department shall report on the progress of the pilot project by May 1, 2010.~~
9 ~~The Department shall submit the report to the Joint Legislative Oversight~~
10 ~~Committee on Mental Health, Developmental Disabilities, and Substance Abuse~~
11 ~~Services, the House of Representatives Appropriations Subcommittee on Health~~
12 ~~and Human Services, the Senate Appropriations Committee on Health and~~
13 ~~Human Services, and the Fiscal Research Division. The report shall include the~~
14 ~~following:~~
15 a. ~~The infrastructure that will be needed to assure that the administration of~~
16 ~~the assessment tool is independent from service delivery, the~~
17 ~~qualifications of assessors, training and management of data, and~~
18 ~~test-retest accountability.~~
19 b. ~~The cost to (i) purchase the tool, (ii) implement the tool, (iii) provide~~
20 ~~training, and (iv) provide for future expansion of the tool statewide.~~

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

Senate and House Differ

Senate Version

TERM LIMITS FOR COUNTY MANAGERS ON AREA MENTAL HEALTH BOARDS

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

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

House Version

TERM LIMITS FOR COUNTY COMMISSIONERS AND COUNTY MANAGERS ON AREA MENTAL HEALTH BOARDS

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

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

1 **House Only**

2 **CAP-MR/DD STATE FUND SERVICE ELIGIBILITY**

3 **SECTION 10.7A.** Section 10.21B of S.L. 2009-451 reads as rewritten:

4 "SECTION 10.21B. Except as otherwise provided in this section for former Thomas S.
5 recipients and recipients with high behavioral needs described in this section, CAP-MR/DD
6 recipients are not eligible for any State-funded services except for those services for which there is
7 not a comparable service in the CAP-MR/DD waiver. The excepted services are limited to
8 guardianship, room and board, and time-limited supplemental staffing to stabilize residential
9 placement. Former Thomas S. recipients currently living in community placements may continue to
10 receive State-funded services. In recognition of CAP-MR/DD recipients with high behavioral needs
11 that exceed the services available under the current CAP-MR/DD waiver, and in recognition of the
12 need for supplemental staffing for these recipients in order to maintain their placement in the
13 community, the Department of Health and Human Services, Division of Mental Health,
14 Developmental Disabilities, and Substance Abuse Services, shall develop a procedure to review and
15 approve or deny requests for State-funded supplemental staffing for individuals receiving services
16 through the CAP-MR/DD waiver who (i) reside in small residential placements, (ii) have a high
17 intensity of behavioral needs, and (iii) require supervision 24 hours per day, seven days per week, as
18 evidenced by a score of 4 or 5 for both behavioral severity and supervision on the North Carolina
19 Supports Needs Assessment Profile and as corroborated by a behavior support plan and a Supports
20 Intensity Scale assessment."

1 **Senate Only**
2 **REPEAL SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**
3 **SECTION 10.8.** Section 10.13 of S.L. 2009-451 is repealed.

1 **Senate and House Differ**

2

3 **Senate Version**

4

5 **CLOSURE PLAN FOR DOROTHEA DIX HOSPITAL**

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

9 (1) By August 1, 2010, submit an operations budget for the 2010-2011 fiscal year to
10 the Senate Appropriations Committee on Health and Human Services, the House
11 of Representatives Appropriations Subcommittee on Health and Human Services,
12 and the Fiscal Research Division.

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

17

18 **House Version**

19 **DOROTHEA DIX HOSPITAL**

20 **SECTION 10.10.** By August 1, 2010, the Department of Health and Human Services,
21 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall submit
22 an operations budget for Dorothea Dix Hospital for the 2010-2011 fiscal year to the Senate
23 Appropriations Committee on Health and Human Services, the House of Representatives
24 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.
25

1 **House Only**

2 **CHANGE EFFECTIVE DATE FOR WELL TESTING**

3 **SECTION 10.10A.** Section 4 of S.L. 2009-124 reads as rewritten:

4 "SECTION 4. Section 1 of this act becomes effective October 1, ~~2010~~2012. The remainder of
5 the act is effective when it becomes law."

House Only

NC FOLIC ACID CAMPAIGN

SECTION 10.10B. Notwithstanding any other provision of this act, the reduction in funds in this act to the Department of Health and Human Services, Division of Public Health, for over-realized receipts within the Children's Development Services Agency is increased by the sum of three hundred fifty thousand dollars (\$350,000) in nonrecurring funds for the 2010-2011 fiscal year, and the sum of three hundred fifty thousand dollars (\$350,000) in nonrecurring funds for the 2010-2011 fiscal year is appropriated to the Department of Health and Human Services, Division of Public Health, to provide funding for the March of Dimes to continue to provide outreach, educational materials, and vitamins through the NC Folic Acid Campaign to reduce the occurrence of neural tube defects.

House Only

SPECIAL OLYMPICS

SECTION 10.10C. Notwithstanding any other provision of this act, the reduction in funds in this act to the Department of Health and Human Services, Division of Medical Assistance, for CCNC Savings is increased by the sum of one hundred thousand dollars (\$100,000) in recurring funds for the 2010-2011 fiscal year, and the sum of one hundred thousand dollars (\$100,000) in recurring funds for the 2010-2011 fiscal year is appropriated to the Department of Health and Human Services, Division of Central Management and Support, to provide funding for North Carolina Special Olympics. North Carolina Special Olympics may use these funds for programming opportunities and activities, sports equipment, transportation, sports facility usage, meals during events, and hotel accommodations for overnight events.

Senate Only

SUPPLEMENTAL FUNDS FOR HEALTH INITIATIVES FROM HEALTH AND WELLNESS TRUST FUND

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

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

These funds shall supplement and not supplant other funds allocated within the Department of Health and Human Services for these activities.

SECTION 10.12.(b) The Health and Wellness Trust Fund Commission shall not reduce allocations for the 2010-2011 fiscal year for any of the programs or initiatives currently funded through the Health and Wellness Trust Fund.

Senate and House Differ

Senate Version

IMMUNIZATION CHANGES

SECTION 10.13. Section 10.29A of S.L. 2009-451 is amended by adding a new 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."

House Version

IMMUNIZATION CHANGES

SECTION 10.13. Section 10.29A of S.L. 2009-451 is amended by adding two new subsections to read:

"SECTION 10.29A.(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.

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 (11) of this subsection, which are supplied by the federal government at no cost through the Vaccine For Children (VFC) program, to uninsured and underinsured 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.

"SECTION 10.29A.(d) Of the funds appropriated in this act for the Childhood Immunization Program, the sum of five million dollars (\$5,000,000) in nonrecurring funds for the 2010-2011 fiscal year shall be used by the Division of Public Health on a onetime basis to provide for the stocking of required childhood vaccines for the 2010-2011 school year for children with health insurance coverage. Local health departments should seek reimbursement from licensed health insurers in order to maintain the necessary inventory of childhood vaccines."

1 **Senate Only**

2 **NORTH CAROLINA HEALTH CHOICE EMERGENCY ROOM VISIT CO-PAYMENTS**

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

Senate and House Differ

Senate Version

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

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

~~SECTION 10.36.(e) The Department shall report 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 no later than December 31, 2009, on the performance measures adopted pursuant to subsection (d) of this section. Beginning July 1, 2010, and every six months thereafter, the Department shall submit a report 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 evaluating the performance of each of the 14 CCNC Networks based on the performance measures adopted pursuant to subsection (d) of this section.~~

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

~~"SECTION 10.36.(g) By October 1, 2010, the Department and the Division of Medical Assistance (DMA) shall contract with North Carolina Community Care Networks, Inc. (NCCCN,~~

1 Inc.) and the 14 participating local CCNC networks represented by NCCCN, Inc. to provide
2 standardized clinical and budgetary coordination, oversight, and reporting for a State-wide
3 Enhanced Primary Care Management System for Medicaid enrollees. The contract with NCCCN,
4 Inc., shall build upon and expand the existing successful CCNC primary care case management
5 model to include comprehensive State-wide quantitative performance goals and deliverables which
6 shall include all of the following areas: (i) service utilization management, (ii) budget analytics, (iii)
7 budget forecasting methodologies, (iv) quality of care analytics, (v) participant access measures,
8 and (vi) predictable cost containment methodologies.

9 "SECTION 10.36.(g1) NCCCN, Inc., shall report quarterly to the Department and to the Office
10 of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary
11 Care Case Management System and its defined goals and deliverables as agreed upon in the
12 contract. Beginning July 1, 2010, NCCCN, Inc., shall submit a quarterly report to the Secretary of
13 Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee
14 on Health and Human Services, the Senate Appropriations Committee on Health and Human
15 Services, and the Fiscal Research Division on the progress and results of implementing the
16 quantitative, analytical, utilization, quality, cost containment, and access goals and deliverables set
17 out in the contract. NCCCN, Inc., shall conduct its own analysis of the CCNC system to identify
18 any variations from the development plan for the Enhanced Primary Care Case Management
19 System and its defined goals and deliverables set out in the contract between DMA and NCCCN,
20 Inc. Upon identifying any variations, NCCCN, Inc., shall develop and implement a plan to address
21 the variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to
22 implement the plan.

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

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

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

41 "SECTION 10.36.(k) The Department shall not increase the per member per month funding to
42 CCNC without prior approval from the General Assembly."
43

House Version

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

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

~~"SECTION 10.36.(e) The Department shall report 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 no later than December 31, 2009, on the performance measures adopted pursuant to subsection (d) of this section. Beginning July 1, 2010, and every six months thereafter, the Department shall submit a report 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 evaluating the performance of each of the 14 CCNC Networks based on the performance measures adopted pursuant to subsection (d) of this section.~~

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

~~"SECTION 10.36.(g) By October 1, 2010, the Department and the Division of Medical Assistance (DMA) shall contract with North Carolina Community Care Networks, Inc., (NCCCN, Inc.) and the 14 participating local CCNC networks represented by NCCCN, Inc., to provide standardized clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary Care Management System for Medicaid enrollees. The contract with NCCCN, Inc., shall~~

1 build upon and expand the existing successful CCNC primary care case management model to
2 include comprehensive statewide quantitative performance goals and deliverables which shall
3 include all of the following areas: (i) service utilization management, (ii) budget analytics, (iii)
4 budget forecasting methodologies, (iv) quality of care analytics, (v) participant access measures,
5 and (vi) predictable cost containment methodologies.

6 "SECTION 10.36.(g1) NCCCN, Inc., shall report quarterly to the Department and to the Office
7 of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary
8 Care Management System and its defined goals and deliverables as agreed upon in the contract.
9 Beginning July 1, 2010, NCCCN, Inc., shall submit a quarterly report to the Secretary of Health and
10 Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health
11 and Human Services, the Senate Appropriations Committee on Health and Human Services, and the
12 Fiscal Research Division on the progress and results of implementing the quantitative, analytical,
13 utilization, quality, cost containment, and access goals and deliverables set out in the contract.
14 NCCCN, Inc., shall conduct its own analysis of the CCNC system to identify any variations from
15 the development plan for the Enhanced Primary Care Management System and its defined goals and
16 deliverables set out in the contract between DMA and NCCCN, Inc. Upon identifying any
17 variations, NCCCN, Inc., shall develop and implement a plan to address the variations. NCCCN,
18 Inc., shall report the plan to DMA within 30 days after taking any action to implement the plan.

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

25 "SECTION 10.36.(i) By July 1, 2012, the Department, DMA, and NCCCN, Inc., shall finalize
26 a comprehensive plan that establishes management methodologies which include all of the
27 following: (i) quality of care measures, (ii) utilization measures, (iii) recipient access measures, (iv)
28 performance incentive models in which past experience indicates a benefit from financial
29 incentives, (v) accountable budget models, (vi) shared savings budget models, and (vii) budget
30 forecasting analytics as agreed upon by the Department, DMA, and NCCCN, Inc. In the
31 development of these methodologies, the Department, DMA, and NCCCN, Inc., shall consider
32 options for shared risk. The Department and DMA shall provide assistance to NCCCN, Inc., in
33 meeting the objectives of this section.

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

37 "SECTION 10.36.(k) The Department shall not increase the per member per month
38 reimbursement rate to CCNC without prior approval from the General Assembly."

Senate and House Differ

Senate Version

MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) FUNDS/IMPLEMENTATION OF MMIS

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

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

House Version

MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) FUNDS/IMPLEMENTATION OF MMIS

SECTION 10.16. Section 10.41.(a) of S.L. 2009-451, as amended by Section 10A of S.L. 2009-575, reads as rewritten:

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

1 **Senate and House Differ**

2

3 **Senate Version**

4

5 **ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES**

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

8 "**SECTION 10.46A.(c)** Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary of
9 Department of Health and Human Services may transfer State-owned equipment, including
10 computers, printers, and furniture, used by State-operated child support offices to administer child
11 support enforcement programs to a county government or the Eastern Band of the Cherokee Indians
12 for the sole purpose of facilitating the county government or the Eastern Band of the Cherokee
13 Indians' administration of the child support program. The transfer shall be at no cost to the county
14 government or the Eastern Band of the Cherokee Indians and shall occur no later than July 1, 2010.

15 The county government or the Eastern Band of the Cherokee Indians assuming responsibility for
16 the child support program effective July 1, 2010, shall identify from the existing equipment and
17 office furnishings which items will be needed to administer the child support program. A
18 comprehensive list of items to be transferred shall be compiled and signed by the manager of the
19 State-operated child support office and the manager of the county or tribal child support office and
20 the signed list shall serve as official documentation of the transfer. Copies of the documentation
21 shall be provided to the Department of Health and Human Services Controller's Office and the
22 Department of Administration. Any equipment not included in the transfer shall revert to the
23 Department of Administration, Division of Surplus Property."

24

1 **House Version**

2 **ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES**

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

5 "SECTION 10.46A.(c) Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary of
6 the Department of Health and Human Services may transfer State-owned equipment, including
7 computers, printers, and furniture, used by State-operated child support offices to administer child
8 support enforcement programs to a county government or the Eastern Band of the Cherokee Indians
9 for the sole purpose of facilitating the county government or the Eastern Band of the Cherokee
10 Indians' administration of the child support program. The transfer shall be at no cost to the county
11 government or the Eastern Band of the Cherokee Indians and shall occur no later than July 1, 2010.

12 The county government or the Eastern Band of the Cherokee Indians assuming responsibility for
13 the child support program effective July 1, 2010, shall identify from the existing equipment and
14 office furnishings which items will be needed to administer the child support program. A
15 comprehensive list of items to be transferred shall be compiled and signed by the manager of the
16 State-operated child support office and the manager of the county or tribal child support office and
17 the signed list shall serve as official documentation of the transfer. Copies of the documentation
18 shall be provided to the Department of Health and Human Services Controller's Office and the
19 Department of Administration. Any equipment not included in the transfer shall revert to the
20 Department of Administration, Division of Surplus Property."
21

House Only

STATE-COUNTY SPECIAL ASSISTANCE CONSOLIDATING CHANGES

SECTION 10.19A.(a) G.S. 105A-2(2)e. reads as rewritten:

"The following definitions apply in this Chapter:

...

(2) Debt. – Any of the following:

...

e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:

1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.
2. The State-County Special Assistance ~~for Adults~~ Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
3. A successor program of one of these programs.

...."

SECTION 10.19A.(b) G.S. 108A-25(a)(2) reads as rewritten:

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

...

(2) State-county special ~~assistance for adults~~ assistance.

...."

SECTION 10.19A.(c) G.S. 108A-40 reads as rewritten:

"Part 3. State-County Special ~~Assistance for Adults~~ Assistance.

"§ 108A-40. Authorization of State-County Special Assistance ~~for Adults~~ Program.

The Department is authorized to establish and supervise a State-County Special Assistance ~~for Adults~~ Program. This program is to be administered by county departments of social services under rules and regulations of the Social Services Commission."

SECTION 10.19A.(d) G.S. 108A-41 reads as rewritten:

"§ 108A-41. Eligibility.

(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by the Social Services Commission and prescribed by G.S. 108A-42(b). As used in this Part, the term "adult care home" includes a supervised living facility for ~~developmentally disabled~~ adults with intellectual and developmental disabilities licensed under Article 2 of Chapter 122C of the General Statutes.

(b) Assistance shall be granted to any person who:

- (1) Is 65 years of age and older, ~~or is between the ages of 18 and 65-65~~, and is permanently and totally ~~disabled~~ disabled or is legally blind pursuant to G.S. 111-11; and
- (2) Has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission; and
- (3) Is one of the following:
 - a. A resident of North Carolina for at least 90 days immediately prior to receiving this assistance;

- b. A person coming to North Carolina to join a close relative who has resided in North Carolina for at least 180 consecutive days immediately prior to the person's application. The close relative shall furnish verification of his or her residency to the local department of social services at the time the applicant applies for special assistance. As used in this sub-subdivision, a close relative is the person's parent, grandparent, brother, sister, spouse, or child; or
- c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181.

(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(d) The county shall also have the option of granting assistance to Certain Disabled persons as defined in the rules and regulations adopted by the Social Services Commission. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds."

SECTION 10.19A.(e) G.S. 108A-45 reads as rewritten:
"§ 108A-45. Participation.

The State-County Special Assistance ~~for Adults~~ Program established by this Part shall be administered by all the county departments of social services under rules and regulations adopted by the Social Services Commission and under the supervision of the Department. Provided that, assistance for certain disabled persons shall be provided solely at the option of the county."

SECTION 10.19A.(f) G.S. 108A-46.1 reads as rewritten:
"§ 108A-46.1. Transfer of assets for purposes of qualifying for State-county Special Assistance for adults. Assistance.

Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State-county Special Assistance."

SECTION 10.19A.(g) G.S. 108A-47 reads as rewritten:
"§ 108A-47. Limitations on payments.

No payment of assistance under this Part shall be made for the care of any person in ~~an adult care home~~ a licensed facility that is owned or operated in whole or in part by any of the following:

- (1) A member of the Social Services Commission, of any county board of social services, or of any board of county commissioners;
- (2) An official or employee of the Department, unless the official or employee has been appointed temporary manager of the facility pursuant to G.S. 131E-237, or of any county department of social services;
- (3) A spouse of a person designated in subdivisions (1) and (2)."

SECTION 10.19A.(h) G.S. 108A-47.1 reads as rewritten:
"§ 108A-47.1. Special Assistance in-home payments.

The Department of Health and Human Services may use funds from the existing State-County Special Assistance ~~for Adults~~ budget to provide Special Assistance payments to eligible individuals 18 years of age or older in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special ~~Assistance for Adults~~ Assistance. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be seventy-five percent (75%) of the monthly payment the individual would receive if the

1 individual resided in an adult care home and qualified for Special Assistance, except if a lesser
2 payment amount is appropriate for the individual as determined by the local case manager. The
3 Department shall implement Special Assistance in-home eligibility policies and procedures to
4 assure that in-home program participants are those individuals who need and, but for the in-home
5 program, would seek placement in an adult care home facility. The Department's policies and
6 procedures shall include the use of a functional assessment. The Department shall make this
7 in-home option available to all counties on a voluntary basis. To the maximum extent possible, the
8 Department shall consider geographic balance in the dispersion of payments to individuals across
9 the State."

10 **SECTION 10.19A.(i)** G.S. 108A-80(b) reads as rewritten:

11 "(b) The Department shall furnish a copy of the recipient check register monthly to each
12 county auditor showing a complete list of all recipients of Work First Family Assistance in Standard
13 Program Counties and State-County Special ~~Assistance for Adults~~, Assistance, their addresses, and
14 the amounts of the monthly grants. An Electing County whose checks are not being issued by the
15 State shall furnish a copy of the recipient check register monthly to its county auditor showing a
16 complete list of all recipients of Work First Family Assistance in the Electing County, their
17 addresses, and the amounts of the monthly payments. These registers shall be public records open to
18 public inspection during the regular office hours of the county auditor, but the registers or the
19 information contained therein may not be used for any commercial or political purpose. Any
20 violation of this section shall constitute a Class 1 misdemeanor."

1 **House Only**

2 **CHILDREN'S TRUST FUND**

3 **SECTION 10.20A.(a)** G.S. 7B-1302(a) reads as rewritten:

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

10 **SECTION 10.20A.(b)** G.S. 161-11.1(a) reads as rewritten:

11 "(a) Five dollars (\$5.00) of each fee collected by a register of deeds on or after October 1,
12 1983, for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall be forwarded, as soon
13 as practical but no later than 60 days after collection by the register of deeds, to the county finance
14 officer, who shall forward same to the ~~State Treasurer~~Department of Health and Human Services,
15 Division of Social Services, for deposit in the Children's Trust Fund."

1 **House Only**

2 **OFFICE OF EDUCATION SERVICES/CONSOLIDATION OF PRINCIPAL FUNCTIONS**

3 **SECTION 10.20B.(a)** The Office of Education Services (OES) within the Department
4 of Health and Human Services shall consolidate the functions of the School Director OES
5 Residential Schools and School Principal positions located at the North Carolina School for the
6 Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind. In
7 addition to the minimum qualifications for School Administrator-Principals outlined in Chapter
8 115C of the General Statutes and set by the Department, a person occupying the position of School
9 Director OES Residential Schools shall be fully licensed as a School Administrator-Principal and
10 shall have prior experience as an educator of exceptional children or as a school administrator
11 trained in the education of exceptional children.

12 **SECTION 10.20B.(b)** The following positions in the Office of Education Services are
13 hereby eliminated:

- 14 (1) 60039101 – School Principal
- 15 (2) 60039225 – School Principal
- 16 (3) 60039380 – School Administrator
- 17 (4) 60039080 – School Assistant Principal

18 The Office of Education Services shall ensure that elimination of these positions does not interrupt
19 oversight of instructional programming by a fully licensed School Administrator-Principal or
20 School Administrator-Assistant Principal at the North Carolina School for the Deaf, Eastern North
21 Carolina School for the Deaf, or Governor Morehead School for the Blind.

22 **SECTION 10.20B.(c)** The Office of Education Services (OES) shall reinstate the
23 residential and instructional schedules for the Governor Morehead School for the Blind, Eastern
24 North Carolina School for the Deaf, and North Carolina School for the Deaf in effect before
25 February 8, 2010. Residential students shall have the opportunity to arrive at their respective
26 schools on the evening of the day before commencement of academic instruction for the week. OES
27 shall also reinstate on-site summer school programming for these schools.

1 **Senate Only**

2 **ELIMINATION OF THE OFFICE OF EDUCATION SERVICES/TRANSFER**
3 **RESIDENTIAL AND PRESCHOOLS TO THE DEPARTMENT OF PUBLIC**
4 **INSTRUCTION**

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

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

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

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

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

35 **SECTION 10.21.(e)** The Department of Public Instruction shall reinstate the residential
36 and instructional schedules for the Governor Morehead School for the Blind, Eastern North
37 Carolina School for the Deaf, and North Carolina School for the Deaf in effect before February 8,
38 2010. Residential students shall have the opportunity to arrive at their respective schools on the
39 evening of the day before commencement of academic instruction for the week. The Department of
40 Public Instruction shall also reinstate on-site summer school programming for these schools.

Senate and House Differ

Senate Version

MEDICAID POLICY CHANGES

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

"SECTION 10.58.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

...

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

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

Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary." An initial prescription order for a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the

1 same prescription drug without explicit oral or written approval of the prescriber
2 given at the time the order is filled. Generic drugs shall be dispensed at a lower
3 cost to the Medical Assistance Program rather than trade or brand-name drugs.
4 Notwithstanding this subdivision to the contrary, the Secretary of Health and
5 Human Services may prevent substitution of a generic equivalent drug, including
6 a generic equivalent that is on the State maximum allowable cost list, when the
7 net cost to the State of the brand--name drug, after consideration of all rebates, is
8 less than the cost of the generic equivalent. As used in this subsection, "brand
9 name" means the proprietary name the manufacturer places upon a drug product
10 or on its container, label, or wrapping at the time of packaging; and "established
11 name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug,
12 and Cosmetic Act, as amended, 21 U.S.C. § 352(e)(3).

13 Prior authorization. – The Department of Health and Human Services shall
14 not impose prior authorization requirements or other restrictions under the State
15 Medical Assistance Program on medications prescribed for Medicaid recipients
16 for the treatment of (i) mental illness, including, but not limited to, medications
17 for schizophrenia, bipolar disorder, major depressive disorder or (ii) ~~HIV/AIDS,~~
18 ~~except that the Department of Health and Human Services shall continually~~
19 ~~review utilization of medications under the State Medical Assistance Program~~
20 ~~prescribed for Medicaid recipients for the treatment of mental illness, including,~~
21 ~~but not limited to, medications for schizophrenia, bipolar disorder, or major~~
22 ~~depressive disorder. The Department may, however, with respect to drugs to treat~~
23 ~~mental illnesses, develop guidelines and measures to ensure appropriate usage of~~
24 ~~these medications, including FDA-approved indications and dosage levels. (ii)~~
25 HIV/AIDS. Medications prescribed for the treatment of mental illness shall be
26 included on the Preferred Drug List (PDL). The Department of Health and
27 Human Services, Division of Medical Assistance, may initiate prior authorization
28 for the prescribing of drugs specified for the treatment of mental illness for the
29 purpose of identifying providers who fail to prescribe those drugs in accordance
30 with indications and dosage levels approved by the federal Food and Drug
31 Administration or in accordance with best practices. The Department may also
32 require retrospective clinical justification for the use of multiple psychotropic
33 drugs for a Medicaid patient. For individuals 18 years of age and under who are
34 prescribed three or more psychotropic medications, the Department shall
35 implement clinical edits that target inefficient, ineffective, or potentially harmful
36 prescribing patterns. When such patterns are identified, the Medical Director for
37 the Division of Medical Assistance and the Chief of Clinical Policy for the
38 Division of Mental Health, Developmental Disabilities, and Substance Abuse
39 Services shall require a peer-to-peer consultation with the target prescribers.
40 Alternatives discussed during the peer-to-peer consultations shall be based upon:
41 a. Evidence-based criteria available regarding efficacy or safety of the
42 covered treatments; and
43 b. Policy approval by a majority vote of the North Carolina Physicians
44 Advisory Group (NCPAG).
45 The target prescriber has final decision-making authority to determine which
46 prescription drug to prescribe or refill.

47 ...

48 (30) Experimental or trial procedures. – Coverage is limited to procedures that are
49 recognized or approved by a nationally recognized professional specialty
50 organization.

(31) Medicaid as secondary payer claims. – The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

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

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

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

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

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

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

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

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

(2) Reimbursement is available for up to 30 visits per recipient per fiscal year for the following professional services: ~~hospital-outpatient providers,~~ physicians, nurse practitioners, nurse midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The Department of Health and Human Services shall adopt medical policies in accordance with G.S. 108A-54.2 to distribute the allowable number of visits for each service or each group of services consistent

1 with federal law. In addition, the Department shall establish a threshold of some
2 number of visits for these services. The Department shall ensure that primary
3 care providers or the appropriate CCNC network are notified when a patient is
4 nearing the established threshold to facilitate care coordination and intervention
5 as needed.

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

House Version

MEDICAID POLICY CHANGES

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

"SECTION 10.58.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

...

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

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Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary." An initial prescription order for a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand-name drugs.

1 Notwithstanding this subdivision to the contrary, the Secretary of Health and
2 Human Services may prevent substitution of a generic equivalent drug, including
3 a generic equivalent that is on the State maximum allowable cost list, when the
4 net cost to the State of the brand-name drug, after consideration of all rebates, is
5 less than the cost of the generic equivalent. As used in this subsection, "brand
6 name" means the proprietary name the manufacturer places upon a drug product
7 or on its container, label, or wrapping at the time of packaging; and "established
8 name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug,
9 and Cosmetic Act, as amended, 21 U.S.C. § 352(e)(3).

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

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

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

4 **SECTION 10.22.(b)** Section 10.58(e) of S.L. 2009-451 reads as rewritten:

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

- 6 (1) Subject to the provisions of this subdivision, the Department may require
7 Medicaid-enrolled providers to purchase a performance bond in an amount not to
8 exceed one hundred thousand dollars (\$100,000) naming as beneficiary the
9 Department of Health and Human Services, Division of Medical Assistance, or
10 provide to the Department a validly executed letter of credit or other financial
11 instrument issued by a financial institution or agency honoring a demand for
12 payment in an equivalent amount. The Department may require the purchase of a
13 performance bond or the submission of an executed letter of credit or financial
14 instrument as a condition of initial enrollment, reenrollment, or reinstatement if:
15 a. The provider fails to demonstrate financial viability,
16 b. The Department determines there is significant potential for fraud and
17 abuse,
18 c. The Department otherwise finds it is in the best interest of the Medicaid
19 program to do so.

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

- 22 (1a) The Department may waive or limit the requirements of this paragraph for
23 individual Medicaid-enrolled providers or for one or more classes of
24 Medicaid-enrolled providers based on the following:
25 a. The provider's or provider class's dollar amount of monthly billings to
26 Medicaid.
27 b. The length of time an individual provider has been licensed, endorsed,
28 certified, or accredited in this State to provide services.
29 c. The length of time an individual provider has been enrolled to provide
30 Medicaid services in this State.
31 d. The provider's demonstrated ability to ensure adequate record keeping,
32 staffing, and services.
33 e. The need to ensure adequate access to care.

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

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

1 nearing the established threshold to facilitate care coordination and intervention
2 as needed.

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

Senate and House Differ

Senate Version

SPECIALTY DRUG PROVIDER NETWORK

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

House Version

SPECIALTY DRUG PROVIDER NETWORK

SECTION 10.23. The Department of Health and Human Services shall work with providers to develop ways to reduce expenditures for specialty drugs, maintain best practices, prevent overutilization, and allow for drug reimbursement rate negotiations for hemophilia, hepatitis C, and intravenous immunoglobulin (IVIG) drugs.

Senate and House Differ

Senate Version

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

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

House Version

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

SECTION 10.24.(a) The Department of Health and Human Services (Department) shall select one additional Local Management Entity (LME) to implement the capitated 1915 (b)/(c) Medicaid waiver as a demonstration program. The waiver program shall include all Medicaid-covered mental health, developmental disabilities, and substance abuse services. Expansion of the waiver to one additional LME shall be contingent upon approval by the Centers for Medicare and Medicaid Services. The Department shall not approve any expansion of the Piedmont Behavioral Healthcare LME beyond its existing catchment area.

SECTION 10.24.(b) The Department shall conduct an evaluation of the two capitated 1915(b)/(c) Medicaid waiver demonstration program sites to determine the programs' impact on consumers with developmental disabilities. The evaluation shall include a satisfaction survey of consumers. The Department shall consider the impact on ICF/MR facilities included in the waiver to determine and, to the extent possible, minimize potential inconsistencies with the DMA-ICF/MR rate plan and the requirements of G.S. 131E-176 and G.S. 131E-178 without negatively impacting the viability and success of the waiver program. The Department shall consult with stakeholders and evaluate all other waiver options, including the possibility of a wavier without a 1915(b)/(c) combination. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division no later than April 1, 2012.

Senate and House Differ

Senate Version

MEDICAID FRAUD PREVENTION

SECTION 10.26.(a) The Department of Health and Human Services (Department) is authorized to create a fraud prevention program that uses information, lawfully obtained, from State and private databases to develop a fraud risk analysis of Medicaid providers and recipients. This analysis would be used to prevent fraud before it takes place and to achieve cost avoidance savings. While it is the intent that this initiative allow broad new access to information and databases across State government, the plan shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law shall be limited to authorized persons.

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

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

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

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

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

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

House Version

MEDICAID FRAUD PREVENTION

SECTION 10.26.(a) The Department of Health and Human Services (Department) is authorized to create a fraud prevention program that uses information, lawfully obtained, from State and private databases to develop a fraud risk analysis of Medicaid providers and recipients. This analysis would be used to prevent fraud before it takes place and to achieve cost avoidance savings. For the purposes of the fraud prevention program created pursuant to this subsection, State agencies shall provide the Department with access to their databases and the Department shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law is limited to authorized persons.

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

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

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

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

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

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

1 **Senate Only**

2 **AMEND MEDICAID PROVIDER APPEALS PROCESS**

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

4 **"SECTION 10.15A.(e1)** For the purpose of expediting the resolution of appeals by providers
5 of community support services or provider appeals personal care services (PCS) and thereby saving
6 State and federal funds that are paid for services that are found to be unnecessary or otherwise
7 ineligible for payment, the Department shall implement ~~on a temporary basis~~ a community support
8 support/PCS provider appeals process. The process shall be a substitute for informal provider
9 appeals at the Department level and formal provider appeals by the Office of Administrative
10 Hearings. The community support ~~support/PCS~~ provider appeals process shall apply to a provider
11 of community support services provider or PCS:

- 12 (1) Who is aggrieved by a decision of the Department to reduce, deny, recoup, or
13 recover reimbursement for community support ~~services, services or PCS~~, or to
14 deny, suspend, or revoke a provider agreement to provide community support
15 ~~services, services or PCS~~.
16 (2) Whose endorsement has been withdrawn or whose application for endorsement
17 has been denied by a local management entity.

18 **SECTION 10.29.(b)** Section 10.15A(e2) of S.L. 2008-107, as amended by Section
19 1.1(c) of S.L. 2009-550, reads as rewritten:

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

- 22 ...
23 (2) If there is a timely request for an appeal, the Department shall promptly
24 designate a hearing officer who shall hold an evidentiary hearing. The hearing
25 officer shall conduct the hearing according to applicable federal law and
26 regulations and shall ensure that:
27 a. Notice of the hearing is given not less than 15 days before the hearing.
28 The notice shall state the date, hour, and place of the hearing and shall be
29 deemed to have been given on the date that a copy of the notice is mailed,
30 via certified mail, to the address provided by the petitioner in the petition
31 for hearing.
32 b. The hearing is held in Wake County, except that the hearing officer ~~may,~~
33 ~~after consideration of the numbers, locations, and convenience of~~
34 ~~witnesses and in order to promote the ends of justice, hold the~~
35 ~~hearing~~ may take testimony and receive evidence by telephone or other
36 electronic means ~~or hold the hearing in a county in which the petitioner~~
37 ~~resides means~~. The petitioner and the petitioner's legal representative may
38 appear before the hearing officer in Wake County.
39 c. Discovery is no more extensive or formal than that required by federal
40 law and regulations applicable to the hearings. Prior to and during the
41 hearing, a provider representative shall have adequate opportunity to
42 examine the provider's own case file. No later than five days before the
43 date of the hearing, each party to a contested case shall provide to each
44 other party a copy of any documentary evidence that the party intends to
45 introduce at the hearing and shall identify each witness that the party
46 intends to call.
47 (3) The hearing officer shall have the power to administer oaths and affirmations,
48 subpoena the attendance of witnesses, rule on prehearing motions, and regulate

the conduct of the hearing. The following shall apply to hearings held pursuant to this section:

- a. At the hearing, the parties may present such sworn evidence, law, and regulations as are relevant to the issues in the case.
- b. The petitioner and the respondent agency each have a right to be represented by a person of his choice, including an attorney obtained at the party's own expense.
- c. The petitioner and the respondent agency shall each have the right to cross-examine witnesses as well as make a closing argument summarizing his view of the case and the law.
- d. The appeal hearing shall be recorded. If a petition for judicial review is filed pursuant to subsection (f) of this section, a transcript will be prepared and made filed, the Department shall include a copy of the recording of the hearing as part of the official report and shall be prepared at no cost to the appellant. In the absence of the filing of a petition for a judicial review, no transcript will be prepared unless requested by a party, in which case each party shall bear the cost of the transcript or part thereof or copy of the transcript or part thereof requested by the party record. The recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed as provided in G.S. 108A-79(i)(5).

...

(8) In the event of a conflict between federal law or regulations and State law or regulations, federal law or regulations shall control. This section applies to all petitions that are filed by a Medicaid PCS provider on or after July 1, 2010, and for all Medicaid PCS provider petitions that have been filed at the Office of Administrative Hearings previous to July 1, 2010, but for which a hearing on the merits has not been commenced prior to that date. The requirement that the agency decision must be rendered not more than 90 days from the date of the filing of the petition for hearing shall not apply to (i) PCS provider petitions that were filed at the Office of Administrative Hearings or (ii) requests for a hearing under the Department's informal settlement process prior to the effective date of this act. The Office of Administrative Hearings shall transfer all cases affected by this section to the Department of Health and Human Services within 30 days of the effective date of this section. This act preempts the existing informal appeals process and reconsideration review process at the Department of Health and Human Services and the existing appeal process at the Office of Administrative Hearings with regard to all appeals filed by Medicaid PCS providers under the Medical Assistance Program."

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

"SECTION 10.15A.(e3) Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may, pursuant to its ~~statutory~~ authority or federal Medicaid requirements, suspend the endorsement or Medicaid participation of a provider of community support services or PCS pending a final agency decision based on a fair hearing of the provider's appeal filed with the Department under its community ~~support-support/PCS~~ provider appeal process. A provider of community support services or PCS whose ~~endorsement, endorsement~~ or Medicaid participation, or services have participation has been suspended is not entitled to payment during the period the appeal is pending, and the Department shall make no such payment to the provider during that period. If the final agency decision is in favor of the provider, the

1 Department shall remove the suspension, commence payment for provider services, and reimburse
2 the provider for payments withheld during the period of appeal. ~~Contracts between the Department~~
3 ~~or a local management entity and the provider shall contain a provision indicating the circumstances~~
4 ~~under which a provider may appeal an agency decision and giving notice of the suspension of~~
5 ~~payments to the provider while the appeal is pending.~~ This subsection applies to community support
6 provider appeals pending in the Department of Health and Human Services or the Office of
7 Administrative Hearings, as applicable, on and after July 1, 2008. This subsection also applies to
8 appeals by providers of PCS pending in the Department of Health and Human Services or the
9 Office of Administrative Hearings, as applicable, on and after July 1, 2010.

10 ~~"SECTION 10.15A.(e4) The Department's community support provider appeals process~~
11 ~~established under this section shall expire July 1, 2010. The Department shall report to the House of~~
12 ~~Representatives Appropriations Subcommittee on Health and Human Services, the Senate~~
13 ~~Appropriations Committee on Health and Human Services, the Joint Legislative Oversight~~
14 ~~Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the~~
15 ~~Fiscal Research Division on March 1, 2009, October 1, 2009, and March 1, 2010, on the~~
16 ~~effectiveness and efficiency of the community support provider appeals process."~~

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

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

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

22 "(16) The Department of Health and Human Services with respect to contested cases
23 commenced by (i) Medicaid providers appealing a ~~denial~~ denial, recoupment,
24 suspension, or reduction in reimbursement for community support or personal
25 care services, or a denial, suspension, or revocation of a Medicaid provider
26 agreement for community support or personal care services, or a denial,
27 suspension, or revocation of a Medicaid provider agreement for community
28 support or personal care services, and (ii) providers of community support or
29 personal care services ~~providers~~ appealing decisions by the LME to deny or
30 withdraw the provider's endorsement."

Senate and House Differ

Senate Version

AMEND MEDICAID RECIPIENT APPEALS PROCESS

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

"SECTION 10.15A.(h1)

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

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

"SECTION 10.15A.(h2)

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

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

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

(3) Mediation. – Upon receipt of an appeal request form as provided by subdivision 10.15A(h1)(4) of this act or other clear request for a hearing by a Medicaid applicant or recipient, the Office of Administrative Hearings shall immediately notify the Mediation Network of North Carolina which shall within five days contact the petitioner to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform the Office of Administrative Hearings and the Department within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, the case shall be dismissed by the Office of Administrative Hearings. The Office of Administrative Hearings shall not conduct any contested Medicaid cases hearings until it has received notice from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed

1 to appear at a scheduled mediation. Nothing in this subdivision shall restrict the
2 right to a contested case hearing.

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

11 (4a) New Evidence.- The petitioner shall be permitted to submit evidence regardless
12 of whether obtained prior to or subsequent to the Department's actions and
13 regardless of whether the Department had an opportunity to consider the
14 evidence in making its determination to deny, reduce, terminate or suspend a
15 benefit. When such evidence is received, at the request of the Department, the
16 administrative law judge shall continue the hearing for a minimum of 15 days
17 and a maximum of 30 days to allow for the Department's review of the evidence.
18 Subsequent to review of the evidence, if the Department reverses its original
19 decision, it shall immediately inform the administrative law judge.

20 (4b) Issue for Hearing.- For each penalty imposed or benefit reduced, terminated, or
21 suspended, the hearing shall determine whether the Department substantially
22 prejudiced the rights of the petitioner and if the Department, based upon evidence
23 at the hearing:

- 24 a. Exceeded its authority or jurisdiction;
- 25 b. Acted erroneously;
- 26 c. Failed to use proper procedure;
- 27 d. Acted arbitrarily or capriciously; or,
- 28 e. Failed to act as required by law or rule.

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

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

42 **"SECTION 10.15A.(h4)** Effective October 1, 2008, the Department of Health and Human
43 Services shall discontinue its current informal appeals process for Medicaid applicants and
44 recipients appealing a determination made by the Department to deny, terminate, suspend, or reduce
45 Medicaid covered services. All such informal appeals by Medicaid applicants or recipients under
46 the current system which are pending on that date and for which a hearing has not been held shall be
47 discontinued and the applicant or recipient offered an opportunity to appeal to the Office of
48 Administrative Hearings in accordance with the provisions of subsection 10.15A(h1) of this act.
49 The Department shall make every effort to resolve or settle all of the backlogged cases prior to the
50 effective date of this act.

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

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

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

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

House Version

AMEND MEDICAID RECIPIENT APPEALS PROCESS

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

"SECTION 10.15A.(h1)

- (1) General Rule. – Notwithstanding any provision of State law or rules to the contrary, this subsection shall govern the process used by a Medicaid applicant or recipient to appeal a determination made by the Department of Health and Human Services to deny, terminate, suspend, or reduce Medicaid covered services. For purposes of this subsection, the phrase "adverse determination" means a determination by the Department to deny, terminate, suspend, or reduce Medicaid covered services. For purposes of this subsection, all references to an applicant or recipient include the applicant or recipient's parent, guardian, or legal representative; however, notice need only be given to a parent, guardian, or legal representative who has requested in writing to receive the notice.
- (2) Notice. – Except as otherwise provided by federal law or regulation, at least 10 days before the effective date of an adverse determination, the Department shall notify the applicant or recipient, and the provider, if applicable, in writing of the determination and of the applicant's or recipient's right to appeal the determination. The notice shall be mailed on the date indicated on the notice as the date of the determination. The notice shall include:
 - a. An identification of the applicant or recipient whose services are being affected by the adverse determination, including full name and Medicaid identification number.
 - b. An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.
 - c. The specific regulation, statute, or medical policy that supports or requires the adverse determination.
 - d. The effective date of the adverse determination.
 - e. An explanation of the applicant's or recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.
 - f. An explanation of how the applicant or recipient can request a hearing and a statement that the applicant or recipient may represent himself or use legal counsel, a relative, or other spokesperson.
 - g. A statement that the applicant or recipient will continue to receive Medicaid services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the applicant or recipient, whichever is less, if the applicant or recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.
 - h. The name and telephone number of a contact person at the Department to respond in a timely fashion to the applicant's or recipient's questions.
 - i. The telephone number by which the applicant or recipient may contact a Legal Aid/Legal Services office.
 - j. The appeal request form described in subdivision (4) of this subsection that the applicant or recipient may use to request a hearing.

- (3) Appeals. – Except as provided by this subsection and subsection 10.15A(h2) of this act, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The applicant or recipient must request a hearing within 30 days of the mailing of the notice required by subdivision (2) of this subsection by sending an appeal request form to the Office of Administrative Hearings and the Department. Where a request for hearing concerns the reduction, modification, or termination of Medicaid services, upon the receipt of a timely appeal, the Department shall reinstate the services to the level or manner prior to action by the Department as permitted by federal law or regulation. The Department shall immediately forward a copy of the notice to the Office of Administrative Hearings electronically. The information contained in the notice is confidential unless the recipient appeals. The Office of Administrative Hearings may dispose of the records after one year. The Department may not influence, limit, or interfere with the applicant's or recipient's decision to request a hearing.
- (4) Appeal Request Form. – Along with the notice required by subdivision (2) of this subsection, the Department shall also provide the applicant or recipient with an appeal request form which shall be no more than one side of one page. The form shall include the following:
- a. A statement that in order to request an appeal, the applicant or recipient must send the form by mail or fax to the address or fax number listed on the form within 30 days of mailing of the notice.
 - b. The applicant's or recipient's name, address, telephone number, and Medicaid identification number.
 - c. A preprinted statement that indicates that the applicant or recipient would like to appeal the specific adverse determination of which the applicant or recipient was notified in the notice.
 - d. A statement informing the applicant or recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.
 - e. A space for the applicant's or recipient's signature and date.
- (5) Final Decision. – After a hearing before an administrative law judge, the judge shall return the decision and record to the Department in accordance with subsection 10.15A(h2) of this act. The Department shall make a final decision in the case within 20 days of receipt of the decision and record from the administrative law judge and promptly notify the applicant or recipient of the final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter 150B of the General Statutes.

"SECTION 10.15A.(h2)

- (1) Application. – This subsection applies only to contested Medicaid cases commenced by Medicaid applicants or recipients under subsection 10.15A(h1) of this act. Except as otherwise provided by subsection 10.15A(h1) and this subsection governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid applicant or recipient is subject to the provisions of Article 3 of Chapter 150B. To the extent any provision in this subsection or subsection 10.15A(h1) of this act conflicts with another provision in Article 3 of Chapter 150B, this subsection and subsection 10.15A(h1) controls.
- (2) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may

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

33 (3) Mediation. – Upon receipt of an appeal request form as provided by subdivision
34 10.15A(h1)(4) of this act or other clear request for a hearing by a Medicaid
35 applicant or recipient, the Office of Administrative Hearings shall immediately
36 notify the Mediation Network of North Carolina which shall within five days
37 contact the petitioner to offer mediation in an attempt to resolve the dispute. If
38 mediation is accepted, the mediation must be completed within 25 days of
39 submission of the request for appeal. Upon completion of the mediation, the
40 mediator shall inform the Office of Administrative Hearings and the Department
41 within 24 hours of the resolution by facsimile or electronic messaging. If the
42 parties have resolved matters in the mediation, the case shall be dismissed by the
43 Office of Administrative Hearings. The Office of Administrative Hearings shall
44 not conduct any contested Medicaid cases hearings until it has received notice
45 from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii)
46 the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed
47 to appear at a scheduled mediation. Nothing in this subdivision shall restrict the
48 right to a contested case hearing.

49 (4) Burden of Proof. – The petitioner has the burden of proof to show entitlement to
50 a requested benefit or the propriety of requested agency action when the agency

1 has denied the benefit or refused to take the particular action. The agency has the
2 burden of proof when the appeal is from an agency determination to impose a
3 penalty or reduce, terminate, or suspend a benefit previously granted. The party
4 with the burden of proof on any issue has the burden of going forward, and the
5 administrative law judge shall not make any ruling on the preponderance of
6 evidence until the close of all evidence.

7 (4a) New Evidence.- The petitioner shall be permitted to submit evidence regardless
8 of whether obtained prior to or subsequent to the Department's actions and
9 regardless of whether the Department had an opportunity to consider the
10 evidence in making its determination to deny, reduce, terminate or suspend a
11 benefit. When such evidence is received, at the request of the Department, the
12 administrative law judge shall continue the hearing for a minimum of 15 days
13 and a maximum of 30 days to allow for the Department's review of the evidence.
14 Subsequent to review of the evidence, if the Department reverses its original
15 decision, it shall immediately inform the administrative law judge.

16 (4b) Issue for Hearing.- For each penalty imposed or benefit reduced, terminated, or
17 suspended, the hearing shall determine whether the Department substantially
18 prejudiced the rights of the petitioner and if the Department, based upon evidence
19 at the hearing:

- 20 a. Exceeded its authority or jurisdiction;
- 21 b. Acted erroneously;
- 22 c. Failed to use proper procedure;
- 23 d. Acted arbitrarily or capriciously; or,
- 24 e. Failed to act as required by law or rule.

25 (5) Decision. – The administrative law judge assigned to a contested Medicaid case
26 shall hear and decide the case without unnecessary delay. The Office of
27 Administrative Hearings shall send a copy of the audiotape or diskette of the
28 hearing to the agency within five days of completion of the hearing. The judge
29 shall prepare a written decision and send it to the parties. The decision must be
30 sent together with the record to the agency within 20 days of the conclusion of
31 the hearing.

32 **"SECTION 10.15A.(h3)** From funds available to the Department of Health and Human
33 Services for the ~~2008-2009~~2010-2011 fiscal year, the sum of ~~two-one~~ million dollars (~~\$2,000,000~~)
34 (~~\$1,000,000~~) shall be transferred by the Department of Health and Human Services to the Office of
35 Administrative Hearings (OAH). These funds shall be allocated by ~~the Office of Administrative~~
36 ~~Hearings~~ OAH for mediation services provided for Medicaid applicant and recipient appeals and to
37 contract for other services necessary to conduct the appeals process. OAH shall continue the
38 Memorandum of Agreement (MOA) with the Department of Health and Human Services for
39 mediation services provided for Medicaid applicant and recipient appeals and contracted services
40 necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw
41 down federal Medicaid funds to support this administrative function. Upon receipt of invoices from
42 OAH for covered services rendered in accordance with the MOA, the Department shall transfer the
43 federal share of Medicaid funds drawn down for this purpose.

44 **"SECTION 10.15A.(h4)** Effective October 1, 2008, the Department of Health and Human
45 Services shall discontinue its current informal appeals process for Medicaid applicants and
46 recipients appealing a determination made by the Department to deny, terminate, suspend, or reduce
47 Medicaid covered services. All such informal appeals by Medicaid applicants or recipients under
48 the current system which are pending on that date and for which a hearing has not been held shall be
49 discontinued and the applicant or recipient offered an opportunity to appeal to the Office of
50 Administrative Hearings in accordance with the provisions of subsection 10.15A(h1) of this act.

1 The Department shall make every effort to resolve or settle all of the backlogged cases prior to the
2 effective date of this act.

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

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

15 SECTION 10.30.(b) The Revisor of Statutes shall codify the statutes set forth in
16 subsection (a) of this section.

17 SECTION 10.30.(c) Not later than October 1, 2011, the Department of Health and
18 Human Services and the Office of Administrative Hearings (OAH) shall submit a report to the
19 House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate
20 Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight
21 Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the
22 Fiscal Research Division on the number, status, and outcome of contested Medicaid cases handled
23 by OAH pursuant to the appeals process established in subsection (a) of this section. The report
24 shall include information on the number of contested Medicaid cases resolved through mediations
25 and through formal hearings, the outcome of settled and withdrawn cases, and the number of
26 incidences in which the Division of Medical Assistance (DMA) reversed the decision of an
27 administrative law judge, along with DMA's rationale for the reversal.
28

Senate and House Differ

Senate Version

MEDICAID PREFERRED DRUG LIST (PDL) REVIEW PANEL

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

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

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

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

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

House Version

MEDICAID PREFERRED DRUG LIST (PDL) REVIEW PANEL

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

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- (4) A representative from the North Carolina Association of Pharmacists.
- (5) A representative from Community Care of North Carolina.
- (6) A representative from the North Carolina Psychiatric Association.
- (7) A representative from the North Carolina Pediatric Society.
- (8) A representative from the North Carolina Academy of Family Physicians.
- (9) A representative from the North Carolina Chapter of the American College of Physicians.
- (10) A representative from a research-based pharmaceutical company.

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

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

Senate and House Differ

Senate Version

LOCK NARCOTIC PRESCRIPTIONS INTO SINGLE PHARMACY/PROVIDER

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

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

House Version

LOCK NARCOTIC PRESCRIPTIONS INTO SINGLE PHARMACY/PROVIDER

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

- (1) Enrollees may be prescribed narcotic medications by only one prescribing physician and may not change the prescribing physician at anytime without prior approval or authorization by the Division.
- (2) Enrollees may have prescriptions for narcotic medications filled at only one pharmacy and may not change to another pharmacy at anytime without prior approval or authorization by the Division.

Senate and House Differ

Senate Version

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

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

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

(1) Electronic transactions. –

- a. Within 60 days of notification of its procedures via the DMA Web site, Medicaid providers shall follow the Department's established procedures for securing electronic payments. No later than September 1, 2009, the Department shall cease routine provider payments by check.
- b. Effective September 1, 2009, all Medicaid providers shall file claims electronically to the fiscal agent. Nonelectronic claims submission may be required when it is in the best interest of the Department.
- c. Effective September 1, 2009, enrolled Medicaid providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

(2) Clinical coverage. – The Department of Health and Human Services, Division of Medical Assistance, shall amend applicable clinical policies and submit applicable State Plan amendments to CMS to implement the budget reductions authorized in the following clinical coverage areas in this act:

- a. Consolidate and reduce Targeted Case Management and case management functions bundled within other Medicaid services.
- b. Take appropriate action to lower the cost of HIV case management, including tightening service hours and limiting administrative costs. The Department shall maintain HIV case management as a stand-alone service outside of departmental efforts to consolidate case management services.
- c. Eliminate coverage of therapeutic camps. The Department shall report on or before October 1, 2009, on the plan to transition children out of mental health residential therapeutic camps. The Department 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.~~
- c. ~~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 preventative child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
 - 2. PCS for Disabled and Elderly (PCS-ADE) – To meet the needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate extensive or higher levels of unmet needs for assistance in at least three of the five activities of daily living (ADLs) that include eating, dressing, bathing, toileting, and mobility. PCS-ADE shall target individuals at the highest level of need who are able to safely remain in the home and who do not meet the State's criteria for nursing facility placement.

- d. Establish program limitations:
1. PCS-C shall be limited to no more than 60 hours of service per month, unless additional services are required to correct or ameliorate defects and physical and mental illnesses and conditions as defined in 42 U.S.C. § 1396d(r)(5) in accordance with a plan of care approved by DMA or its designee.
 2. PCS-ADE shall be limited to no more than 80 hours of service per month in accordance with a plan of care approved by DMA or its designee.
- e. For both programs, require that:
1. Services are provided in a manner that supplements not supplants family roles and responsibilities and care provided by informal caregivers.
 2. Prior to admission to PCS, the recipient be seen by his or her primary or attending physician and that the recipient's physician authorizes referral for PCS in writing and attests to the medical necessity for PCS. The Department of Health and Human Services shall track and analyze from the written referrals to detect and address overutilization of PCS services.
 3. Initial assessments and continuing need reassessments be performed by an Independent Assessment Entity (IAE) that is not a PCS service provider.
 4. The IAE authorize the amount of service to be provided on a "needs basis," as determined by each recipient's degree of functional disability and level of unmet needs for hands-on personal assistance in the five qualifying ADLs.
 5. PCS shall not be used to perform household chores not directly related to the qualifying ADLs, nonmedical transportation, money management, running errands, and shopping, and nonhands-on assistance such as cueing, prompting, guiding, or coaching in accordance with the Medicaid Clinical Coverage Policy for each program.
 6. Transition qualified recipients into the programs at such time that all approvals from CMS have been obtained; Medicaid Clinical Coverage Policies have been posted, reviewed, and approved as required; and all appropriate implementation tasks have been completed.
- (4) MH/DD/SA Personal Care and Personal Assistance Services Provision. – A denial, reduction, or termination of Medicaid-funded personal care services shall result in a similar denial, reduction, or termination of State-funded MH/DD/SA personal care and personal assistance services.
- (5) Community Support and other MH/DD/SA services. – The Department of Health and Human Services shall transition community support child and adult, individual and group services to other defined services on or before June 30, 2010. The Division of Medical Assistance and the Division of MH/DD/SA shall take the steps necessary for the Medicaid and the State-funded community support program to provide for transition and discharge planning to recipients currently receiving community support services. The following shall occur:
- a. The Department shall submit to CMS: (i) revised service definitions that separate case management functions from the Community Support

1 definition and (ii) a new service definition for peer support services for
2 adults with mental illness and/or substance abuse ~~disorders.~~ disorders, for
3 implementation no sooner than January 1, 2011.

- 4 b. No new admissions for community support individual or group shall be
5 allowed during this transition period unless the Department determines
6 appropriate alternative services are not available, in which case limited
7 community support services may be provided during the transition period.
8 LMEs will be responsible for referring eligible consumers to appropriate
9 alternative services.
- 10 c. Authorizations currently in effect as of the date of enactment of this act
11 remain valid. Any new authorization or subsequent reauthorization is
12 subject to the provisions of this act.
- 13 d. No community support services shall be provided in conjunction with
14 other enhanced services. Until CMS approves the new case management
15 definition, professional level community support may be provided in
16 conjunction with residential Level III and IV to assist in recipient
17 discharge planning. Up to a maximum of 24 hours of case management
18 (professional level) functions may be provided over a 90-day
19 authorization period as approved by the prior authorization vendor.
- 20 e. The current moratorium on community support provider endorsement
21 shall remain in effect.
- 22 f. A provider of community support services whose endorsement has been
23 withdrawn or whose Medicaid participation has been terminated is not
24 entitled to payment during the period the appeal is pending, and the
25 Department shall make no payment to the provider during that period. If
26 the final agency decision is in favor of the provider, the Department shall
27 remove the suspension, commence payment for valid claims, and
28 reimburse the provider for payments withheld during the period of appeal.
- 29 g. Effective 60 days from the enactment of this act, the paraprofessional
30 level of community support shall be eliminated, and from this date the
31 Department shall not use any Medicaid or State funds to pay for this level
32 of service.
- 33 h. Thirty days after the enactment of this act, any concurrent request shall be
34 accompanied with a discharge plan. Submission of the discharge plan will
35 be a required document for a request to be considered complete. Failure
36 to submit the discharge plan will result in the request being returned as
37 "unable to process." Discharge from the service must occur within 90
38 days after the submission of the discharge plan.
- 39 i. Any community support provider that ceases to function as a provider
40 shall provide written notification to DMA, the Local Management Entity,
41 recipients, and the prior authorization vendor 30 days prior to closing of
42 the business.
- 43 j. Medical and financial record retention is the responsibility of the provider
44 and shall be in compliance with the record retention requirements of their
45 Medicaid provider agreement or State-funded services contract. Records
46 shall also be available to State, federal, and local agencies.
- 47 k. Failure to comply with notification, recipient transition planning, or
48 record maintenance shall result in suspension of further payment until
49 such failure is corrected. In addition, failure to comply shall result in
50 denial of enrollment as a provider for any Medicaid or State-funded

1 service. A provider (including its officers, directors, agents, or managing
2 employees or individuals or entities having a direct or indirect ownership
3 interest or control interest of five percent (5%) or more as set forth in
4 Title XI of the Social Security Act) that fails to comply with the required
5 record retention may be subject to sanctions, including exclusion from
6 further participation in the Medicaid program, as set forth in Title XI.

7 (6) Community Support Team. – Authorization for a Community Support Team
8 shall be based upon medical necessity as defined by the Department and shall not
9 exceed 18 hours per week. The Division of Medical Assistance shall do an
10 immediate rate study of the Community Support Team to bring the average cost
11 of service per recipient in line with Assertive Community Treatment Team
12 (ACTT) services. The Division shall also revise provider qualifications and
13 tighten the service definition to contain costs in this line item. Not later than
14 December 1, 2009, the Division of Medical Assistance shall report its findings on
15 the rate study and any actions it has taken to conform with this subdivision to the
16 Joint Legislative Oversight Committee on Mental Health, Developmental
17 Disabilities, and Substance Abuse Services.

18 (7) MH Residential. – The Department of Health and Human Services shall
19 restructure the Medicaid child mental health, developmental disabilities, and
20 substance abuse residential services to ensure that total expenditures are within
21 budgeted levels. All restructuring activities shall be in compliance with federal
22 and State law or rule. The Divisions of Medical Assistance and Mental Health,
23 Developmental Disabilities, and Substance Abuse Services shall establish a team
24 inclusive of providers, LMEs, and other stakeholders to assure effective
25 transition of recipients to appropriate treatment options. The restructuring shall
26 address all of the following:

- 27 a. Submission of the therapeutic family service definition to CMS.
- 28 b. The Department shall reexamine the entrance and continued stay criteria
29 for all residential services. The revised criteria shall promote least
30 restrictive services in the home prior to residential placement. During
31 treatment, there must be inclusion in community activities and parent or
32 legal guardian participation in treatment.
- 33 c. Require all existing residential providers or agencies to be nationally
34 accredited within one year of enactment of this act. Any providers
35 enrolled after the enactment of this act shall be subject to existing
36 endorsement and nationally accrediting requirements. In the interim,
37 providers who are nationally accredited will be preferred providers for
38 placement considerations.
- 39 d. Before a child can be admitted to Level III or Level IV placement, one or
40 more of the following shall apply:
 - 41 1. Placement shall be a step down from a higher level placement
42 such as a psychiatric residential treatment facility or inpatient.
 - 43 2. Multisystemic therapy or intensive in-home therapy services have
44 been unsuccessful.
 - 45 3. The Child and Family Team has reviewed all other alternatives
46 and recommendations and recommends Level III or IV placement
47 due to maintaining health and safety.
 - 48 4. Transition or discharge plan shall be submitted as part of the
49 initial or concurrent request.

- 1 e. Length of stay is limited to no more than 120 days. Any exceptions
2 granted will require an independent psychiatric assessment, Child and
3 Family Team review of goals and treatment progress, family or discharge
4 placement setting are actively engaged in treatment goals and objectives
5 and active participation of the prior authorization of vendor.
6 f. Submission of discharge plan is required in order for the request to be
7 considered complete. Failure to submit a complete discharge plan will
8 result in the request being returned as unable to process.
9 g. Any residential provider that ceases to function as a provider shall
10 provide written notification to DMA, the Local Management Entity,
11 recipients, and the prior authorization vendor 30 days prior to closing of
12 the business.
13 h. Record maintenance is the responsibility of the provider and must be in
14 compliance with record retention requirements. Records shall also be
15 available to State, federal, and local agencies.
16 i. Failure to comply with notification, recipient transition planning, or
17 record maintenance shall be grounds for withholding payment until such
18 activity is concluded. In addition, failure to comply shall be conditions
19 that prevent enrollment for any Medicaid or State-funded service. A
20 provider (including its officers, directors, agents, or managing employees
21 or individuals or entities having a direct or indirect ownership interest or
22 control interest of five percent (5%) or more as set forth in Title XI of the
23 Social Security Act) that fails to comply with the required record
24 retention may be subject to sanctions, including exclusion from further
25 participation in the Medicaid program, as set forth in Title XI.
26 j. On or before October 1, 2009, the Department shall report on its plan for
27 transitioning children out of Level III and Level IV group homes. The
28 Department shall submit the reports to the Joint Legislative Oversight
29 Committee on Mental Health, Developmental Disabilities, and Substance
30 Abuse Services.
- 31 (8) Reduce Medicaid rates. – Subject to the prior approval of the Office of State
32 Budget and Management, the Secretary shall reduce Medicaid provider rates to
33 accomplish the reduction in funds for this purpose enacted in this act. The
34 Secretary shall consider the impact on access to care through primary care
35 providers and critical access hospitals and may adjust the rates accordingly. The
36 rate reduction applies to all Medicaid private and public providers with the
37 following exceptions: federally qualified health clinics, rural health centers,
38 State institutions, hospital outpatient, pharmacies, and the noninflationary
39 components of the case-mix reimbursement system for nursing facilities.
40 Medicaid rates predicated upon Medicare fee schedules shall follow Medicare
41 reductions but not Medicare increases unless federally required. Inflationary
42 increases for Medicaid providers paying provider fees (private ICF-MRs and
43 nursing facilities) can occur if the State share of the increases can be funded with
44 provider fees.
- 45 (9) Medicaid identification cards. – The Department shall issue Medicaid
46 identification cards to recipients on an annual basis with quarterly updates.
- 47 (10) The Department of Health and Human Services shall develop a plan for the
48 consolidation of case management services. The plan shall address the time line
49 and process for implementation, the vendors involved, the identification of
50 savings, and the Medicaid recipients affected by the consolidation. Consolidation

1 under this subdivision does not apply to HIV case management. By December 1,
2 2009, the Department shall report on the plan to the House of Representatives
3 Appropriations Subcommittee on Health and Human Services, the Senate
4 Appropriations Committee on Health and Human Services, and the Fiscal
5 Research Division.

6 (11) For the purpose of promoting cost-effective utilization of outpatient mental
7 health services for children, DMA shall require prior authorization for services
8 following the 16th visit.

9 (12) Provision of Medicaid Private Duty Nursing (PDN) – DMA shall change the
10 Medicaid Private Duty Nursing Program provided under the State Medicaid Plan,
11 as follows:

12 a. Restructure the current PDN Program to provide services that are:

13 1. Provided only to qualified recipients under the age of 21;

14 2. Authorized by the recipient's primary care or attending physician;

15 3. Limited to 16 hours of service per day, unless additional services
16 are required to correct or ameliorate defects and physical and
17 mental illnesses and conditions as defined in 42 U.S.C. §
18 1396d(r)(5);

19 4. Approved based on an initial assessment and continuing need
20 reassessments performed by an Independent Assessment Entity
21 (IAE) that does not provide PDN services and authorized in
22 amounts that are medically necessary based on the recipient's
23 medical condition, amount of family assistance available, and
24 other relevant conditions and circumstances, as defined by the
25 Medicaid Clinical Coverage Policy for this service.

26 5. Provided in accordance with a plan of care approved by DMA or
27 its designee.

28 b. Develop and submit to CMS a § 1915(c) Home and Community-Based
29 Services Waiver for individuals dependent on technology to substitute for
30 a vital body function.

31 c. Once approved by CMS and upon approval of the Medicaid Clinical
32 Coverage Policy, transition all qualified recipients age 21 and older
33 currently receiving PDN to waiver services provided under the
34 Technology Dependent Waiver."
35

House Version

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

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

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

(1) Electronic transactions. –

- a. Within 60 days of notification of its procedures via the DMA Web site, Medicaid providers shall follow the Department's established procedures for securing electronic payments. No later than September 1, 2009, the Department shall cease routine provider payments by check.
- b. Effective September 1, 2009, all Medicaid providers shall file claims electronically to the fiscal agent. Nonelectronic claims submission may be required when it is in the best interest of the Department.
- c. Effective September 1, 2009, enrolled Medicaid providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

(2) Clinical coverage. – The Department of Health and Human Services, Division of Medical Assistance, shall amend applicable clinical policies and submit applicable State Plan amendments to CMS to implement the budget reductions authorized in the following clinical coverage areas in this act:

- a. Consolidate and reduce Targeted Case Management and case management functions bundled within other Medicaid services.
- b. Take appropriate action to lower the cost of HIV case management, including tightening service hours and limiting administrative costs. The Department shall maintain HIV case management as a stand-alone service outside of departmental efforts to consolidate case management services.
- c. Eliminate coverage of therapeutic camps. The Department shall report on or before October 1, 2009, on the plan to transition children out of mental health residential therapeutic camps. The Department 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.

- c. 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.
- g. Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA nurse assessor when there is no family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.

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 conduct a study determining the cost effectiveness, efficiencies gained, and challenges associated with transitioning the performance of independent assessments for PCS to CCNC 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 January 1, 2011.

- (4) MH/DD/SA Personal Care and Personal Assistance Services Provision. – A denial, reduction, or termination of Medicaid-funded personal care services shall result in a similar denial, reduction, or termination of State-funded MH/DD/SA personal care and personal assistance services.
- (5) Community Support and other MH/DD/SA services. – The Department of Health and Human Services shall transition community support child and adult, individual and group services to other defined services on or before June 30, 2010. The Division of Medical Assistance and the Division of MH/DD/SA shall take the steps necessary for the Medicaid and the State-funded community support program to provide for transition and discharge planning to recipients currently receiving community support services. The following shall occur:
 - a. The Department shall submit to CMS: (i) revised service definitions that separate case management functions from the Community Support definition and (ii) a new service definition for peer support services for adults with mental illness and/or substance abuse ~~disorders~~. disorders, for implementation no sooner than January 1, 2011.
 - b. No new admissions for community support individual or group shall be allowed during this transition period unless the Department determines appropriate alternative services are not available, in which case limited community support services may be provided during the transition period. LMEs will be responsible for referring eligible consumers to appropriate alternative services.
 - c. Authorizations currently in effect as of the date of enactment of this act remain valid. Any new authorization or subsequent reauthorization is subject to the provisions of this act.

- d. No community support services shall be provided in conjunction with other enhanced services. Until CMS approves the new case management definition, professional level community support may be provided in conjunction with residential Level III and IV to assist in recipient discharge planning. Up to a maximum of 24 hours of case management (professional level) functions may be provided over a 90-day authorization period as approved by the prior authorization vendor.
- e. The current moratorium on community support provider endorsement shall remain in effect.
- f. A provider of community support services whose endorsement has been withdrawn or whose Medicaid participation has been terminated is not entitled to payment during the period the appeal is pending, and the Department shall make no payment to the provider during that period. If the final agency decision is in favor of the provider, the Department shall remove the suspension, commence payment for valid claims, and reimburse the provider for payments withheld during the period of appeal.
- g. Effective 60 days from the enactment of this act, the paraprofessional level of community support shall be eliminated, and from this date the Department shall not use any Medicaid or State funds to pay for this level of service.
- h. Thirty days after the enactment of this act, any concurrent request shall be accompanied with a discharge plan. Submission of the discharge plan will be a required document for a request to be considered complete. Failure to submit the discharge plan will result in the request being returned as "unable to process." Discharge from the service must occur within 90 days after the submission of the discharge plan.
- i. Any community support provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.
- j. Medical and financial record retention is the responsibility of the provider and shall be in compliance with the record retention requirements of their Medicaid provider agreement or State-funded services contract. Records shall also be available to State, federal, and local agencies.
- k. Failure to comply with notification, recipient transition planning, or record maintenance shall result in suspension of further payment until such failure is corrected. In addition, failure to comply shall result in denial of enrollment as a provider for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to sanctions, including exclusion from further participation in the Medicaid program, as set forth in Title XI.
- (6) Community Support Team. – Authorization for a Community Support Team shall be based upon medical necessity as defined by the Department and shall not exceed 18 hours per week. The Division of Medical Assistance shall do an immediate rate study of the Community Support Team to bring the average cost of service per recipient in line with Assertive Community Treatment Team (ACTT) services. The Division shall also revise provider qualifications and

1 tighten the service definition to contain costs in this line item. Not later than
2 December 1, 2009, the Division of Medical Assistance shall report its findings on
3 the rate study and any actions it has taken to conform with this subdivision to the
4 Joint Legislative Oversight Committee on Mental Health, Developmental
5 Disabilities, and Substance Abuse Services.

6 (7) MH Residential. – The Department of Health and Human Services shall
7 restructure the Medicaid child mental health, developmental disabilities, and
8 substance abuse residential services to ensure that total expenditures are within
9 budgeted levels. All restructuring activities shall be in compliance with federal
10 and State law or rule. The Divisions of Medical Assistance and Mental Health,
11 Developmental Disabilities, and Substance Abuse Services shall establish a team
12 inclusive of providers, LMEs, and other stakeholders to assure effective
13 transition of recipients to appropriate treatment options. The restructuring shall
14 address all of the following:

- 15 a. Submission of the therapeutic family service definition to CMS.
- 16 b. The Department shall reexamine the entrance and continued stay criteria
17 for all residential services. The revised criteria shall promote least
18 restrictive services in the home prior to residential placement. During
19 treatment, there must be inclusion in community activities and parent or
20 legal guardian participation in treatment.
- 21 c. Require all existing residential providers or agencies to be nationally
22 accredited within one year of enactment of this act. Any providers
23 enrolled after the enactment of this act shall be subject to existing
24 endorsement and nationally accrediting requirements. In the interim,
25 providers who are nationally accredited will be preferred providers for
26 placement considerations.
- 27 d. Before a child can be admitted to Level III or Level IV placement, one or
28 more of the following shall apply:
 - 29 1. Placement shall be a step down from a higher level placement
30 such as a psychiatric residential treatment facility or ~~inpatient~~.
31 inpatient; or
 - 32 2. Multisystemic therapy or intensive in-home therapy services have
33 been ~~unsuccessful~~. unsuccessful; or
 - 34 3. The Child and Family Team has reviewed all other alternatives
35 and recommendations and recommends Level III or IV placement
36 due to maintaining health and ~~safety~~. safety; or
 - 37 4. Transition or discharge plan shall be submitted as part of the
38 initial or concurrent request.
- 39 e. Length of stay is limited to no more than 120 days. Any exceptions
40 granted will require an independent psychiatric assessment, Child and
41 Family Team review of goals and treatment progress, family or discharge
42 placement setting are actively engaged in treatment goals and objectives
43 and active participation of the prior authorization of vendor. The
44 Department shall study the effectiveness of the length of stay limitation
45 imposed pursuant to this sub-subdivision, and the number of children
46 staying in Level II, III, and IV facilities, and report its findings to the
47 Joint Legislative Oversight Committee on Mental Health, Developmental
48 Disabilities, and Substance Abuse Services on or before January 1, 2011,
49 and shall provide update reports on the number of children in these

- 1 facilities to this same committee every six months thereafter, for the
2 following three-year period.
- 3 f. Submission of discharge plan is required in order for the request to be
4 considered complete. Failure to submit a complete discharge plan will
5 result in the request being returned as unable to process.
- 6 g. Any residential provider that ceases to function as a provider shall
7 provide written notification to DMA, the Local Management Entity,
8 recipients, and the prior authorization vendor 30 days prior to closing of
9 the business.
- 10 h. Record maintenance is the responsibility of the provider and must be in
11 compliance with record retention requirements. Records shall also be
12 available to State, federal, and local agencies.
- 13 i. Failure to comply with notification, recipient transition planning, or
14 record maintenance shall be grounds for withholding payment until such
15 activity is concluded. In addition, failure to comply shall be conditions
16 that prevent enrollment for any Medicaid or State-funded service. A
17 provider (including its officers, directors, agents, or managing employees
18 or individuals or entities having a direct or indirect ownership interest or
19 control interest of five percent (5%) or more as set forth in Title XI of the
20 Social Security Act) that fails to comply with the required record
21 retention may be subject to sanctions, including exclusion from further
22 participation in the Medicaid program, as set forth in Title XI.
- 23 j. On or before October 1, 2009, the Department shall report on its plan for
24 transitioning children out of Level III and Level IV group homes. The
25 Department shall submit the reports to the Joint Legislative Oversight
26 Committee on Mental Health, Developmental Disabilities, and Substance
27 Abuse Services.
- 28 (8) Reduce Medicaid rates. – Subject to the prior approval of the Office of State
29 Budget and Management, the Secretary shall reduce Medicaid provider rates to
30 accomplish the reduction in funds for this purpose enacted in this act. In
31 exercising authority under this subdivision, the Secretary shall not reduce
32 Medicaid provider rates in excess of the amount required to achieve the budget
33 reductions enacted in this act. The Secretary shall consider the impact on access
34 to care through primary care providers and critical access hospitals and may
35 adjust the rates accordingly. The rate reduction applies to all Medicaid private
36 and public providers with the following exceptions: federally qualified health
37 clinics, rural health centers, State institutions, hospital outpatient, pharmacies,
38 and the noninflationary components of the case-mix reimbursement system for
39 nursing facilities. Medicaid rates predicated upon Medicare fee schedules shall
40 follow Medicare reductions but not Medicare increases unless federally required.
41 Inflationary increases for Medicaid providers paying provider fees (private
42 ICF-MRs and nursing facilities) can occur if the State share of the increases can
43 be funded with provider fees.
- 44 (9) Medicaid identification cards. – The Department shall issue Medicaid
45 identification cards to recipients on an annual basis with quarterly updates.
- 46 (10) The Department of Health and Human Services shall develop a plan for the
47 consolidation of case management ~~services.~~ services utilizing CCNC. The plan
48 shall address the time line and process for implementation, ~~the vendors involved,~~
49 the identification of savings, and the Medicaid recipients affected by the
50 consolidation. Consolidation under this subdivision does not apply to HIV case

1 management. By December 1, ~~2009~~2010, the Department shall report on the
2 plan to the House of Representatives Appropriations Subcommittee on Health
3 and Human Services, the Senate Appropriations Committee on Health and
4 Human Services, and the Fiscal Research Division.

5 (11) For the purpose of promoting cost-effective utilization of outpatient mental
6 health services for children, DMA shall require prior authorization for services
7 following the sixteenth visit.

8 (12) Provision of Medicaid Private Duty Nursing (PDN). – DMA shall change the
9 Medicaid Private Duty Nursing Program provided under the State Medicaid Plan,
10 as follows:

11 a. Restructure the current PDN Program to provide services that are:

12 1. Provided only to qualified recipients under the age of 21.

13 2. Authorized by the recipient's primary care or attending physician.

14 3. Limited to 16 hours of service per day, unless additional services
15 are required to correct or ameliorate defects and physical and
16 mental illnesses and conditions as defined in 42 U.S.C. §
17 1396d(r)(5).

18 4. Approved based on an initial assessment and continuing need
19 reassessments performed by an Independent Assessment Entity
20 (IAE) that does not provide PDN services and authorized in
21 amounts that are medically necessary based on the recipient's
22 medical condition, amount of family assistance available, and
23 other relevant conditions and circumstances, as defined by the
24 Medicaid Clinical Coverage Policy for this service.

25 5. Provided in accordance with a plan of care approved by DMA or
26 its designee.

27 b. Develop and submit to CMS a § 1915(c) Home and Community-Based
28 Services Waiver for individuals dependent on technology to substitute for
29 a vital body function.

30 c. Once approved by CMS and upon approval of the Medicaid Clinical
31 Coverage Policy, transition all qualified recipients age 21 and older
32 currently receiving PDN to waiver services provided under the
33 Technology Dependent Waiver."
34

1 **House Only**

2 **MEDICAID WAIVER FOR ASSISTED LIVING**

3 **SECTION 10.35A.** The Division of Medical Assistance (Division) shall develop a plan
4 for a 1915(c) Home and Community Based Services assisted living waiver in order to continue
5 Medicaid funding of personal care services for individuals living in adult care homes. The plan shall
6 include the following components:

7 (1) All adult care home residents who receive State-County Special Assistance and
8 meet the criteria for nursing facility level of care shall be eligible for
9 participation in the waiver.

10 (2) Waiver services shall be delivered according to the acuity-level of adult care
11 home residents.

12 (3) The Division shall develop a new Medicaid payment methodology for waiver
13 services that shall be associated with the acuity-based service delivery model.

14 On or before January 1, 2011, the Division shall report the plan to the Joint Legislative
15 Commission on Governmental Operations, the Senate Appropriations Committee on Health and
16 Human Services, the House of Representatives Appropriations Subcommittee on Health and Human
17 Services, and the Fiscal Research Division. The Division shall then apply to the Centers for
18 Medicare and Medicaid Services (CMS) for the 1915(c) waiver. If approved by CMS, the Division
19 shall not implement the waiver except as authorized by an act of the General Assembly
20 appropriating funds for this purpose.

1 **House Only**

2 **SENIOR SERVICES: PROJECT C.A.R.E. (CAREGIVER ALTERNATIVES TO**
3 **RUNNING ON EMPTY)**

4 **SECTION 10.35B.** Of the funds appropriated to the Department of Health and Human
5 Services, Division of Aging and Adult Services, for the 2010-2011 fiscal year, the sum of two
6 hundred thousand dollars (\$200,000) in recurring funds shall be used to support Alzheimer's-related
7 activities consistent with the goals of Project Caregiver Alternatives To Running On Empty (Project
8 C.A.R.E.). The Division of Aging and Adult Services shall annually develop and implement a plan
9 for use of these funds and beginning October 1, 2010, and annually thereafter, report the plan to the
10 Governor's Advisory Council on Aging, the North Carolina Study Commission on Aging, and the
11 Fiscal Research Division.

1 **Senate Only**

2 **IMPLEMENT INDEPENDENT ASSESSMENTS ON MENTAL HEALTH SERVICES**

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

7 (1) An initial assessment or a continuing need reassessment is performed by an
8 Independent Assessment Entity (IAE) that is not the provider of the services in
9 question.

10 (2) The IAE authorizes the type and amount of service to be provided based on the
11 specific health condition and needs of the intended recipient of the service.

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

1 **Senate Only**

2 **DHSR ADULT CARE HOME ADMINISTRATOR/MEDICATION AIDE FEES**

3 **SECTION 10.36A.(a)** Part 2 of Article 1 of Chapter 131D is amended by adding the
4 following new section to read:

5 **"§ 131D-4.5A. Fees for medication aides.**

6 The Medical Care Commission may impose a fee, not to exceed twenty-five dollars (\$25.00), on
7 an applicant seeking certification as an adult care home medication aide to cover the costs of testing
8 and materials in administering a certification examination."

9 **SECTION 10.36A.(b)** Article 20A of Chapter 90 of the General Statutes is amended by
10 adding the following new section to read:

11 **"§ 90-288.15A. Fees.**

12 The Department may impose fees not to exceed the following amounts:

13	(1)	<u>Adult Care Home Administrator</u>	
14		<u>Examination Fee</u>	<u>\$50.00</u>
15	(2)	<u>Adult Care Home Administrator Certificate</u>	
16		<u>Renewal Fee</u>	<u>\$30.00 every two years."</u>

Senate and House Differ

Senate Version

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	\$41,235,452
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
08.	Work First – Citizens Schools Program	360,000
09.	Adoption Services – Special Children's Adoption Fund	3,000,000
10.	Family Violence Prevention	2,200,000
11.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
12.	Child Welfare Collaborative	1,129,115
12A.	Children's Home Society	200,000

Division of Child Development

13.	Subsidized Child Care Program	65,843,377
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Division of Public Health

14.	Teen Pregnancy Initiatives	450,000
Department of Public Instruction		
15.	More at Four	16,176,036
DHHS Programs		
16.	Community Services	17,000,000
DHHS Administration		
17.	Division of Social Services	1,093,176
18.	Office of the Secretary	75,392
Transfers to Other Block Grants		
Division of Child Development		
19.	Transfer to the Child Care and Development Fund	84,330,900
Division of Social Services		
20.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	1,750,000
21.	Transfer to Social Services Block Grant for Maternity Homes	943,002
22.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
23.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
24.	Transfer to Social Services Block Grant for Foster Care Services	390,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS		\$359,440,083
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)		
Local Program Expenditures		

Division of Social Services	
01. Work First Family Assistance	\$46,392,544
Division of Child Development	
02. Subsidized Child Care	20,000,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	\$66,392,544
SOCIAL SERVICES BLOCK GRANT	
Local Program Expenditures	
Divisions of Social Services and Aging and Adult Services	
01. County Departments of Social Services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02. State In-Home Services Fund	2,101,113
03. State Adult Day Care Fund	2,155,301
04. Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program	609,455
05. Foster Care Services (Transfer from TANF – \$390,000)	1,997,619
06. Maternity Homes (Transfer from TANF)	943,002
07. Special Children Adoption Incentive Fund	500,000
08. Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	1,750,000
09. Home and Community Care Block Grant (HCCBG)	1,834,077
10. Child Advocacy Centers	375,000
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
11. Mental Health Services Program	422,003
12. Developmental Disabilities Services Program	5,000,000

13.	Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult	3,234,601
	Division of Child Development	
14.	Subsidized Child Care Program	1,156,744
	Division of Vocational Rehabilitation	
15.	Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program	188,263
	Division of Public Health	
16.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
	DHHS Program Expenditures	
	Division of Aging and Adult Services	
17.	UNC-CARES Training Contract	247,920
	Division of Services for the Blind	
18.	Independent Living Program	3,633,077
	Division of Health Service Regulation	
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668
	DHHS Administration	
21.	Division of Aging and Adult Services	688,436
22.	Division of Social Services	892,624
23.	Office of the Secretary/Controller's Office	138,058
24.	Office of the Secretary/DIRM	87,483
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665

27.	Division of Health Service Regulation	235,625
28.	Office of the Secretary-NC Inter-Agency Council for Coordinating Homeless Programs	250,000
29.	Office of the Secretary	48,053
Transfers to Other State Agencies		
Department of Administration		
30.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
Transfers to Other Block Grants		
Division of Public Health		
31.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 60,867,890
LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		
Local Program Expenditures		
Division of Social Services		
01.	Low-Income Energy Assistance Program (LIEAP)	\$ 70,909,401
02.	Crisis Intervention Program (CIP)	40,373,328
Local Administration		
Division of Social Services		
03.	County DSS Administration	6,362,505
DHHS Administration		
04.	Division of Social Services	275,000
05.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	8,128
06.	Office of the Secretary/DIRM	276,784
07.	Office of the Secretary/Controller's Office	12,332

Transfers to Other State Agencies

Department of Commerce

08.	Weatherization Program	500,000
09.	Heating Air Repair and Replacement Program (HARRP)	8,103,157
10.	Local Residential Energy Efficiency Service Providers – Weatherization	25,000
11.	Local Residential Energy Efficiency Service Providers – HARRP	266,375
12.	Department of Commerce Administration – Weatherization	25,000
13.	Department of Commerce Administration – HARRP	266,375
14.	Department of Administration – N.C. State Commission of Indian Affairs	129,807

TOTAL LOW-INCOME HOME ENERGY ASSISTANCE
BLOCK GRANT

\$ 127,533,192

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development

01.	Subsidized Child Care Services (CCDF)	\$153,889,889
02.	Contract Subsidized Child Care Services Support	547,600
03.	Subsidized Child Care Services (Transfer from TANF)	84,330,900
04.	Quality and Availability Initiatives	23,726,564
05.	TEACH	3,800,000

Division of Social Services

06.	Local Subsidized Child Care Services Support	\$19,340,596
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DHHS Administration

Division of Child Development	
07. DCD Administrative Expenses	6,539,277
Division of Central Administration	
08. DHHS Central Administration – DIRM Technical Services	774,317
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	\$292,949,143
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
Local Program Expenditures	
Division of Child Development	
01. Subsidized Child Care Services (CCDF)	\$5,980,997
02. Electronic Benefits Transfer System	4,000,000
DHHS Program Expenditures	
Division of Child Development	
03. Quality and Availability Initiatives	2,904,787
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	\$12,885,784
MENTAL HEALTH SERVICES BLOCK GRANT	
Local Program Expenditures	
01. Mental Health Services – Adult	\$ 5,124,810
02. Mental Health Services	1,731,432
03. Mental Health Services – Child	5,421,991
04. Administration	100,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,378,233
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	

Local Program Expenditures

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

01. Substance Abuse Services – Adult \$ 19,278,310

02. Substance Abuse Services 2,729,770

03. Substance Abuse Treatment Alternative for Women 8,107,303

04. Substance Abuse – HIV and IV Drug 5,116,378

05. Substance Abuse Prevention – Child 7,186,857

06. Substance Abuse Services – Child 4,940,500

07. Institute of Medicine 250,000

08. Administration 250,000

Division of Public Health

09. Risk Reduction Projects 633,980

10. Aid-to-Counties 209,576

TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT \$ 48,702,674

MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

Division of Public Health

01. Children's Health Services 7,534,865

02. Women's Health 7,701,691

03. Oral Health 38,041

DHHS Program Expenditures

Division of Public Health

04. Children's Health Services 1,368,778

05. Women's Health 135,452

06.	State Center for Health Statistics	179,483
07.	Quality Improvement in Public Health	14,646
08.	Health Promotion	88,746
09.	Office of Minority Health	55,250
10.	Immunization Program – Vaccine Distribution	382,648
DHHS Administration		
Division of Public Health		
11.	Division of Public Health Administration	631,966
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		\$ 18,131,566
PREVENTIVE HEALTH SERVICES BLOCK GRANT		
Local Program Expenditures		
Division of Public Health		
01.	NC Statewide Health Promotion	\$1,730,653
02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819
DHHS Program Expenditures		
Division of Public Health		
04.	NC Statewide Health Promotion	1,623,117
05.	Oral Health	70,000
06.	State Laboratory of Public Health	16,600
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,783,301
COMMUNITY SERVICES BLOCK GRANT		
Local Program Expenditures		
Office of Economic Opportunity		

01.	Community Action Agencies	\$ 17,968,944
02.	Limited Purpose Agencies	998,275
DHHS Administration		
03.	Office of Economic Opportunity	998,274
TOTAL COMMUNITY SERVICES BLOCK GRANT		\$ 19,965,493
COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)		
Local Program Expenditures		
Office of Economic Opportunity		
01.	Community Action Agencies	\$ 10,000,000
TOTAL COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)		\$ 10,000,000

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

If the Congress of the United States decreases 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 Health and Human Services from the amounts appropriated in this section, the

1 Department shall reduce State administration by at least the percentage of the reduction in federal
2 funds. After determining the State administration, the remaining reductions shall be allocated
3 proportionately across the program and activity appropriations identified for that Block Grant in this
4 section. The Office of State Budget and Management shall report on these changes.

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

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

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

25 26 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

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

31 **SECTION 10.37.(g)** The sum of two million two hundred thousand dollars
32 (\$2,200,000) appropriated under this section in TANF funds to the Department of Health and
33 Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to provide
34 domestic violence services to Work First recipients. These funds shall be used to provide domestic
35 violence counseling, support, and other direct services to clients. These funds shall not be used to
36 establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social
37 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to support one
38 administrative position within the Division of Social Services to implement this subsection.

39 Each county department of social services and the local domestic violence shelter
40 program serving the county shall develop jointly a plan for utilizing these funds. The plan shall
41 include the services to be provided and the manner in which the services shall be delivered. The
42 county plan shall be signed by the county social services director or the director's designee and the
43 domestic violence program director or the director's designee and submitted to the Division of
44 Social Services by December 1, 2010. The Division of Social Services, in consultation with the
45 Council for Women, shall review the county plans and shall provide consultation and technical
46 assistance to the departments of social services and local domestic violence shelter programs, if
47 needed.

48 The Division of Social Services shall allocate these funds to county departments of
49 social services according to the following formula: (i) each county shall receive a base allocation of
50 five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of the remaining

1 funds based on the county's proportion of the statewide total of the Work First caseload as of July 1,
2 2010, and the county's proportion of the statewide total of the individuals receiving domestic
3 violence services from programs funded by the Council for Women as of July 1, 2010. The Division
4 of Social Services may reallocate unspent funds to counties that submit a written request for
5 additional funds.

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

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

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

35 **SECTION 10.37.(k)** The sum of four hundred thousand dollars (\$400,000)
36 appropriated in this section to the Department of Health and Human Services, Division of Social
37 Services, in TANF funds for the 2010-2011 fiscal year shall be used to expand after-school
38 programs for at-risk children attending middle school. The Department shall develop and implement
39 a grant program to award funds to community-based programs demonstrating the capacity to reach
40 children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be
41 used for training or administration at the State level. All funds shall be distributed to
42 community-based programs, focusing on those communities where similar programs do not exist in
43 middle schools.

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

49 **SECTION 10.37.(m)** The sum of four hundred forty thousand dollars (\$440,000)
50 appropriated in this section to the Department in TANF funds for the 2010-2011 fiscal year shall be

transferred to Connect, Inc. Connect, Inc., shall report on the number of people served and the services received as a result of the receipt of funds. The report shall contain expenditure data, including the amount of funds used for administration and direct training. The report shall also include the number of people who have been employed as a direct result of services provided by Connect, Inc., including the length of employment in the new position. The Department of Health and Human Services shall evaluate the program and ensure that services provided are not duplicative of local employment security commissions in the nine counties served by Connect, Inc. The evaluation report shall be submitted 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 no later than May 1, 2011.

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

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

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

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

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS

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

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

1 **SOCIAL SERVICES BLOCK GRANT**

2 **SECTION 10.37.(t)** Social Services Block Grant funds appropriated to the North
3 Carolina Inter-Agency Council for coordinating homeless programs, child medical evaluations, and
4 community services provided by Children's Advocacy Centers are exempt from the provisions of
5 10A NCAC 71R .0201(3).

6 **SECTION 10.37.(u)** The sum of one million seven hundred fifty thousand dollars
7 (\$1,750,000) appropriated in this section in the Social Services Block Grant to the Department of
8 Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used
9 to support various child welfare training projects as follows:

10 (1) Provide a regional training center in southeastern North Carolina.

11 (2) Provide training for residential child caring facilities.

12 (3) Provide for various other child welfare training initiatives.

13 **SECTION 10.37.(v)** The sum of nine hundred forty-three thousand two dollars
14 (\$943,002) appropriated in this section to the Department of Health and Human Services in the
15 Social Services Block Grant for the 2010-2011 fiscal year shall be used to support maternity home
16 services.

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

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

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

27 **SECTION 10.37.(z)** The sum of three hundred seventy-five thousand dollars
28 (\$375,000) appropriated in this section in the Social Services Block Grant for the 2010-2011 fiscal
29 year shall be allocated to the Division of Social Services to support community services provided by
30 Children's Advocacy Centers on behalf of children who are victims of child abuse.

31 **SECTION 10.37.(aa)** The sum of four hundred twenty-two thousand three dollars
32 (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of
33 Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used
34 to continue a Mental Health Services Program for children.

35
36 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

37 **SECTION 10.37.(bb)** Additional emergency contingency funds received may be
38 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
39 consultation with the Joint Legislative Commission on Governmental Operations. Additional funds
40 received shall be reported to the Joint Legislative Commission on Governmental Operations and the
41 Fiscal Research Division upon notification of the award. The Department of Health and Human
42 Services shall not allocate funds for any activities, including increasing administration, other than
43 assistance payments, without prior consultation with the Joint Legislative Commission on
44 Governmental Operations.

45
46 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

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

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

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

11 12 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

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

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

33 The Institute shall make an interim report to the Governor's Office, the Joint Legislative
34 Health Care Oversight Committee, and the Joint Legislative Oversight Committee on Mental
35 Health, Developmental Disabilities, and Substance Abuse Services no later than January 15, 2010,
36 which may include recommendations and proposed legislation, and shall issue its final report with
37 findings, recommendations, and suggested legislation to the 2011 General Assembly upon its
38 convening. In the event members of the General Assembly serve on the NCIOM Health Access
39 Study Group, they shall receive per diem, subsistence, and travel allowances in accordance with
40 G.S. 120-3.1. The Health Access Study Group may include in its study the matters contained in
41 Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal health-related
42 legislation to determine how the legislation would impact costs, quality, and access to health care.

43 44 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

45 **SECTION 10.37.(gg)** If federal funds are received under the Maternal and Child Health
46 Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. §
47 710), for the 2010-2011 fiscal year, then those funds shall be transferred to the State Board of
48 Education to be administered by the Department of Public Instruction. The Department of Public
49 Instruction shall use the funds to establish an abstinence until marriage education program and shall
50 delegate to one or more persons the responsibility of implementing the program and

1 G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly
2 follow federal guidelines in implementing and administering the abstinence education grant funds.
3 **SECTION 10.37.(hh)** The Department of Health and Human Services shall ensure that
4 there will be follow-up testing in the Newborn Screening Program.
5

House Version

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	\$78,047,502
02.	Work First County Block Grants	94,453,315
03.	Work First Electing Counties	2,378,213
04.	Work First – Boys and Girls Clubs	2,000,000
05.	Work First – After-School Services for At-Risk Children	2,000,000
06.	Work First – After-School Programs for At-Risk Youth in Middle Schools	550,000
07.	Work First – Connect, Inc. (Work Central)	1,000,000
08.	Work First – Citizens Schools Program	360,000
09.	Adoption Services – Special Children's Adoption Fund	3,000,000
10.	Family Violence Prevention	2,200,000
11.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
12.	Child Welfare Collaborative	1,129,115
12A.	Children's Home Society	200,000

Division of Child Development

13.	Subsidized Child Care Program	61,087,077
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Division of Public Health

14.	Teen Pregnancy Initiatives	450,000
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DHHS Administration

15. Division of Social Services 1,093,176

16. Office of the Secretary 75,392

Transfers to Other Block Grants

Division of Child Development

17. Transfer to the Child Care and Development Fund 84,330,900

Division of Social Services

18. Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties 2,300,000

19. Transfer to Social Services Block Grant for Maternity Homes 943,002

20. Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives 2,500,000

21. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services 4,500,000

22. Transfer to Social Services Block Grant for Foster Care Services 390,000

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS \$359,440,083

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Local Program Expenditures

Division of Social Services

01. Work First Family Assistance \$ 9,780,494

Division of Child Development

02. Subsidized Child Care 23,625,329

Department of Public Instruction

03.	More at Four	32,986,721
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)		
EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE		
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)		\$66,392,544
SOCIAL SERVICES BLOCK GRANT		
Local Program Expenditures		
Divisions of Social Services and Aging and Adult Services		
01.	County Departments of Social Services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02.	State In-Home Services Fund	2,101,113
03.	State Adult Day Care Fund	2,155,301
04.	Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program	609,455
05.	Foster Care Services (Transfer from TANF – \$390,000)	2,372,619
06.	Maternity Homes (Transfer from TANF)	943,002
07.	Special Children Adoption Incentive Fund	500,000
08.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	2,300,000
09.	Home and Community Care Block Grant (HCCBG)	1,834,077
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
10.	Mental Health Services Program	422,003
11.	Developmental Disabilities Services Program	5,000,000
12.	Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult	3,234,601
Division of Child Development		
13.	Subsidized Child Care Program	1,156,744

1	Division of Vocational Rehabilitation	
2		
3	14. Vocational Rehabilitation Services – Easter Seal Society/UCP	
4	Community Health Program	188,263
5		
6	Division of Public Health	
7		
8	15. Teen Pregnancy Prevention Initiatives	2,500,000
9	(Transfer from TANF)	
10		
11	DHHS Program Expenditures	
12		
13	Division of Aging and Adult Services	
14		
15	16. UNC-CARES Training Contract	247,920
16		
17	Division of Services for the Blind	
18		
19	17. Independent Living Program	3,633,077
20		
21	Division of Health Service Regulation	
22		
23	18. Adult Care Licensure Program	411,897
24		
25	19. Mental Health Licensure and Certification Program	205,668
26		
27	DHHS Administration	
28		
29	20. Division of Aging and Adult Services	688,436
30		
31	21. Division of Social Services	892,624
32		
33	22. Office of the Secretary/Controller's Office	138,058
34		
35	23. Office of the Secretary/DIRM	87,483
36		
37	24. Division of Child Development	15,000
38		
39	25. Division of Mental Health, Developmental	
40	Disabilities, and Substance Abuse Services	29,665
41		
42	26. Division of Health Service Regulation	235,625
43		
44	27. Office of the Secretary-NC Inter-Agency Council	
45	for Coordinating Homeless Programs	250,000
46		
47	28. Office of the Secretary	48,053
48		
49	Transfers to Other State Agencies	
50		

1	Department of Administration	
2		
3	29. NC Commission of Indian Affairs In-Home	
4	Services for the Elderly	203,198
5		
6	Transfers to Other Block Grants	
7		
8	Division of Public Health	
9		
10	30. Transfer to Preventive Health Services Block Grant	
11	for HIV/STD Prevention and Community Planning	145,819
12		
13	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 61,417,890
14		
15	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT	
16		
17	Local Program Expenditures	
18		
19	Division of Social Services	
20		
21	01. Low-Income Energy Assistance Program (LIEAP)	\$ 70,909,401
22		
23	02. Crisis Intervention Program (CIP)	40,373,328
24		
25	Local Administration	
26		
27	Division of Social Services	
28		
29	03. County DSS Administration	6,362,505
30		
31	DHHS Administration	
32		
33	04. Division of Social Services	275,000
34		
35	05. Division of Mental Health, Developmental	
36	Disabilities, and Substance Abuse Services	8,128
37		
38	06. Office of the Secretary/DIRM	276,784
39		
40	07. Office of the Secretary/Controller's Office	12,332
41		
42	Transfers to Other State Agencies	
43		
44	Department of Commerce	
45		
46	08. Weatherization Program	500,000
47		
48	09. Heating Air Repair and Replacement	
49	Program (HARRP)	8,103,157
50		

10.	Local Residential Energy Efficiency Service Providers – Weatherization	25,000
11.	Local Residential Energy Efficiency Service Providers – HARRP	266,375
12.	Department of Commerce Administration – Weatherization	25,000
13.	Department of Commerce Administration – HARRP	266,375
14.	Department of Administration – N.C. State Commission of Indian Affairs	129,807
TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		\$ 127,533,192
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
Local Program Expenditures		
Division of Child Development		
01.	Subsidized Child Care Services (CCDF)	\$153,889,889
02.	Contract Subsidized Child Care Services Support	547,600
03.	Subsidized Child Care Services (Transfer from TANF)	84,330,900
04.	Quality and Availability Initiatives	23,726,564
05.	TEACH	3,800,000
Division of Social Services		
06.	Local Subsidized Child Care Services Support	\$19,340,596
DHHS Administration		
Division of Child Development		
07.	DCD Administrative Expenses	6,539,277
Division of Central Administration		
08.	DHHS Central Administration – DIRM Technical Services	774,317

TOTAL CHILD CARE AND DEVELOPMENT FUND	
BLOCK GRANT	\$292,949,143
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	
Local Program Expenditures	
Division of Child Development	
01. Subsidized Child Care Services (CCDF)	\$5,980,997
02. Electronic Benefits Transfer System	4,000,000
DHHS Program Expenditures	
Division of Child Development	
03. Quality and Availability Initiatives	2,904,787
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	\$12,885,784
MENTAL HEALTH SERVICES BLOCK GRANT	
Local Program Expenditures	
01. Mental Health Services – Adult	\$ 6,706,212
02. Mental Health Services – Child	5,421,991
03. Mental Health Services – UNC School of Medicine, Department of Psychiatry (STEP)	150,000
04. Administration	100,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,378,203
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
Local Program Expenditures	
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
01. Substance Abuse Services – Adult	\$ 22,008,080
02. Substance Abuse Treatment Alternative for Women	8,107,303

03.	Substance Abuse – HIV and IV Drug	5,116,378
04.	Substance Abuse Prevention – Child	7,186,857
05.	Substance Abuse Services – Child	4,940,500
06.	Institute of Medicine	250,000
07.	Administration	250,000
	Division of Public Health	
08.	Risk Reduction Projects	633,980
09.	Aid-to-Counties	209,576
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		\$ 48,702,674
MATERNAL AND CHILD HEALTH BLOCK GRANT		
Local Program Expenditures		
	Division of Public Health	
01.	Children's Health Services	7,534,865
02.	Women's Health	7,701,691
03.	Oral Health	38,041
DHHS Program Expenditures		
	Division of Public Health	
04.	Children's Health Services	1,368,778
05.	Women's Health	135,452
06.	State Center for Health Statistics	179,483
07.	Quality Improvement in Public Health	14,646
08.	Health Promotion	88,746
09.	Office of Minority Health	55,250
10.	Immunization Program – Vaccine Distribution	382,648

DHHS Administration	
Division of Public Health	
11. Division of Public Health Administration	631,966
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 18,131,566
PREVENTIVE HEALTH SERVICES BLOCK GRANT	
Local Program Expenditures	
Division of Public Health	
01. NC Statewide Health Promotion	\$1,730,653
02. Services to Rape Victims	197,112
03. HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819
DHHS Program Expenditures	
Division of Public Health	
04. NC Statewide Health Promotion	1,623,117
05. Oral Health	70,000
06. State Laboratory of Public Health	16,600
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$3,783,301
COMMUNITY SERVICES BLOCK GRANT	
Local Program Expenditures	
Office of Economic Opportunity	
01. Community Action Agencies	\$ 17,968,944
02. Limited Purpose Agencies	998,275
DHHS Administration	
03. Office of Economic Opportunity	998,274
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 19,965,493

1 COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH
2 THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

3
4 Local Program Expenditures

5
6 Office of Economic Opportunity

7
8 01. Community Action Agencies \$ 10,000,000

9
10 TOTAL COMMUNITY SERVICES BLOCK GRANT
11 RECEIVED THROUGH THE AMERICAN RECOVERY
12 AND REINVESTMENT ACT (ARRA) \$ 10,000,000

13
14 **GENERAL PROVISIONS**

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

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

29 **SECTION 10.37.(c)** Changes in Federal Fund Availability. – If the Congress of the
30 United States increases the federal fund availability for any of the Block Grants or contingency
31 funds and other grants related to existing Block Grants administered by the Department of Health
32 and Human Services from the amounts appropriated in this section, the Department shall allocate
33 the increase proportionally across the program and activity appropriations identified for that Block
34 Grant in this section. In allocating an increase in federal fund availability, the Office of State
35 Budget and Management shall not approve funding for new programs or activities not appropriated
36 in this section.

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

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

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

4 **SECTION 10.37.(e)** All changes to the budgeted allocations to the Block Grants or
5 contingency funds and other grants related to existing Block Grants administered by the Department
6 of Health and Human Services that are not specifically addressed in this section shall be approved
7 by the Office of State Budget and Management, and the Office of State Budget and Management
8 shall consult with the Joint Legislative Commission on Governmental Operations for review prior to
9 implementing the changes. The report shall include an itemized listing of affected programs,
10 including associated changes in budgeted allocations. All changes to the budgeted allocations to the
11 Block Grants shall be reported immediately to the House of Representatives Appropriations
12 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and
13 Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant
14 changes caused by legislative salary increases and benefit adjustments.

15 16 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

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

21 **SECTION 10.37.(g)** The sum of two million two hundred thousand dollars
22 (\$2,200,000) appropriated under this section in TANF funds to the Department of Health and
23 Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to provide
24 domestic violence services to Work First recipients. These funds shall be used to provide domestic
25 violence counseling, support, and other direct services to clients. These funds shall not be used to
26 establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social
27 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to support one
28 administrative position within the Division of Social Services to implement this subsection.

29 Each county department of social services and the local domestic violence shelter
30 program serving the county shall develop jointly a plan for utilizing these funds. The plan shall
31 include the services to be provided and the manner in which the services shall be delivered. The
32 county plan shall be signed by the county social services director or the director's designee and the
33 domestic violence program director or the director's designee and submitted to the Division of
34 Social Services by December 1, 2010. The Division of Social Services, in consultation with the
35 Council for Women, shall review the county plans and shall provide consultation and technical
36 assistance to the departments of social services and local domestic violence shelter programs, if
37 needed.

38 The Division of Social Services shall allocate these funds to county departments of
39 social services according to the following formula: (i) each county shall receive a base allocation of
40 five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of the remaining
41 funds based on the county's proportion of the statewide total of the Work First caseload as of July 1,
42 2010, and the county's proportion of the statewide total of the individuals receiving domestic
43 violence services from programs funded by the Council for Women as of July 1, 2010. The Division
44 of Social Services may reallocate unspent funds to counties that submit a written request for
45 additional funds.

46 **SECTION 10.37.(h)** The sum of two million dollars (\$2,000,000) appropriated in this
47 section in TANF funds to the Department of Health and Human Services, Division of Social
48 Services, for the 2010-2011 fiscal year shall be used to expand after-school programs and services
49 for at-risk children. The Department shall develop and implement a grant program to award grants
50 to community-based programs that demonstrate the ability to reach children at risk of teen

1 pregnancy, school dropout, and gang participation. The Department shall award grants to
2 community-based organizations that demonstrate the ability to develop and implement linkages
3 with local departments of social services, area mental health programs, schools, and other human
4 services programs in order to provide support services and assistance to the child and family. These
5 funds may be used to fund one position within the Division of Social Services to coordinate at-risk
6 after-school programs and shall not be used for other State administration.

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

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

24 **SECTION 10.37.(k)** The sum of five hundred fifty thousand dollars (\$550,000)
25 appropriated in this section to the Department of Health and Human Services, Division of Social
26 Services, in TANF funds for the 2010-2011 fiscal year shall be used to expand after-school
27 programs for at-risk children attending middle school. The Department shall develop and implement
28 a grant program to award funds to community-based programs demonstrating the capacity to reach
29 children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be
30 used for training or administration at the State level. All funds shall be distributed to
31 community-based programs, focusing on those communities where similar programs do not exist in
32 middle schools.

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

38 **SECTION 10.37.(m)** The sum of one million dollars (\$1,000,000) appropriated in this
39 section to the Department in TANF funds for the 2010-2011 fiscal year shall be transferred to
40 Connect, Inc. Connect, Inc., shall report on the number of people served and the services received
41 as a result of the receipt of funds. The report shall contain expenditure data, including the amount of
42 funds used for administration and direct training. The report shall also include the number of people
43 who have been employed as a direct result of services provided by Connect, Inc., including the
44 length of employment in the new position. The Department of Health and Human Services shall
45 evaluate the program and ensure that services provided are not duplicative of local employment
46 security commissions in the nine counties served by Connect, Inc. The evaluation report shall be
47 submitted to the House of Representatives Appropriations Subcommittee on Health and Human
48 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal
49 Research Division no later than May 1, 2011.

1 **SECTION 10.37.(n)** The sum of two million dollars (\$2,000,000) appropriated in this
2 section to the Department in TANF funds for Boys and Girls Clubs for the 2010-2011 fiscal year
3 shall be used to make grants for approved programs. The Department of Health and Human
4 Services, in accordance with federal regulations for the use of TANF funds, shall administer a grant
5 program to award funds to the Boys and Girls Clubs across the State in order to implement
6 programs that improve the motivation, performance, and self-esteem of youths and to implement
7 other initiatives that would be expected to reduce gang participation, school dropout, and teen
8 pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and
9 Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit
10 joint applications for the funds if appropriate.

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

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

20 21 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY** 22 **CONTINGENCY FUNDS**

23 **SECTION 10.37.(q)** The sum of twenty-three million six hundred twenty-five thousand
24 three hundred twenty-nine dollars (\$23,625,329) appropriated under this section from TANF
25 Emergency Contingency funds to the Department of Health and Human Services, Division of Child
26 Development, for the 2010-2011 fiscal year shall be used for subsidized child care services.
27 Payment for subsidized child care services provided with TANF Emergency Contingency funds
28 shall comply with all regulations and policies issued by the Division of Child Development for the
29 subsidized child care program.

30 **SECTION 10.37.(r)** The sum of nine million seven hundred eighty thousand four
31 hundred ninety-four dollars (\$9,780,494) appropriated under this section from TANF Emergency
32 Contingency funds to the Department of Health and Human Services, Division of Social Services,
33 for the 2010-2011 fiscal year shall be used to support assistance payments provided under the Work
34 First Family Assistance program.

35 36 **SOCIAL SERVICES BLOCK GRANT**

37 **SECTION 10.37.(s)** Social Services Block Grant funds appropriated to the North
38 Carolina Inter-Agency Council for coordinating homeless programs and child medical evaluations
39 are exempt from the provisions of 10A NCAC 71R .0201(3).

40 **SECTION 10.37.(t)** The sum of two million three hundred thousand dollars
41 (\$2,300,000) appropriated in this section in the Social Services Block Grant to the Department of
42 Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used
43 to support various child welfare training projects as follows:

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

47 **SECTION 10.37.(u)** The sum of nine hundred forty-three thousand two dollars
48 (\$943,002) appropriated in this section to the Department of Health and Human Services in the
49 Social Services Block Grant for the 2010-2011 fiscal year shall be used to support maternity home
50 services.

1 **SECTION 10.37.(v)** The sum of two million three hundred seventy-two thousand six
2 hundred nineteen dollars (\$2,372,619) appropriated in this section in the Social Services Block
3 Grant for child caring agencies for the 2010-2011 fiscal year shall be allocated in support of State
4 foster home children.

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

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

11 **SECTION 10.37.(y)** The sum of four hundred twenty-two thousand three dollars
12 (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of
13 Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used
14 to continue a Mental Health Services Program for children.
15

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

17 **SECTION 10.37.(z)** Additional emergency contingency funds received may be
18 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior
19 consultation with the Joint Legislative Commission on Governmental Operations. Additional funds
20 received shall be reported to the Joint Legislative Commission on Governmental Operations and the
21 Fiscal Research Division upon notification of the award. The Department of Health and Human
22 Services shall not allocate funds for any activities, including increasing administration, other than
23 assistance payments, without prior consultation with the Joint Legislative Commission on
24 Governmental Operations.
25

26 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

27 **SECTION 10.37.(aa)** Payment for subsidized child care services provided with federal
28 TANF funds shall comply with all regulations and policies issued by the Division of Child
29 Development for the subsidized child care program.

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

35 **SECTION 10.37.(cc)** If American Recovery and Reinvestment Act of 2009 funds
36 appropriated through the Child Care and Development Fund Block Grant for any program cannot be
37 obligated or spent in that program within the obligation or liquidation periods allowed by the federal
38 grants, the Department may move funds to child care subsidies, unless otherwise prohibited by
39 federal requirements of the grant, in order to use the federal funds fully.
40

41 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

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

- 47 (1) The availability of Medicaid and State-funded mental health, developmental
48 disabilities, and substance abuse services to active duty, reserve, and veteran
49 members of the military and National Guard. The study should discuss the
50 current availability of services, the extent of use, and any gaps in services.

- 1 (2) Issues related to cost, quality, and access to appropriate and affordable health
2 care for all North Carolinians. The North Carolina Institute of Medicine
3 (NCIOM) may use funds appropriated for the 2007-2009 fiscal biennium to
4 continue the work of its Health Access Study Group to study these issues. The
5 Health Access Study Group may include in its study the matters contained in
6 Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal
7 health-related legislation to determine how the legislation would impact costs,
8 quality, and access to health care.
- 9 (3) Short-term and long-term strategies to address issues within adult care homes
10 that provide residence to persons who are frail and elderly and to persons
11 suffering from mental illness.

12 The Institute shall make an interim report to the Governor's Office, the Joint Legislative
13 Health Care Oversight Committee, and the Joint Legislative Oversight Committee on Mental
14 Health, Developmental Disabilities, and Substance Abuse Services no later than January 15, 2011,
15 which may include recommendations and proposed legislation, and shall issue its final report with
16 findings, recommendations, and suggested legislation to the 2011 General Assembly upon its
17 convening. In the event members of the General Assembly serve on the NCIOM Health Access
18 Study Group, they shall receive per diem, subsistence, and travel allowances in accordance with
19 G.S. 120-3.1. The Health Access Study Group may include in its study the matters contained in
20 Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal health-related
21 legislation to determine how the legislation would impact costs, quality, and access to health care.

22 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

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

31 **SECTION 10.37.(ff)** The Department of Health and Human Services shall ensure that
32 there will be follow-up testing in the Newborn Screening Program.
33
34

1 **Senate Only**

2 **FEE INCREASES FOR PESTICIDE DEALERS, PESTICIDE APPLICATORS, AND PEST**
3 **CONTROL CONSULTANTS**

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

5 **"§ 143-440. Restricted use pesticides regulated.**

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

13 (b) The Board may include in any such restricted use regulation the time and conditions of
14 sale, distribution, or use of such restricted use pesticides, may prohibit the use of any restricted use
15 pesticide for designated purposes or at designated times; may require the purchaser or user to certify
16 that restricted use pesticides will be used only as labeled or as further restricted by regulation; may
17 require the certification and recertification of private applicators and, charge a fee of up to ten
18 dollars (\$10.00), with the fee set at a level to make the certification/recertification program
19 self-supporting, and, after opportunity for a hearing, may suspend, revoke or modify the
20 certification for violation of any provision of this Article, or any rule or regulation adopted
21 thereunder; and may, if it deems it necessary to carry out the provisions of this Part, require that any
22 or all restricted use pesticides shall be purchased, possessed, or used only under permit of the Board
23 and under its direct supervision in certain areas and/or under certain conditions or in certain
24 quantities or concentrations except that any person licensed to sell such pesticides may purchase
25 and possess such pesticides without a permit. The Board may require all persons issued such
26 permits to maintain records as to the use of the restricted use pesticides. The Board may authorize
27 the use of restricted use pesticides by persons licensed under the North Carolina Structural Pest
28 Control Act without a permit. A nonrefundable fee of ten dollars (\$10.00) shall be charged for each
29 examination required by this section. This examination fee is in addition to the certification or
30 recertification fee, and any other fee authorized pursuant to any other provision of Article 4C of
31 Chapter 106 of the General Statutes.

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

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

37 **"§ 143-448. Licensing of pesticide dealers; fees.**

38 ...
39 (b) Applications for a pesticide dealer license shall be in the form and shall contain the
40 information prescribed by the Board. Each application shall be accompanied by a non-refundable
41 fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00). All licenses issued under this Part shall
42 expire on December 31 of the year for which they are issued.
43"

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

45 **"§ 143-449. Qualifications for pesticide dealer license; examinations.**

46 ...
47 (b) Each applicant shall satisfy the Board as to his responsibility in carrying on the business
48 of a pesticide dealer. Each applicant for an original license must demonstrate upon written, or
49 written and oral, examination to be prescribed by the Board his knowledge of pesticides, their

1 usefulness and their hazards; his competence as a pesticide dealer; and his knowledge of the laws
2 and regulations governing the use and sale of pesticides. A nonrefundable fee of fifty dollars
3 (\$50.00) shall be charged for each examination required by this section. This examination fee is in
4 addition to any fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the
5 General Statutes.

6"

7 **SECTION 11.1.(d)** G.S. 143-452(b) reads as rewritten:
8 **"§ 143-452. Licensing of pesticide applicators; fees.**

9 ...
10 (b) Applications for pesticide applicator license shall be in the form and shall contain the
11 information prescribed by the Board. Each application shall be accompanied by a non-refundable
12 fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for each pesticide applicator's license. In
13 addition, an annual inspection fee of twenty-five dollars (\$25.00) shall be submitted for each
14 aircraft to be licensed. Should any aircraft fail to pass inspection, making it necessary for a second
15 inspection to be made, the Board shall require an additional twenty-five-dollar (\$25.00) inspection
16 fee. In addition to the required inspection, unannounced inspections may be made without charge to
17 determine if equipment is properly calibrated and maintained in conformance with the laws and
18 regulations. All aircraft licensed to apply pesticides shall be identified by a license plate or decal
19 furnished by the Board at no cost to the licensee, which plate or decal shall be affixed on the aircraft
20 in a location and manner prescribed by the Board. No applicator inspection or license fee, original
21 or renewal, shall be charged to State agencies or local governments or their employees. Inspections
22 of ground pesticide application equipment may be made. Any such equipment determined to be
23 faulty or unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper
24 repairs and/or alterations are made."

25 **SECTION 11.1.(e)** G.S. 143-453 reads as rewritten:
26 **"§ 143-453. Qualifications for pesticide applicator's license; examinations.**

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

30 Those qualifications, in the case of a pilot, shall include at least 125 hours and one year's flying
31 experience as a pilot in the field of aerial pesticide application. A pilot lacking 125 hours and one
32 year's experience as a pilot in the field of aerial pesticide application shall be licensed as an
33 apprentice aerial pesticide applicator pilot. All aerial applications of pesticides by a licensed
34 apprentice shall be conducted under the direct supervision of a licensed pesticide applicator pilot.
35 The supervising pilot, while directly supervising an apprentice, shall operate out of the same airstrip
36 as the apprentice and shall be available periodically throughout each day to provide advice and
37 assistance to the apprentice. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the
38 examination required by this subsection. Such examination fee shall be charged in addition to the
39 fees authorized pursuant to subsection (b) of this section or any other provision of Article 4C of
40 Chapter 106 of the General Statutes.

41 (b) Each applicant shall satisfy the Board as to his knowledge of the laws and regulations
42 governing the use and application of pesticides in the classifications he has applied for (manually or
43 with various equipment that he may have applied for a license to operate), and as to his
44 responsibility in carrying on the business of a pesticide applicator. Each applicant for an original
45 license must demonstrate upon written, or written and oral, examination to be prescribed by the
46 Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide
47 applicator; and his knowledge of the laws and regulations governing the use and application of
48 pesticides in the classification for which he has applied. A nonrefundable fee of fifty dollars
49 (\$50.00) shall be charged for the core examination, and an additional twenty dollars (\$20.00) shall
50 be charged for each additional specific classification licensure. Such examination fees shall be

1 charged in addition to the fees authorized pursuant to subsection (a) of this section or any other
2 provision of Article 4C of Chapter 106 of the General Statutes.

3"

4 **SECTION 11.1.(f)** G.S. 143-455 reads as rewritten:
5 **"§ 143-455. Pest control consultant license.**

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

10 (b) An applicant for a consultant license must present satisfactory evidence to the Board
11 concerning his qualifications for such license. The Board may classify consultant licenses into one
12 or more classifications or subclassifications based upon types of consulting services performed or to
13 be performed. Such classifications and subclassifications may reflect the crops involved in the
14 consulting service, the discipline or training of consultant, the discretion or lack of discretion
15 involved in the consulting service, and the site or location of the service. Each classification and
16 subclassification may be subject to separate testing procedures and requirements, and may be
17 subject to its own minimum standards of training in specialized subject matter from a recognized
18 college or university, or equivalent specialized consulting experience or training. A nonrefundable
19 fee of fifty dollars (\$50.00) shall be charged for the consultant examination, and an additional
20 twenty dollars (\$20.00) shall be charged for each additional specific classification licensure
21 permitted by this subsection. Such examination fee shall be charged in addition to the fees
22 authorized pursuant to subsection (a) of this section or any other provision of Article 4C of Chapter
23 106 of the General Statutes. Qualifications for licensing may be less stringent if the licensee is
24 restricted to making recommendations contained in publications recognized by the Board as
25 appropriate for a specific consulting classification or subclassification.

26"

1 **Senate Only**

2 **STRUCTURAL PEST CONTROL ACT FEE INCREASES**

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

4 **"§ 106-65.27. Examinations of applicants; fee; license not transferable.**

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

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

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

28 (b) License. – Each applicant for an original license must demonstrate upon written
29 examination, to be provided and administered by the Committee, his competency as a structural pest
30 control operator for the phase or subphase in which he is applying for a license. Frequency of such
31 examinations shall be at the discretion of the Committee, provided that a minimum of two
32 examinations shall be given annually. The examination will cover each phase or subphase of
33 structural pest control for which application is being made. All applicants for a license shall register
34 with the Division on a prescribed form. A license examination fee of ~~twenty-five dollars~~
35 ~~(\$25.00)~~ fifty dollars (\$50.00) shall be charged for each phase or subphase of structural pest control
36 in which the applicant chooses to be examined. An examination for more than one phase or
37 subphase of structural pest control may be taken at the same time.

38"

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

40 **"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen,**
41 **salesmen, solicitors, and estimators; identification cards.**

42 (a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a certified
43 applicator's identification card shall be ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). Within 75 days
44 after the employment of a certified applicator, the licensee shall apply to the Division for the
45 issuance of a certified applicator's identification card. A certified applicator's identification card
46 shall expire on June 30 of each year and shall be renewed annually. All certified applicators who
47 fail or neglect to renew their card on or before June 30 but make application before January 1 of the
48 following year may have their card renewed without having to be reexamined unless the applicant is
49 scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3).

1 All applicants submitting applications for the renewal of their cards after June 30 shall not use or
2 supervise the use of restricted use pesticides until a new card has been issued.

3 Any certified applicator whose employment is terminated with a licensee or agent prior to the
4 end of any license year may at any time prior to the end of the license year be reissued a certified
5 applicator's identification card for the remainder of the license year as an employee of another
6 licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee shall notify the
7 Division of the termination or change in status of any certified applicator.

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

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

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

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

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

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

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

46"

Senate Only

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

SECTION 11.3.(a) All functions, powers, duties, and obligations previously vested in the Grade "A" Milk Sanitation Program within the Division of Environmental Health of the Department of Environment and Natural Resources are transferred to and vested in the Food and Drug Protection Division of the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

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

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

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

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

"§ 106-266.30. Definitions.

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

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

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

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

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

Administration 1978 Pasteurized Milk Ordinance, ~~and any amendment thereto~~ Ordinance, as amended."

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

"§ 106-266.32. Permits required.

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

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

"§ 106-266.33. Duties of the Department.

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

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

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

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

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

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

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

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

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

"§ 106-143. Article construed supplementary.

Nothing in this Article shall be construed as in any way amending, abridging, or otherwise affecting the validity of any law or ordinance relating to the Commission for Public Health or the Department of Environment and Natural Resources or any local health department in their sanitary

1 work in connection with public and private water supplies, sewerage, meat, ~~milk~~, milk products,
2 shellfish, finfish, or other foods, or food products, or the production, handling, or processing of
3 these items."

Senate Only

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

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

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

SECTION 11.4.(c) G.S. 90A-61 reads as rewritten:

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

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

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

SECTION 11.4.(d) G.S. 19A-62 reads as rewritten:

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

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

- (1) The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a rabies vaccination tag from the Department of ~~Health and Human Services~~Agriculture and Consumer Services.
- (2) Ten dollars (\$10.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.
- (3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. – The revenue in the Account shall be used by the Department of ~~Health and Human Services~~Agriculture and Consumer Services as follows:

- (1) If the revenue generated by the portion of the fee imposed under G.S. 130A-190(b)(3) is less than forty-seven thousand five hundred dollars (\$47,500) for the fiscal year, then funds up to the difference between forty-seven thousand five hundred dollars (\$47,500) and the amount of revenue generated may be used from this Account to fund rabies education and prevention programs.

1 (2) Twenty percent (20%) shall be used to develop and implement the statewide
2 education program component of the Spay/Neuter Program established in
3 ~~G.S. 19A-61(a)~~G.S. 19A-61.

4 (3) Up to twenty percent (20%) of the money in the Account may be used to defray
5 the costs of administering the Spay/Neuter Program established in this Article.

6 (4) Funds remaining after deductions for the education program and administrative
7 expenses shall be distributed quarterly to eligible counties and cities seeking
8 reimbursement for reduced-cost spay/neuter surgeries performed during the
9 previous year. A county or city is ineligible to receive funds under this
10 subdivision unless it requires the owner to show proof of rabies vaccination at the
11 time of the procedure or, if none, require vaccination at the time of the procedure.

12 (c) Report. – ~~In February of each year~~By October 1 of each year, the Department must
13 report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research
14 Division. The report must contain information regarding all revenues and expenditures of the
15 Spay/Neuter Account."

16 **SECTION 11.4.(e)** G.S. 19A-64(b) reads as rewritten:
17 "(b) Application. – A county or city eligible for reimbursement of spaying and neutering
18 costs from the Spay/Neuter Account shall apply to the Department of ~~Health and Human~~
19 ~~Services~~Agriculture and Consumer Services by the last day of January, April, July, and October of
20 each year to receive a distribution from the Account for that quarter. The application shall be
21 submitted in the form required by the Department and shall include an itemized listing of the costs
22 for which reimbursement is sought."

23 **SECTION 11.4.(f)** G.S. 19A-65 reads as rewritten:
24 **"§ 19A-65. Annual Report Required From Every Animal Shelter in Receipt of State or Local**
25 **Funding.**
26 Every county or city animal shelter, or animal shelter operated under contract with a county or
27 city or otherwise in receipt of State or local funding shall prepare an annual report setting forth the
28 numbers, by species, of animals received into the shelter, the number adopted out, the number
29 returned to owner, and the number destroyed. The report shall also contain the total operating
30 expenses of the shelter and the cost per animal handled. The report shall be filed with the
31 Department of ~~Health and Human Services~~Agriculture and Consumer Services by August 1 of each
32 year."

1 **Senate Only**

2 **DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM**

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

4 **"§ 94-12. Fees.**

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

Senate and House Differ

Senate Version

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **SECTION 13.1.(g)** The Revisor of Statutes shall make any other conforming statutory
18 changes necessary to reflect the transfer under subsection (a) of this section that are not included in
19 this section.
20

1 **House Version**

2 **CONSOLIDATE ~~THREE~~ DENR SUBUNITS WITHIN THE NEW DIVISION OF**
3 **ENVIRONMENTAL ASSISTANCE AND OUTREACH**

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

10 (1) The Customer Service Center.

11 (2) The Division of Pollution Prevention and Environmental Assistance.

12 (3) The Small Business Ombudsman.

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

14 "(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit,
15 on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages
16 permit shall prepare and submit with the application a plan for the collection and recycling of all
17 recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who
18 is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage
19 Control Commission for a one-year stay of the requirement to implement a recycling program in
20 compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the
21 Commission, shall detail the efforts made by the permittee to provide for the collection and
22 recycling of beverage containers, and shall specify the impediments to implementation of a
23 recycling plan. The Commission shall submit all such applications to the Division of ~~Pollution~~
24 ~~Prevention and~~ Environmental Assistance and Outreach of the Department of Environment and
25 Natural Resources for review and certification. The Division of ~~Pollution Prevention and~~
26 Environmental Assistance and Outreach shall investigate each application and prepare a summary
27 of its investigation and shall submit the summary to the Commission along with a notation
28 indicating certification or denial of the application. A permittee whose application for a stay is
29 certified by the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach shall
30 not be required to comply with the recycling requirement of the alcoholic beverage laws and
31 regulations during the one-year stay period so certified."

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

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

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

36 "(2) The Department may use up to forty percent (40%) of the revenue in the Account
37 to make grants to encourage the use of processed scrap tire materials. These
38 grants may be made to encourage the use of tire-derived fuel, crumb rubber,
39 carbon black, or other components of tires for use in products such as fuel, tires,
40 mats, auto parts, gaskets, flooring material, or other applications of processed tire
41 materials. These grants shall be made in consultation with the Department of
42 Commerce, the Division of ~~Pollution Prevention and~~ Environmental Assistance
43 and Outreach of the Department, and, where appropriate, the Department of
44 Transportation. Grants to encourage the use of processed scrap tire materials
45 shall not be used to process tires."

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

47 "(g) On or before October 1 of each year, the Department shall report to the Division of
48 ~~Pollution Prevention and~~ Environmental Assistance and Outreach of the Department of
49 Environment and Natural Resources as to the amounts and types of recycled materials that were

1 specified or used in contracts that were entered into during the previous fiscal year. On or before
2 December 1 of each year, the Division of ~~Pollution Prevention and~~ Environmental Assistance and
3 Outreach shall prepare a summary of this report and submit the summary to the Joint Legislative
4 Commission on Governmental Operations and the Joint Legislative Transportation Oversight
5 Committee. The summary of this report shall also be included in the report required by
6 G.S. 130A-309.06(c)."

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

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

13 **SECTION 13.1.(g)** The Revisor of Statutes shall make any other conforming statutory
14 changes necessary to reflect the transfer under subsection (a) of this section that are not included in
15 this section.
16

House Only

**CONSOLIDATE TWO DENR OFFICES INTO NEW OFFICE OF ENVIRONMENTAL
EDUCATION AND PUBLIC AFFAIRS**

SECTION 13.1A.(a) The Office of Environmental Education and Public Affairs is established as a new office within the administrative area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following offices of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Office of Environmental Education and Public Affairs by a Type I transfer, as defined in G.S. 143A-6:

(1) North Carolina Office of Environmental Education.

(2) Office of Public Affairs.

SECTION 13.1A.(b) The title of Part 4B of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 4B. Office of Environmental ~~Education~~ Education and Public Affairs."

SECTION 13.1A.(c) G.S. 143B-285.22 reads as rewritten:

"§ 143B-285.22. Creation.

There is hereby created ~~a North Carolina~~ the Office of Environmental Education and Public Affairs (hereinafter referred to as "Office") within the Department of Environment and Natural Resources."

SECTION 13.1A.(d) G.S. 143B-285.23 reads as rewritten:

"§ 143B-285.23. Powers and duties of the Secretary of Environment and Natural Resources.

The Secretary of Environment and Natural Resources shall:

(1) Establish an Office of Environmental Education and Public Affairs to:

a. Serve as a clearinghouse of environmental information for the State.

...

...."

SECTION 13.1A.(e) The catch line of G.S. 143B-285.25 reads as rewritten:

**"§ 143B-285.25. Liaison between the Office of Environmental Education and Public Affairs
and the Department of Public Instruction."**

SECTION 13.1A.(f) The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the transfers under subsection (a) of this section.

1 **House Only**

2 **CONSOLIDATE TWO SUBUNITS IN DENR IN THE OFFICE OF THE SECRETARY OF**
3 **ENVIRONMENT AND NATURAL RESOURCES**

4 **SECTION 13.1B.** All functions, powers, duties, and obligations previously vested in
5 the following subunits of the Department of Environment and Natural Resources are transferred to,
6 vested in, and consolidated within the Office of the Secretary of Environment and Natural
7 Resources by a Type I transfer, as defined in G.S. 143A-6:

- 8 (1) Office of Conservation and Community Affairs.
9 (2) Natural Resources Planning and Conservation.

Senate Only

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

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

(1) Environmental Health Services Section.

(2) Public Health Pest Management Section.

(3) On-Site Water Protection Section.

(4) Radiation Protection Section.

(5) Office of Education and Training.

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

"§ 90A-51. Definitions.

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

...

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

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

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

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

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

1 ~~Environment and Natural Resources~~ Health and Human Services and the local health director
2 recommended by the North Carolina Local Health Directors Association."

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

4 **"§ 90A-71. Definitions.**

5 The following definitions apply in this Article:

- 6 (1) "Board" means the North Carolina On-Site Wastewater Contractors and
7 Inspectors Certification Board.
- 8 (2) "Contractor" means a person who constructs, installs, or repairs, or offers to
9 construct, install, or repair an on-site wastewater system in the State.
- 10 (3) "Conventional wastewater system" has the same meaning as in
11 G.S. 130A-343(a)(3).
- 12 (4) "Department" means the Department of ~~Environment and Natural~~
13 ~~Resources~~ Health and Human Services.
- 14 (5) "Inspector" means a person who conducts an inspection ~~of an on-site wastewater~~
15 ~~system at any time after the local health department has issued an operation~~
16 ~~permit pursuant to G.S. 130A-337 in accordance with rules adopted by the~~
17 ~~Board.~~
- 18 (5a) "Inspection" means an examination of an on-site wastewater system permitted
19 under the provisions of Article 11 of Chapter 130A of the General Statutes that
20 satisfies all of the following criteria:
- 21 a. Is requested by a lending institution, realtor, prospective homebuyer, or
22 other impacted party as a condition of sale, refinancing, or transfer of
23 title.
- 24 b. Meets the minimum requirements established by the Board.
- 25 (6) "On-site wastewater system" means any wastewater system permitted under the
26 provisions of Article 11 of Chapter 130A of the General Statutes that does not
27 discharge to a treatment facility or the surface waters of the State.
- 28 (7) "Person" means all persons, including individuals, firms, partnerships,
29 associations, public or private institutions, municipalities, or political
30 subdivisions, governmental agencies, or private or public corporations organized
31 and existing under the laws of this State or any other state or country.
- 32 (8) "Wastewater treatment facility" means a mechanical or chemical treatment
33 facility serving a site with multiple wastewater sources."

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

35 **"§ 90A-72. Certification required; applicability.**

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

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

- 44 (1) A person who is employed ~~by, or performs labor and services for, by~~ a certified
45 contractor or inspector in connection with the construction, installation, repair, or
46 inspection of an on-site wastewater system performed under the direct and
47 personal supervision of the certified contractor or ~~inspector~~ inspector in charge.
- 48 (2) A person who constructs, installs, or repairs an on-site wastewater system
49 described as a single septic tank with a gravity-fed ~~distribution system~~ gravel
50 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.
- (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a licensed public utilities contractor who is installing or expanding a wastewater treatment facility, including a collection system, designed by a registered professional engineer.
- (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes, so long as the plumber is not performing plumbing work that includes the installation or repair of a septic tank or similar depository, or lines or appurtenances downstream from the point where the house or building sewer lines from the plumbing system meet the septic tank or similar depository.
- (8) A person employed by the Department of Health and Human Services, a local health department, or a local health district, when conducting a regulatory inspection of an on-site wastewater system for purposes of determining compliance."

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

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

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

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

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

The Board shall have the following general powers and duties:

...

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

...

- (10a) To employ staff necessary to carry out the provisions of this Article and to determine the compensation, duties, and other terms and conditions of employment of its staff.
- (10b) To employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.
- (11) To conduct other services necessary to carry out the purposes of this Article."

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

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

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

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

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

7 (1) Is at least 18 years of age.

8 (2) Submits a properly completed application to the Board.

9 (3) ~~If the applicant has prior experience providing on-site wastewater system~~
10 ~~services, submits affidavits of three persons not related to the applicant for whom~~
11 ~~the applicant provided on-site wastewater services.~~Completes the basic on-site
12 wastewater education program approved by the Board for the specific grade
13 level.

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

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

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

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

23 a. Principles of public and environmental health associated with on-site
24 wastewater systems.

25 b. Principles of construction and safety.

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

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

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

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

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

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

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

47 "**§ 104E-5. Definitions.**

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

50 ...

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

...."

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

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

...

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

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

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

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

...

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

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

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

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

"§ 120-70.33. Powers and duties.

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

...

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

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

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

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

Senate Only

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

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

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

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

1 **Senate Only**

2 **CONSOLIDATE PUBLIC WATER SUPPLY SECTION WITHIN DIVISION OF WATER**
3 **RESOURCES**

4 **SECTION 13.4.(a)** The Public Water Supply Section of the Division of Environmental
5 Health of the Department of Environment and Natural Resources is transferred to, vested in, and
6 consolidated within the Division of Water Resources of the Department of Environment and Natural
7 Resources by a Type I transfer, as defined in G.S. 143A-6.

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

1 **Senate Only**

2 **SUSTAINABLE COMMUNITIES TASK FORCE**

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

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

6 **"§ 143B-344.34. North Carolina Sustainable Communities Task Force – findings.**

7 (a) The General Assembly finds that the rapid growth of the urban and suburban areas of
8 North Carolina and the economic challenges facing many of the State's urban cores, rural areas, and
9 smaller communities create a significant need for the strategic use of resources to plan and
10 accommodate healthy and equitable development without compromising natural systems and the
11 needs of future generations of North Carolinians.

12 (b) The General Assembly finds that the following principles describe sustainable
13 development for North Carolina's communities:

- 14 (1) Better transportation choices. – Offering safe, reliable, and economical motorized
15 and nonmotorized transportation options to decrease household transportation
16 costs, reduce dependence on foreign oil, improve air quality, reduce greenhouse
17 gas emissions, and promote public health.
- 18 (2) Equitable, affordable housing. – Encouraging the provision to North Carolina
19 citizens of all ages, incomes, races, and ethnicities expanded location-, water-,
20 and energy-efficient housing choices that increase mobility, decrease the impact
21 on existing water and energy infrastructure, and lower the combined cost of
22 housing and transportation.
- 23 (3) Enhanced economic competitiveness. – Expanding business access to markets
24 and improving North Carolina's economic competitiveness through reliable and
25 timely access to employment centers, educational opportunities, services, and
26 other basic needs by workers.
- 27 (4) Support of existing communities. – Targeting public funds toward existing
28 communities that are using strategies such as transit-oriented, mixed-use
29 development, and land recycling to increase community revitalization, enhance
30 the efficiency and cost-effectiveness of public works investments, and protect
31 rural landscapes.
- 32 (5) Coordination and leverage of State policies and investment. – Aligning State and
33 local government policies and funding to remove barriers to collaboration,
34 leverage funding, and increase the accountability and effectiveness of
35 government in planning for future growth.
- 36 (6) Recognize and support communities and neighborhoods. – Preserving and
37 enhancing the unique characteristics of rural, urban, and suburban communities
38 by investing in healthy, safe, and walkable neighborhoods.

39 **"§ 143B-344.35. North Carolina Sustainable Communities Task Force – creation; purpose;**
40 **duties.**

41 There is created within the Department of Environment and Natural Resources the North
42 Carolina Sustainable Communities Task Force to lead and support the State's sustainable
43 communities initiatives. The duties of the Task Force shall be as follows:

- 44 (1) To apply for and receive, on behalf of the State, funding from federal, public, or
45 private initiatives, grant programs, or donors that will foster sustainable
46 development in North Carolina.
- 47 (2) To promote regional partnerships and to assist local governments and regional or
48 interlocal organizations in North Carolina in seeking and managing funding from
49 federal, public, or private initiatives, grant programs, or donors related to the

1 planning, development, or redevelopment of the State's communities in a
2 sustainable manner.

3 (3) To identify federal funding opportunities related to sustainable development.

4 (4) To provide technical assistance to eligible State agencies, local governments,
5 nonprofits or regional collaborations, and partnerships in applying for federal and
6 other funding opportunities. This technical assistance shall include the
7 development of scenario planning tools, progress measurement metrics, and
8 public participation strategies for use by all applicants.

9 (5) To recommend policies for the support, promotion, and encouragement of
10 sustainable communities to the Secretaries of the Departments of Commerce,
11 Environment and Natural Resources, and Transportation, the General Assembly,
12 and the Governor.

13 (6) To recommend annually to the Governor appropriations for sustainable
14 development programs.

15 (7) To develop a common local government sustainable practices scoring system
16 incorporating the principles set forth in G.S. 143B-344.34(b).

17 (8) To pursue opportunities to combine the efforts of State agencies related to
18 development and infrastructure; to study how existing regional and interlocal
19 organizations could improve their organization and reduce unnecessary overlap
20 and duplication of services; and to better integrate State efforts and investments
21 with regional and local efforts. The Task Force shall include in its
22 recommendations under subdivisions (5) and (6) of this section any
23 recommendations for legislation necessary to implement any potential
24 improvements identified under this subdivision.

25 **"§ 143B-344.36. North Carolina Sustainable Communities Task Force – membership;**
26 **staffing; sunset.**

27 (a) Membership and Advice. – The Task Force shall consist of 11 members who reflect the
28 diversity of the State. The Secretaries of Commerce, Environment and Natural Resources, and
29 Transportation and the Director of the North Carolina Housing Finance Agency shall each designate
30 a representative to the Task Force from their agencies. The Secretary of Administration shall
31 designate a representative from that Department who is familiar with the management and
32 development of State-owned lands and buildings. The Secretary of Health and Human Services
33 shall designate a representative from the Division of Public Health of the Department of Health and
34 Human Services who is familiar with the impact of the built environment on human health. The
35 Governor shall appoint the remaining five members under a specified subdivision of this subsection
36 as follows:

37 (1) One member who is a representative of a nonprofit organization involved in the
38 planning, advocacy, or creation of sustainable development.

39 (2) One member who is a representative of a county government.

40 (3) One member who is a representative of city government.

41 (4) One member who is a representative of a council of government or other regional
42 collaborative organization.

43 (5) One member with professional training in planning who is a representative of the
44 North Carolina Chapter of the American Planning Association.

45 The Secretaries of Administration, Commerce, Environment and Natural Resources, Health and
46 Human Services, and Transportation, or their designees, shall advise the Task Force on sustainable
47 development activities within the responsibility of their respective departments and shall cooperate
48 with the Task Force in jointly seeking funds from federal, public, or private initiatives, grant
49 programs, or donors.

(b) Terms, Vacancies. – The members of the Task Force appointed by the Governor shall have a term of office of four years and shall serve until their successors are appointed and qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The remaining members of the Task Force shall serve at the pleasure of the appointing authority.

(c) Staff. – The Departments of Administration, Commerce, Environment and Natural Resources, Health and Human Services, and Transportation shall provide clerical and professional staff support to the Task Force.

(d) Compensation. – The public members of the Task Force shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies as set forth by G.S. 138-5 and G.S. 138-6, respectively.

(e) Sunset. – This Part expires June 30, 2021.

"§ 143B-344.37. North Carolina Sustainable Communities Task Force – reports.

(a) Beginning in 2011, the Task Force shall report to the Governor, the House and Senate Commerce Committees, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

(1) Policy recommendations and suggested legislation.

(2) Funding applied for and received in the prior fiscal year.

(3) Population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure. Where possible, the Task Force shall use data already collected by the State Demographer, the United States Census Bureau, and any other state or federal agency.

(4) An inventory of State policies and programs that influence positively or negatively the ability to develop sustainable communities.

(5) An overview of all State funding initiatives (including State-allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation, including, at a minimum, the following:

a. The Clean Water Management Trust Fund.

b. The Parks and Recreation Trust Fund.

c. The Agriculture Development and Farmland Preservation Trust Fund.

d. The Natural Heritage Trust Fund.

e. The Highway Fund and the Highway Trust Fund.

f. The Congestion Relief and Intermodal Transportation 21st Century Fund.

g. The North Carolina Main Street Program and the Main Street Solutions Fund.

h. The Housing Trust Fund and the low-income housing tax credit funds administered by the Housing Finance Agency.

i. Funds from the Public School Building Capital Fund used by counties for the purchase of land for public school buildings.

j. The tax credits for renewable energy property, historic rehabilitation, and mill rehabilitation set forth in Chapter 105 of the General Statutes.

The overview should include the current funding level, changes in funding over the previous fiscal year, and how the funding initiative has contributed to sustainable development, or, in the case of a tax credit, the number and geographical distribution of taxpayers taking the credit, the amount of credits claimed, and how the credit has contributed to sustainable development.

(b) For purposes of this section, "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau:

- (1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).
- (2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.
- (3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.
- (4) The Asheville Metropolitan Statistical Area.
- (5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.
- (6) The Fayetteville Metropolitan Statistical Area.
- (7) The Wilmington Metropolitan Statistical Area.
- (8) The Greenville Metropolitan Statistical Area.
- (9) The Jacksonville Metropolitan Statistical Area.
- (10) The Rocky Mount Metropolitan Statistical Area.
- (11) The Goldsboro Metropolitan Statistical Area.
- (12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

SECTION 13.5.(b) G.S. 120-123 is amended by adding a new subdivision to read:

"(79) The North Carolina Sustainable Communities Task Force, as established in Article 7 of Chapter 143B of the General Statutes."

SECTION 13.5.(c) Grant Funding for Regional Sustainable Development Partnerships.

– The Task Force shall, from funds available, provide a grants program for regional bodies, cities, or counties within regions that comply with the following requirements:

- (1) The regional body, city, or county is a part of a regional sustainable development partnership covering any of the metro regions identified in G.S. 143B-344.37(b), as enacted by subsection (a) of this section. This partnership may include any Metropolitan Planning Organizations, Regional Planning Organizations, and regional transit agencies in existence in the region, along with representatives of the Departments of Commerce, Transportation, and Environment and Natural Resources.
- (2) The partnership has submitted a workplan to the North Carolina Sustainable Communities Task Force showing the activities to be funded and the public information process through which activities are selected and prioritized.
- (3) All members of the partnership have adopted a jointly developed memorandum of agreement describing how coordinated planning activities will be undertaken.

In awarding any grant funding, the Task Force shall utilize the common local government sustainable practices scoring system set forth in G.S. 143B-344.35, as enacted by subsection (a) of this section. In its consideration of grant applications, the Task Force may also consider any offers by a partnership to provide matching funds.

SECTION 13.5.(d) Reports. – The Departments of Commerce, Transportation, and Environment and Natural Resources shall report by October 1 each year, beginning in 2010, to the House and Senate Commerce Committees and the Joint Legislative Commission on Governmental Operations. The report shall provide information regarding each Department's progress in implementing the sustainable development principles set forth in G.S. 143B-344.34 as enacted by subsection (a) of this section.

SECTION 13.5.(e) Staffing. – The Department of Environment and Natural Resources shall transfer the vacant District Planner position in the Division of Coastal Management to the Task Force and shall fill the position in a timely manner in order to provide support for the operations and activities of the Task Force. For administrative purposes, the Task Force shall be located in the Department's Division of Environmental Assistance and Outreach, and the Division will also provide appropriate administrative and clerical support for the activities of the Task Force.

1 **Senate Only**

2 **DAM SAFETY FEE**

3 **SECTION 13.6.(a)** A one-time Dam Evaluation Fee of one thousand one hundred
4 dollars (\$1,100) per equivalent dam unit shall be paid to the Department of Environment and
5 Natural Resources by electric utility companies in a lump sum payment based on the number of
6 dams owned by each company that fall under the jurisdiction of the Part 3 of Article 21 of Chapter
7 143 of the General Statutes. Fees collected pursuant to this section shall be used to support one
8 time-limited engineering position and operating funds necessary to perform the evaluation and
9 integration of regulated power plant dams into the Department's dam safety inventory program.
10 These fees shall remain available to the Department and shall not revert until the evaluation and
11 integration of regulated power plants is complete.

12 **SECTION 13.6.(b)** This section becomes effective October 1, 2010.

1 **Senate Only**

2 **LITTER REDUCTION FROM DRIVE-THROUGH RESTAURANTS**

3 **SECTION 13.7.(a)** G.S. 130A-309.06(a) is amended by adding a new subdivision to
4 read:

5 **"§ 130A-309.06. Additional powers and duties of the Department.**

6 (a) In addition to other powers and duties set forth in this Part, the Department shall:

7 ...

8 (15) Require that all restaurants selling food or beverages from a drive-through
9 window provide receptacles for disposal of recyclable materials or solid waste
10 that might otherwise end up as litter on and adjacent to roads and highways of the
11 State. The receptacles shall be accessible to customers in vehicles who purchase
12 food or beverages from the drive-through window. Nothing in this subdivision
13 shall require any restaurant providing receptacles for solid waste and recyclable
14 materials to accept quantities of those materials that are greater than the capacity
15 of a reasonably provided and maintained receptacle.

16"

17 **SECTION 13.7.(b)** G.S. 130A-22(a) reads as rewritten:

18 **"§ 130A-22. Administrative penalties.**

19 (a) The Secretary of Environment and Natural Resources may impose an administrative
20 penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission
21 pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day
22 of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen
23 thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste. The
24 penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the case of a
25 first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of
26 medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical
27 waste entering waters or lands of the State; and shall not exceed fifty thousand dollars (\$50,000) per
28 day for a second or further violation involving the disposal of medical waste as defined in
29 G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands
30 of the State. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per
31 day for a violation involving a voluntary remedial action implemented pursuant to
32 G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The
33 penalty shall not exceed one hundred dollars (\$100.00) for a first violation; two hundred dollars
34 (\$200.00) for a second violation within any 12-month period; and five hundred dollars (\$500.00) for
35 each additional violation within any 12-month period for any violation of Part 2G of Article 9 of
36 this Chapter or of any rule adopted pursuant to G.S. 130A-309.06(a)(15). If a person fails to pay a
37 civil penalty within 60 days after the final agency decision or court order has been served on the
38 violator, the Secretary of Environment and Natural Resources shall request the Attorney General to
39 institute a civil action in the superior court of any county in which the violator resides or has his or
40 its principal place of business to recover the amount of the assessment. Such civil actions must be
41 filed within three years of the date the final agency decision or court order was served on the
42 violator.

43"

1 **Senate Only**

2 **INCREASE HAZARDOUS WASTE FEES**

3 **SECTION 13.8.** G.S. 130A-294.1(f) reads as rewritten:

4 "(f) A person who generates 100 kilograms or more of hazardous waste in any calendar
5 month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of
6 hazardous waste in each calendar month during that year shall pay an annual fee of one hundred
7 ~~twenty-five dollars (\$125.00)~~seventy dollars (\$170.00)."

Senate and House Differ

Senate Version

INCREASE ADMINISTRATIVE CAP FOR INACTIVE HAZARDOUS WASTE SITES PROGRAM

SECTION 13.9. G.S. 130A-295.9(1) reads as rewritten:

"§ 130A-295.9. Solid waste disposal tax; use of proceeds.

It is the intent that the proceeds of the solid waste disposal tax imposed by Article 5G of Chapter 105 of the General Statutes shall be used only for the following purposes:

- (1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills, except up to ~~seven percent (7%)~~ thirteen percent (13%) of the funds credited under this subdivision may be used to fund administrative expenses related to the assessment and remediation of pre-1983 landfills and other inactive hazardous waste sites."

House Version

INCREASE ADMINISTRATIVE CAP FOR INACTIVE HAZARDOUS WASTE SITES PROGRAM; **ADD RECIPIENTS TO ANNUAL REPORT REQUIREMENT**

SECTION 13.9.(a) G.S. 130A-295.9(1) reads as rewritten:

- "(1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills, except up to ~~seven percent (7%)~~ thirteen percent (13%) of the funds credited under this subdivision may be used to fund administrative expenses related to the assessment and remediation of pre-1983 landfills and other inactive hazardous waste sites."

SECTION 13.9.(b) G.S. 130A-310.10(a) reads as rewritten:

"(a) The Secretary shall report on inactive hazardous sites to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division on or before 1 October of each year. The report shall include at least:

- (1) The Inactive Hazardous Waste Sites Priority List;
...."

1 **House Only**

2 **FUNDS FOR CLEANUP AND MONITORING OF TEXFI SITE CONTAMINATION**

3 **SECTION 13.9A.** There is appropriated from the Solid Waste Management Trust Fund
4 to the Department of Environment and Natural Resources, Division of Waste Management, the sum
5 of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal year to be used for the cleanup and
6 monitoring of the groundwater and other contamination located at the Texfi site in Fayetteville and
7 for any emergency cleanup activities needed at that site.

House Only

FUNDS FOR RECYCLING PROGRAMS FOR PRODUCTS THAT CONTAIN MERCURY

SECTION 13.9B.(a) Effective July 1, 2010, until December 31, 2017, G.S. 130A-310.54 reads as rewritten:

"§ 130A-310.54. Mercury ~~Switch Removal Account~~ Pollution Prevention Fund.

(a) The Mercury ~~Switch Removal Account~~ Pollution Prevention Fund is established in the Department. Revenue is credited to the ~~Account~~ Fund from the certificate of title fee under G.S. 20-85.

(b) Revenue in the Mercury ~~Switch Removal Account~~ Pollution Prevention Fund shall be used ~~to~~ for the following purposes:

(1) To reimburse the Department and others for costs incurred in implementing the mercury switch removal program.

(2) To establish and implement recycling programs for products containing mercury, including at least recycling programs for light bulbs and thermostats.

(b1) The reimbursable costs under subdivision (1) of subsection (b) of this section are:

(1) Five dollars (\$5.00) for each mercury switch removed by a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility pursuant to this Article and sent to destination facilities in accordance with the NVMSRP for recycling or disposal.

(2) Costs incurred by the Department in administering the program.

(c) The Department shall reimburse vehicle crushers, vehicle dismantlers, vehicle recyclers, and scrap vehicle processing facilities based on a reimbursement request that attests to the number of switches sent to destination facilities for recycling or disposal in accordance with the NVMSRP. Each reimbursement request shall be verified against information posted on the Internet site provided by the vehicle manufacturers in accordance with the NVMSRP, or against other information that verifies the reimbursement requested to the satisfaction of the Department. The vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall provide the Department with any information requested by the Department to verify the accuracy of a reimbursement request. Each vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall maintain accurate records that support each reimbursement request for a minimum of three years from the date the reimbursement request is approved."

SECTION 13.9B.(b) Effective December 31, 2017, G.S. 130A-310.54, as amended by Sections 4 and 9 of S.L. 2007-142, reads as rewritten:

"§ 130A-310.54. Funds to implement plan.

(a) The Mercury Pollution Prevention ~~Account~~ Fund is established in the Department. Revenue is credited to the ~~Account~~ Fund from the certificate of title fee under G.S. 20-85.

(b) Revenue in the Mercury Pollution Prevention ~~Account~~ Fund shall be used ~~to~~ for the following purposes:

(1) To reimburse the Department and others for costs incurred in implementing the mercury minimization plan.

(2) To establish and implement recycling programs for products containing mercury, including at least recycling programs for light bulbs and thermostats.

(b1) The reimbursable costs under subdivision (1) of subsection (b) of this section are:

(1) Five dollars (\$5.00) for each mercury switch removed by a vehicle recycler or scrap metal recycling facility pursuant to this Article.

(2) Costs incurred by the Department in administering the plan.

(c) The Department shall reimburse vehicle recyclers and scrap metal recycling facilities based on the quarterly reports submitted under G.S. 130A-310.53. The Department may request any information needed to determine the accuracy of the reports."

1 **Senate Only**

2 **STRENGTHEN PLASTIC BAG RECYCLING**

3 **SECTION 13.10.(a)** G.S. 130A-309.121 reads as rewritten:

4 **"§ 130A-309.121. Definitions.**

5 As used in this Part, the following definitions apply:

- 6 (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic
7 polymeric material, which is provided by a store to a customer at the point of sale
8 and incidental to the purchase of other goods.
- 9 (2) Prepared foods retailer. – A retailer primarily engaged in the business of selling
10 prepared foods, as that term is defined in G.S. 105-164.3, to consumers.
- 11 (2a) Recycled content. – Content that is either postconsumer, postindustrial, or a mix
12 of postconsumer and postindustrial.
- 13 (3) Recycled paper bag. – A paper bag that meets all of the following requirements:
14 a. The bag is manufactured from one hundred percent (100%) recycled
15 content.~~content, including postconsumer content, postindustrial content,~~
16 ~~or a mix of postconsumer and postindustrial content.~~
17 b. The bag displays the words "made from recycled material" and
18 "recyclable."
- 19 (4) ~~Retail Chain. – Five or more stores located within the State that are engaged in~~
20 ~~the same general field of business and (i) conduct business under the same~~
21 ~~business name or (ii) operate under common ownership or management or~~
22 ~~pursuant to a franchise agreement with the same franchisor.~~
- 23 (5) Retailer. – A person who offers goods for sale in this State to consumers and who
24 provides a single-use plastic bag to the consumer to carry or transport the goods
25 for free or for a nominal charge.~~goods and (i) has more than 5,000 square feet of~~
26 ~~retail or wholesale space or (ii) is one of a retail chain.~~
- 27 (6) Reusable bag. – ~~A durable plastic bag with handles that is~~ A bag with handles
28 that is specifically designed and manufactured for multiple reuse and is made of
29 one of the following materials: at least 2.25 mils thick
30 a. Nonwoven polypropylene or other plastic material with a minimum
31 weight of 80 grams per square meter. ~~and is specifically designed and~~
32 ~~manufactured for multiple reuse or a bag made of~~
33 b. ~~cloth~~ Cloth or other machine washable fabric with handles. ~~fabric."~~

34 **SECTION 13.10.(b)** From funds available to the Department of Environment and
35 Natural Resources, the Division of Waste Management and the Division of Environmental
36 Assistance and Outreach shall monitor plastic bag use reduction resulting from the implementation
37 of Part 2G of Article 9 of Chapter 130A of the General Statutes and shall report to the
38 Environmental Review Commission on or before January 15, 2012, on the impacts the ban enacted
39 by that Part has had on plastic bag litter in coastal waterways adjacent to areas where that Part
40 applies.

41 **SECTION 13.10.(c)** Subsection (a) of this section becomes effective January 1, 2011.

1 **Senate Only**

2 **FISHERY RESOURCE GRANT FUNDS TO BE USED FOR AT-SEA OBSERVER**
3 **PROGRAM**

4 **SECTION 13.19.(a)** Of the funds appropriated to the Department of Environment and
5 Natural Resources for the Fishery Resource Grant Program for the 2010-2011 fiscal year, the sum
6 of three hundred thousand dollars (\$300,000) shall be used by the Division of Marine Fisheries to
7 develop and establish the At-Sea Observer Program. Establishing and funding the At-Sea Observer
8 Program is necessary to meet federal requirements to monitor gill net fisheries statewide and record
9 sea turtle and other endangered and threatened species interactions.

10 **SECTION 13.19.(b)** The funds allocated under subsection (a) of this section shall be
11 used to establish and support three Marine Fisheries Technician II positions to provide
12 at-sea-observer coverage. In establishing the positions under this section, it is the intent of the
13 General Assembly to enable gill net fishing to continue in North Carolina and to enhance the ability
14 of the Division of Marine Fisheries to collect and analyze data necessary to determine the health of
15 fish stock, such as measures of spawning stock biomass, mortality, recruitment, and sustainable
16 harvest levels. Actions recommended in Fishery Management Plans, which are developed in
17 accordance with G.S. 113-182.1 to ensure the long-term viability of the State's commercially and
18 recreationally significant species or fisheries, rely upon these data.

Senate Only

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
Aurora Fossil Museum	\$57,875	\$57,875 <u>\$54,981</u>
Cape Fear Museum	\$157,787	\$157,787 <u>\$149,898</u>
Carolina Raptor Center	\$109,931	\$109,931 <u>\$104,434</u>
Catawba Science Center	\$143,429	\$143,429 <u>\$136,258</u>
Colburn Earth Science Museum, Inc.	\$73,054	\$73,054 <u>\$69,401</u>
Core Sound Waterfowl Museum	\$49,000	\$49,000 <u>\$46,550</u>
Discovery Place	\$649,608	\$649,608 <u>\$617,128</u>
Eastern NC Regional Science Center	\$49,000	\$49,000 <u>\$46,550</u>
Fascinate-U	\$79,451	\$79,451 <u>\$75,478</u>
Granville County Museum Commission, Inc.–Harris Gallery	\$55,294	\$55,294 <u>\$52,529</u>
Greensboro Children's Museum	\$132,374	\$132,374 <u>\$125,755</u>
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$152,499	\$152,499 <u>\$144,874</u>
Highlands Nature Center	\$77,683	\$77,683 <u>\$73,799</u>
Imagination Station	\$84,313	\$84,313 <u>\$80,097</u>
The Iredell Museums, Inc.	\$60,080	\$60,080 <u>\$57,076</u>
Kidsenses	\$79,656	\$79,656 <u>\$75,673</u>
Museum of Coastal Carolina	\$76,460	\$76,460 <u>\$72,637</u>
The Natural Science Center of Greensboro, Inc.	\$182,627	\$182,627 <u>\$173,496</u>
North Carolina Museum of Life and Science	\$372,229	\$372,229 <u>\$353,618</u>
Pisgah Astronomical Research Institute	\$49,000	\$49,000 <u>\$46,550</u>
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	\$49,000	\$49,000 <u>\$46,550</u>
Rocky Mount Children's Museum	\$70,809	\$70,809 <u>\$67,269</u>
Schiele Museum of Natural History and Planetarium, Inc.	\$224,956	\$224,956 <u>\$213,708</u>
Sci Works Science Center and Environmental Park of Forsyth County	\$143,569	\$143,569 <u>\$136,390</u>
Sylvan Heights Waterfowl Park and Eco-Center	\$49,000	\$49,000 <u>\$46,550</u>
Western North Carolina Nature Center	\$110,621	\$110,621 <u>\$105,090</u>
Wilmington Children's Museum	\$72,408	\$72,408 <u>\$68,788</u>

1	Total	\$3,411,713	\$3,411,713 <u>3,241,127"</u>
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House Only

CLOSE/TRANSFER CERTAIN DENR SPECIAL FUNDS

SECTION 13.21.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Soil and Water Conservation (General Fund code 14300-1310) any unencumbered cash balance as of June 30, 2010, of each of the following special funds within the Department and then close each of these special funds:

(1) SWC – CREP (Special Fund code 24308-2313).

(2) SWC – EEP Agreement (Special Fund code 24308-2317).

SECTION 13.21.(b) G.S. 113-36(d) is repealed.

SECTION 13.21.(c) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Forest Resources (General Fund code 14300-1210) the operating budget, positions, and any unencumbered cash balance as of June 30, 2010, that remains in the special fund Bladen Lakes (Special Fund code 24300-2221) after conducting the transfer under Section 2.2 of this act and then close the special fund Bladen Lakes.

SECTION 13.21.(d) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Water Quality (General Fund code 14300-1695) the operating budget, positions, and any unencumbered cash balance as of June 30, 2010, in the special fund DWQ – Lab Certification Fees (Special Fund code 24300-2335) within the Department and then close this special fund.

SECTION 13.21.(e) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the General Fund any unencumbered cash balance as of June 30, 2010, in each of the following special funds within the Department and then close each of these special funds:

(1) DWM – Kernersville Site (Special Fund code 24308-2116).

(2) DWM – Meadowview Site (Special Fund code 24308-2118).

(3) DWR – Streamwatch Project (Special Fund code 24308-2180).

(4) DAQ – Terrorism Defense (Special Fund code 24308-2343).

(5) MNS – E A Publications (Special Fund code 24308-2461).

(6) MNS – Mus Nat Sci/School Science Fairs (Special Fund code 24308-2462).

(7) MNS – Mus Nat Sci/Scientific Pub. (Special Fund code 24308-2465).

(8) DFR – Hurricane Frances (Special Fund code 24310-2786).

(9) DFR – Hurricane Ivan (Special Fund code 24310-2797).

(10) DFR – Dare Bomb Range Isabel Interest (Special Fund code 24310-2249).

SECTION 13.21.(f) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 24317 any unencumbered cash balance as of June 30, 2010, of each of the following special funds within the Department and then close each of these special funds:

(1) SWC – Agricultural Cost Share Programs (Special Fund code 24308-2510).

(2) SWC – Animal Waste Cost Share (Special Fund code 24308-2520).

(3) NC07 – Network Date IT Project (Special Fund code 24308-2931).

SECTION 13.21.(g) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 64305 any unencumbered cash balance as of June 30, 2010, of the special fund DWM – Noncommercial Leaking Petroleum Storage (Special Fund code 64308-6371) within the Department and then close this special fund.

1 **SECTION 13.21.(h)** The Office of State Budget and Management, in conjunction with
2 the Office of the State Controller and the Department of Environment and Natural Resources, shall
3 transfer to Special Fund code 24300 the operating budget, positions, and any unencumbered cash
4 balance as of June 30, 2010, of each special fund within the Department with Special Fund code
5 24308 that is not subject to closure under the provisions of other subsections of this section.

1 **House Only**

2 **WILDLIFE RESOURCES COMMISSION FUNDING**

3 **SECTION 13.22.** Section 13.11 of S.L. 2009-451 reads as rewritten:

4 "SECTION 13.11. Notwithstanding G.S. 105-164.44B, during the 2009-2010 fiscal year and
5 the 2010-2011 fiscal year, the Secretary of Revenue shall transfer at the end of each quarter from
6 the State sales and use tax net collections received by the Department of Revenue under Article 5 of
7 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund
8 one-fourth of the amount transferred the preceding fiscal year plus or minus the percentage of that
9 amount by which the total collection of State sales and use taxes increased or decreased during the
10 preceding fiscal year, not to exceed twenty-one million five hundred thousand dollars
11 ~~(\$21,500,000)-(\$21,500,000)~~ for the 2009-2010 fiscal year and not to exceed eighteen million five
12 hundred thousand dollars (\$18,500,000) for the 2010-2011 fiscal year."

Senate and House Differ

Senate Version

STATE AGENCIES AND INSTITUTIONS/GREATER ENERGY EFFICIENCY REPORTING AND COMPLIANCE

SECTION 14.3. G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.

(a) The Department of Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs.

...

(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.

...

(j) The State Energy Office shall submit a report by September 1 of each year to the Joint Legislative Commission on Governmental Operations describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

- (1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.
- (2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.
- (3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this section and the energy audits required by subsection (b1) of this section.
- (4) A list of the State agencies and institutions of higher learning that did and did not submit management plans required by subsection (a) of this section and a list of the State agencies and State institutions of higher learning that received an energy audit.
- (5) Any recommendations on how management plans can be better managed and implemented."

1 **House Version**

2 **STATE AGENCIES AND INSTITUTIONS/GREATER ENERGY EFFICIENCY**
3 **REPORTING AND COMPLIANCE**

4 **SECTION 14.3.** G.S. 143-64.12 reads as rewritten:

5 **"§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of**
6 **higher learning.**

7 (a) The Department of Commerce through the State Energy Office shall develop a
8 comprehensive program to manage energy, water, and other utility use for State agencies and State
9 institutions of higher learning and shall update this program annually. Each State agency and State
10 institution of higher learning shall develop and implement a management plan that is consistent
11 with the State's comprehensive program under this subsection to manage energy, water, and other
12 utility use, and that addresses any findings or recommendations resulting from the energy audit
13 required by subsection (b1) of this section. The energy consumption per gross square foot for all
14 State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%)
15 by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State
16 institution of higher learning shall update its management plan annually and include strategies for
17 supporting the energy consumption reduction requirements under this subsection. Each community
18 college shall submit to the State Energy Office an annual written report of utility consumption and
19 costs.

20 ...

21 (b1) The Department of Administration, as part of the Facilities Condition and Assessment
22 Program, shall identify and recommend energy conservation maintenance and operating procedures
23 that are designed to reduce energy consumption within the facility of a State agency or a State
24 institution of higher learning and that require no significant expenditure of funds. Every State
25 agency or State institution of higher learning shall implement these recommendations. Where
26 energy management equipment is proposed for any facility of a State agency or of a State institution
27 of higher learning, the maximum interchangeability and compatibility of equipment components
28 shall be required. As part of the Facilities Condition and Assessment Program under this section, the
29 Department of ~~Administration~~ Administration, in consultation with the State Energy Office, shall
30 develop an energy audit and a procedure for conducting energy audits. Every five years the
31 Department shall conduct an energy audit for each State agency or State institution of higher
32 ~~learning~~ learning, and the energy audits conducted shall serve as a preliminary energy survey. The
33 State Energy Office shall be responsible for system-level detailed surveys.

34 (b2) The Department of Administration shall submit a report of the energy audit required by
35 subsection (b1) of this section to the affected State agency or State institution of higher learning and
36 to the State Energy Office. The State Energy Office shall review each audit and, in consultation
37 with the affected State agency or State institution of higher learning, incorporate the audit findings
38 and recommendations into the management plan required by subsection (a) of this section.

39 ...

40 (h) When conducting ~~an energy audit~~ a facilities condition and assessment under this section,
41 the Department of Administration shall identify and recommend to the State Energy Office any
42 facility of a State agency or State institution of higher learning as suitable for building
43 commissioning to reduce energy consumption within the facility or as suitable for installing an
44 energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this
45 Article.

46 ...

47 (j) The State Energy Office shall submit a report by December 1 of each year to the Joint
48 Legislative Commission on Governmental Operations describing the comprehensive program to

1 manage energy, water, and other utility use for State agencies and State institutions of higher
2 learning required by subsection (a) of this section. The report shall also contain the following:

- 3 (1) A comprehensive overview of how State agencies and State institutions of higher
4 learning are managing energy, water, and other utility use and achieving
5 efficiency gains.
- 6 (2) Any new measures that could be taken by State agencies and State institutions of
7 higher learning to achieve greater efficiency gains, including any changes in
8 general law that might be needed.
- 9 (3) A summary of the State agency and State institutions of higher learning
10 management plans required by subsection (a) of this section and the energy
11 audits required by subsection (b1) of this section.
- 12 (4) A list of the State agencies and State institutions of higher learning that did and
13 did not submit management plans required by subsection (a) of this section and a
14 list of the State agencies and State institutions of higher learning that received an
15 energy audit.
- 16 (5) Any recommendations on how management plans can be better managed and
17 implemented."

Senate and House Differ

Senate Version

LOCAL WORKFORCE DEVELOPMENT BOARDS/CONSUMER CHOICE REQUIREMENTS

SECTION 14.4. G.S. 143B-438.11(a) is amended by adding the following new subdivision to read:

"§ 143B-438.11. Local Workforce Development Boards.

(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

...

- (8) To provide training services in a manner that maximizes consumer choice in the selection of an eligible provider of training services. Each local workforce development board shall ensure that consumer choice is properly maintained in the one-stop centers and shall not discriminate against any eligible provider. Each local workforce development board, through the one-stop centers, shall make available: (i) the State list of eligible providers of training services with a description of the programs through which the providers may offer the training services and the information identifying eligible providers of on-the-job training and customized training; and (ii) the performance information and performance cost information relating to eligible providers of training services and eligible providers of on-the-job training and customized training."

House Version

LOCAL WORKFORCE DEVELOPMENT BOARDS/CONSUMER CHOICE REQUIREMENTS

SECTION 14.4. G.S. 143B-438.11(a) is amended by adding the following new subdivision to read as follows:

"(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

...

- (8) To provide the appropriate guidance and information to Workforce Investment Act consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local workforce development board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information."

1 **Senate Only**

2 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

3 **SECTION 14.5.** Section 14.4 of S.L. 2009-451 reads as rewritten:

4 "SECTION 14.4.(a) Funds appropriated to the Department of Commerce for the
5 ~~2009-2010~~2010-2011 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and
6 unencumbered as of ~~June 30, 2009~~, June 30, 2011, shall not revert to the General Fund on ~~June 30,~~
7 ~~2009~~, June 30, 2011, but shall remain available to the Department to be expended by the Wanchese
8 Seafood Industrial Park for operations, maintenance, repair, and capital improvements in
9 accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in
10 addition to funds available to the North Carolina Seafood Industrial Park Authority for operations,
11 maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General
12 Statutes.

13 ~~"SECTION 14.4.(b) Funds appropriated to the Department of Commerce for the 2009-2010~~
14 ~~fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2009,~~
15 ~~shall not revert to the General Fund on June 30, 2009, but shall remain available to the Department~~
16 ~~to be expended by the Wanchese Seafood Industrial Park for securing adequate channel~~
17 ~~maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements~~
18 ~~in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in~~
19 ~~addition to funds available to the North Carolina Seafood Industrial Park Authority for operations,~~
20 ~~maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General~~
21 ~~Statutes.~~

22 "SECTION 14.4.(c) This section becomes effective ~~June 30, 2009~~; June 30, 2010."

Senate and House Differ

Senate Version

CONSOLIDATE PASSENGER AIRCRAFT

SECTION 14.6.(a) The Executive Aircraft Division of the Department of Commerce is transferred to the Division of Aviation of the Department of Transportation. This transfer shall have all the elements of a Type I transfer, as defined by G.S. 143A-6.

SECTION 14.6.(b) G.S. 143B-437.011 is repealed.

SECTION 14.6.(c) Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-102.20. Use of aircraft managed by the Department of Transportation.

The use of aircraft for economic development purposes shall take precedence over all other uses of the aircraft managed by the Department of Transportation. The Department of Transportation shall annually review the rates charged for the use of aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an aircraft is not being used for economic development purposes, the aircraft may be used by the Governor or a State official who is employed by an agency that does not have its own aircraft and is traveling on State business. If an aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."

House Version

CONSOLIDATE PASSENGER AIRCRAFT

SECTION 14.6.(a) The Executive Aircraft Division of the Department of Commerce is transferred to the Division of Aviation of the Department of Transportation. This transfer shall have all the elements of a Type I transfer, as defined by G.S. 143A-6.

SECTION 14.6.(b) G.S. 143B-437.011 is repealed.

SECTION 14.6.(c) Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-102.20. Use of aircraft managed by the Department of Transportation.

The use of aircraft for emergency or disaster response shall take precedence over all other uses of the aircraft managed by the Department of Transportation. The use of aircraft for economic development purposes shall have second priority followed by the use of aircraft for all other legitimate purposes. The Department of Transportation shall annually review the rates charged for the use of aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."

House Only

MAIN STREET SOLUTIONS FUND

SECTION 14.6A. G.S. 143B-472.35 reads as rewritten:

"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal; repayment; inspections; rules; reports.

(a) A fund to be known as the Main Street Solutions Fund is established in the Department of Commerce. This Fund shall be administered by the Department of Commerce. The Department of Commerce shall be responsible for receipt and disbursement of all funds as provided in this section. Interest earnings shall be credited to the Main Street Solutions Fund.

(a1) The Main Street Solutions Fund is a reimbursable, matching grant program. The Department of Commerce and the North Carolina Main Street Center are authorized to award grants from the Main Street Solutions Fund totaling not more than two hundred thousand dollars (\$200,000) to each eligible local government. Funds from eligible local governments, main street organizations, downtown organizations, downtown economic development organizations, and sources other than the State or federal government must be committed to match the amount of any grant from the Main Street Solutions Fund on the basis of a minimum of two non-State dollars (\$2.00) for every one dollar (\$1.00) provided by the State from the Main Street Solutions Fund.

(a2) Definitions. – For purposes of this section, the following definitions shall apply:

- (1) Active North Carolina main street community. – A community in a Tier 1, 2, or 3 county that has been selected by the Department of Commerce to participate in the Main Street Program or the Small Town Main Street Program and that meets the reporting and eligibility requirements of the respective Program.
- (2) Designated micropolitan. – A geographic entity containing an urban core and having a population of between 10,000 and 50,000 people, according to the most recent federal decennial census.
- (3) Designated downtown area. – A designated area within a community that is considered the primary, traditional downtown business district of the community.
- (4) Downtown economic development organization. – An agency that is part of a public-private partnership intended to develop and recruit business opportunities or to undertake economic development projects that will create jobs.
- (5) Downtown organization. – An agency that is part of a public-private partnership on the local level and whose core mission is to revitalize a traditional downtown business district.
- (6) Eligible local government. – A municipal government that is located in a designated micropolitan or an active North Carolina main street community.
- (7) Historic properties. – Properties that have been designated as historically significant by the National Register of Historic Places or a local historic properties commission.
- (8) Interlocal small business economic development project. – A project or group of projects in a cluster of communities or counties or in a region that share a common economic development strategy for small business growth and job creation.
- (9) Main Street Organization. – An agency working in a public-private partnership on the local level, guided by a professional downtown manager, board of directors, or revitalization committee, and charged with administering the local Main Street Program initiative and facilitating revitalization initiatives in the traditional downtown business district through appropriate design, promotion, and economic restructuring activities.

- (10) Main Street Program. – The program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation.
- (11) Mixed-use centers. – Areas zoned and developed for a mix of uses, including retail, service, professional, governmental, institutional, and residential.
- (12) Main Street Center. – The agency within the North Carolina Department of Commerce, Office of Urban Development, which receives applications and makes decisions with respect to Main Street Solutions Fund grant applications from eligible local governments.
- (13) Private investment. – A project or group of projects in a designated downtown area that will spur private investment and improve property. A project must be owned and maintained by a private entity and must provide a direct benefit to small businesses.
- (14) Public improvements and public infrastructure. – The improvement of property or infrastructure that is owned and maintained by a city or county.
- (15) Revolving loan programs for private investment. – A property redevelopment or small business assistance fund that is administered on the local level and that may be used to stabilize or appropriately redevelop properties located in the downtown area in connection with private investment or that may be used to provide necessary operating capital for small business creation or expansion in connection with private investment in a designated downtown area.
- (16) Small business. – An independently owned and operated business with less than 100 employees and with annual revenues of less than six million dollars (\$6,000,000).
- (17) Small Town Main Street Program. – A program based upon the Main Street Program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation. The purpose of the Small Town Main Street Program is to provide guidance to local communities that have a population of less than 7,500 and do not have a downtown manager.
- (18) Tier 1, 2, or 3 counties. – North Carolina counties annually ranked by the Department of Commerce based upon the counties' economic well-being and assigned a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2, and the 20 least distressed as Tier 3.
- (a3) The purpose of the Main Street Program is to provide economic development planning assistance and coordinated grant support to designated micropolitans located in Tier 2 and 3 counties and to active North Carolina main street communities. To achieve the purposes of the Main Street Program, the Main Street Center shall develop criteria for community participation and shall provide technical assistance and strategic planning support to eligible local governments. Local governments, in collaboration with a main street organization, downtown organization, or downtown economic development organization, and the small businesses that will directly benefit from these funds may apply for grants from the Main Street Solutions Fund as provided in this section.
- (a4) The Secretary of Commerce, through the Main Street Center, shall award grants from the Main Street Solutions Fund to eligible designated micropolitans and active North Carolina main street communities. Grant funds awarded from the Main Street Solutions Fund shall be used as provided by the provisions of this section and any rules or regulations adopted by the Secretary of Commerce.
- (b) Funds in the Main Street Solutions Fund shall be available ~~only to micropolitan cities in development tier two and three counties~~ designated micropolitans in Tier 2 and 3 counties and to

1 ~~active North Carolina main street communities~~ in the State. ~~For purposes of this section, a~~
2 ~~"micropolitan city" is a city located within the State with a population, according to the most recent~~
3 ~~U.S. census, of between 10,000 and 50,000 people. Funds in the Main Street Solutions Fund shall~~
4 ~~be used for any of the following eligible activities:~~

- 5 ~~(1) The acquisition or rehabilitation of properties in connection with private~~
6 ~~investment in a designated downtown area.~~
- 7 ~~(1a) Downtown economic development initiatives that do any of the following:~~
- 8 ~~a. Encourage the development or redevelopment of traditional downtown~~
9 ~~areas by increasing the capacity for mixed-use centers of activity within~~
10 ~~downtown core areas. Funds may be used to support the rehabilitation of~~
11 ~~properties, utility infrastructure improvements, new construction, and the~~
12 ~~development or redevelopment of parking lots or facilities. Projects under~~
13 ~~this sub-subdivision must foster private investment and provide direct~~
14 ~~benefit to small business retention, expansion, or recruitment.~~
- 15 ~~b. Attract and leverage private-sector investments and entrepreneurial~~
16 ~~growth in downtown areas through strategic planning efforts, market~~
17 ~~studies, and downtown master plans in association with direct benefit to~~
18 ~~small business retention, expansion, or recruitment.~~
- 19 ~~c. Attract and stimulate the growth of business professionals and~~
20 ~~entrepreneurs within downtown core areas.~~
- 21 ~~d. Establish revolving loan programs for private investment and small~~
22 ~~business assistance in downtown historic properties.~~
- 23 ~~e. Encourage public improvement projects that are necessary to create or~~
24 ~~stimulate private investment in the designated downtown area and~~
25 ~~provide a direct benefit to small businesses.~~
- 26 ~~(2) The establishment of revolving loan programs for private investment in a~~
27 ~~designated downtown area.~~
- 28 ~~(2a) Historic preservation initiatives outside of downtown core areas that enhance: (i)~~
29 ~~community economic development and small business retention, expansion, or~~
30 ~~recruitment; and (ii) regional or community job creation.~~
- 31 ~~(3) The subsidization of interest rates for these revolving loan programs.~~
- 32 ~~(3a) Public improvements and public infrastructure outside of downtown core areas~~
33 ~~that are consistent with sound municipal planning and that support community~~
34 ~~economic development, small business retention, expansion, or recruitment, and~~
35 ~~regional or community job creation.~~
- 36 ~~(4) The establishment of facade incentive grants in connection with private~~
37 ~~investment in a designated downtown area.~~
- 38 ~~(4a) Interlocal small business economic development projects designed to enhance~~
39 ~~regional economic growth and job creation.~~
- 40 ~~(5) Market studies, design studies, design assistance, or strategic planning efforts,~~
41 ~~provided the activity can be shown to lead directly to private investment in a~~
42 ~~designated downtown area.~~
- 43 ~~(6) Any approved project that provides construction or rehabilitation in a designated~~
44 ~~downtown area and can be shown to lead directly to private investment in the~~
45 ~~designated downtown area.~~
- 46 ~~(7) Public improvements and public infrastructure within a designated downtown~~
47 ~~area, provided these improvements are necessary to create or stimulate private~~
48 ~~investment in the designated downtown area.~~
- 49 ~~(c) Any micropolitan city located within a development tier two or three county may apply~~
50 ~~for assistance from the Main Street Solutions Fund by submitting an application to the Main Street~~

~~Center in the Division of Community Assistance, Department of Commerce. Any city affiliated with the North Carolina Main Street Center Program may apply for a grant for a proposed project.~~

(c1) The application shall include each of the following:

~~(1) A copy of the consensus local economic development plan developed by the micropolitan city in conjunction with the Department's Main Street Program and the city's regional economic development commission or its local council of government or both.~~

(1a) The proposed activities for which the funds are to be used and the projected cost of the project.

(2) The amount of grant funds requested for these activities.

(3) Projections of the dollar amount of public and private investment that ~~is~~are expected to occur in the designated micropolitan or designated downtown area as a direct result of the ~~city's~~ proposed activities.

~~(4) Whether local public dollars are required to match any grant funds according to the provisions of subdivision (g)(2) of this section, and if so, the amount of local public funds required.~~

(5) An explanation of the nature of the private investment in the designated micropolitan or designated downtown area that will result from the ~~city's~~ proposed activities.

(6) Projections of the time needed to complete the ~~city's~~ proposed activities.

(7) Projections of the time needed to realize the private investment that is expected to result from the ~~city's~~ proposed activities.

~~(8) Identification of the proposed source of funds to be used for repayment of any loan obligations.~~

(9) Any additional or supplemental information requested by the Division.

~~(d) A committee, comprised of representatives of: the Division of Community Assistance of the Department of Commerce, the North Carolina Main Street Program, the Local Government Commission, and the League of Municipalities shall do each of the following:~~

~~(1) Review a city's application.~~

~~(2) Determine whether the activities listed in the application are activities that are eligible for a grant.~~

~~(3) Determine which applicants are selected to receive funds from the Main Street Solutions Fund.~~

A city-local government whose application is denied may file a new or amended application.

~~(e) A Main Street City that is selected may not receive a grant pursuant to this section totaling less than twenty thousand dollars (\$20,000) or more than three hundred thousand dollars (\$300,000).~~

(f) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

(g) (1) A city-local government that has been selected to receive a grant shall use the full amount of the grant for the activities that were approved pursuant to ~~subsection (d)~~the provisions of this section. Funds are deemed used if the city-local government is legally committed to spend the funds on the approved activities.

(2) ~~If a city has received approval to use the grant for public improvements or public infrastructure, that city shall be required to raise, before funds for these public improvements may be drawn from the city's account, local public funds to match the amount of the grant from the Main Street Solutions Fund on the basis of at least one local public dollar (\$1.00) for every one dollar (\$1.00) from the Main Street Solutions Fund. This match requirement applies only to those funds received for public improvements or public infrastructure and is in addition to the requirement set forth in subdivision (1) of this subsection.~~

- (3) A city-local government that fails to satisfy the condition set forth in subdivision (1) of this subsection shall lose any funds that have not been used within three years of being selected. These unused funds shall be credited to the Main Street Solutions Fund. A city-local government that fails to satisfy the conditions set forth in ~~subdivisions (1) and (2)~~ subdivision (1) of this subsection may file a new application.
- (4) Any funds repaid or credited to the Main Street Solutions Fund pursuant to subdivision (3) of this subsection shall be available to other applicants as long as the Main Street Solutions Fund is in effect.
- (h) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.
- (i) After a project financed ~~in whole or in part~~ pursuant to this section has been completed, the city-local government shall report the actual cost of the project to the Department of Commerce. ~~If the actual cost of the project exceeds the projected cost upon which the grant was based, the city may submit an application to the Department of Commerce for a grant for the difference. If the actual cost of the project is less than the projected cost, the city shall arrange to pay the difference to the Main Street Solutions Fund according to terms set by the Department.~~
- (j) Inspection of a project for which a grant has been awarded may be performed by personnel of the Department of Commerce. No person may be approved to perform inspections who is an officer or employee of the unit of local government to which the grant was made or who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of any project for which the grant was made.
- (k) The Department of Commerce may adopt, modify, and repeal rules establishing the procedures to be followed in the administration of this section and regulations interpreting and applying the provisions of this section, as provided in the Administrative Procedure Act.
- (l) The Department of Commerce and cities-local governments that have been selected to receive a grant from the Main Street Solutions Fund shall prepare and file on or before September 1 of each year with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a consolidated report for the preceding fiscal year concerning the allocation of grants authorized by this section.
- The portion of the annual report prepared by the Department of Commerce shall set forth for the preceding fiscal year itemized and total allocations from the Main Street Solutions Fund for grants. The Department of Commerce shall also prepare a summary report of all allocations made from the fund for each fiscal year; the total funds received and allocations made and the total unallocated funds in the Fund.
- The portion of the report prepared by the city-local government shall include each of the following:
- (1) The total amount of public and private funds that was committed and the amount that was invested in the designated micropolitan or designated downtown area during the preceding fiscal year.
 - ~~(2) The total amount of local public matching funds that was raised, if required by subdivision (g)(2) of this section.~~
 - (3) The total amount of grants received from the Main Street Solutions Fund during the preceding fiscal year.
 - (4) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.
 - (5) A description of how the grant funds and funds from public and private investors were used during the preceding fiscal year.
 - (6) Details regarding the types of private investment created or stimulated, the dates of this activity, the amount of public money involved, and any other pertinent information, including any jobs created, businesses started, and number of jobs retained due to the approved activities.

1 (m) The Department of Commerce may annually use up to ~~fifty thousand dollars~~
2 ~~(\$50,000)~~seventy-five thousand dollars (\$75,000) of the funds in the Main Street Solutions Fund for
3 expenses related to the administration of the Fund."

1 **Senate Only**

2 **FEE TO ADVERTISE IN WELCOME CENTERS**

3 **SECTION 14.7.(a)** G.S. 143B-421.3 reads as rewritten:

4 "**§ 143B-421.3. Consultation required for welcome and visitor ~~centers~~centers; advertising**
5 **fees.**

6 (a) Consultation. – The Department of Commerce and the Department of Transportation
7 shall consult with the Joint Legislative Commission on Governmental Operations and the House
8 and Senate Appropriations Subcommittees on Natural and Economic Resources before beginning
9 the design or construction of any new welcome center or visitor center buildings.

10 (b) Advertising. – An annual fee is imposed on a person who places or displays advertising
11 materials in a welcome center building. The fee imposed by this subsection does not apply to
12 governmental or public sector entities or to advertising materials for an event or amusement that
13 will be held 30 or fewer calendar days from the date the advertising material is placed or displayed
14 in the welcome center building. The annual fee shall be as follows:

15 (1) For advertising materials where the width is not more than four inches and the length is not
16 more than nine inches: one hundred dollars (\$100.00) per year per welcome center building.

17 (2) For advertising materials where the width is more than four inches or the length
18 is more than nine inches: two hundred dollars (\$200.00) per year per welcome
19 center building."

20 **SECTION 14.7.(b)** This section becomes effective the later of July 1, 2010, or the date
21 upon which this act becomes law, and applies to advertising materials placed or displayed in
22 welcome center buildings on or after that date.

1 **Senate Only**

2 **LAB-TO-MARKET FUNDS/COMMERCIALIZATION**

3 **SECTION 14.11.** Of the funds appropriated to the Department of Commerce
4 Lab-to-Market/Commercialization, the sum of ten million dollars (\$10,000,000) shall be used to
5 support the Armed Forces Institute for Regenerative Medicine.

1 **Senate Only**

2 **PROMOTE NORTH CAROLINA DISTILLED SPIRITS**

3 **SECTION 14.12.(a)** G.S. 18B-800 is amended by adding a new subsection to read:

4 "(e) Each ABC store shall display spirits which are distilled in North Carolina in an area
5 dedicated solely to North Carolina products."

6 **SECTION 14.12.(b)** Article 11 of Chapter 18B of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 18B-1105.2. Spirituous liquor tasting at distilleries.**

9 The holder of any distillery permit authorized by G.S. 18B-1105 may conduct a consumer
10 tasting event at the distillery subject to the following conditions:

- 11 (1) Any person pouring wine at a wine tasting shall be an employee of the distillery
12 and at least 21 years of age.
- 13 (2) The person pouring the spirituous liquor shall be responsible for checking the
14 identification of patrons being served at the tasting.
- 15 (3) Each consumer is limited to tasting samples which total no more than 1.5 ounces
16 of spirituous liquor in any calendar day.
- 17 (4) The consumer shall not be charged for any spirituous liquor tasting sample.
- 18 (5) The spirituous liquor used in the consumer tasting event shall be distilled at the
19 distillery where the event is being held by the permit holder conducting the
20 event.
- 21 (6) A consumer tasting event shall not be allowed when the sale of spirituous liquor
22 is otherwise prohibited.
- 23 (7) Tasting samples are not to be offered to, or allowed to be consumed by, any
24 person under the legal age for consuming spirituous liquor.
- 25 (8) A consumer tasting event may not be advertised by the permit holder in any type
26 of media, including, but not limited to, print, radio, television, Internet, and
27 signage.

28 The distillery permit holder shall be solely liable for any violations of this Chapter occurring in
29 connection with the tasting. The Commission shall adopt rules to assure that the tastings are limited
30 to samplings and not a subterfuge for the unlawful sale or distribution of spirituous liquor and that
31 the tastings are not used by industry members for unlawful inducements to retail permit holders."

32 **SECTION 14.12.(c)** This section becomes effective October 1, 2010.

Senate and House Differ

Senate Version

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 14.13. Section 14.17 of S.L. 2009-451 reads as rewritten:

"SECTION 14.17.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2009-2010~~2010-2011 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

"SECTION 14.17.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty million dollars (\$20,000,000) for the ~~2009-2010~~2010-2011 fiscal year to be used for the following purposes:

- (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the operation and support of local Employment Security Commission offices.
- (2) Two hundred thousand dollars (\$200,000) ~~for the State Occupational Information Coordinating Committee to develop and operate an interagency to operate the system to track that tracks~~ former participants in State education and training programs.
- (3) Three hundred thousand dollars (\$300,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

"SECTION 14.17.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed ~~one million dollars (\$1,000,000)~~five hundred thousand dollars (\$500,000) for the ~~2009-2010~~2010-2011 fiscal year to fund State initiatives not currently funded through federal grants.

"SECTION 14.17.(d) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed ~~one million five hundred thousand dollars (\$1,500,000)~~one million two hundred thousand dollars (\$1,200,000) for the ~~2009-2010~~2010-2011 fiscal year to fund a system upgrade to the Common Follow-Up Management Information System.

~~**"SECTION 14.17.(e)** The Employment Security Commission of North Carolina may use funds in the Employment Security Commission Reserve Fund to contract with nonprofit organizations to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.~~

"SECTION 14.17.(f) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year to fund the 'Tar Heel Works Program' which provides enhanced skills training opportunities to recipients of unemployment insurance benefits.

"SECTION 14.17.(g) Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Employment Security Commission of North Carolina may expend the sum of two hundred five million sixty-three

1 thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one hundred fifty million
2 dollars (\$150,000,000) shall be used to design and build the integrated unemployment insurance
3 benefit and tax accounting system; and (ii) the remaining funds shall be used for the operation of the
4 unemployment insurance program."
5

House Version

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 14.13. Section 14.17 of S.L. 2009-451 reads as rewritten:

"SECTION 14.17.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2009-2010~~2010-2011 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

"SECTION 14.17.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty million dollars (\$20,000,000) for the ~~2009-2010~~2010-2011 fiscal year to be used for the following purposes:

- (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the operation and support of local Employment Security Commission offices.
- (2) Two hundred thousand dollars (\$200,000) ~~for the State Occupational Information Coordinating Committee to develop and operate an interagency to operate the system to track~~that tracks former participants in State education and training programs.
- (3) Three hundred thousand dollars (\$300,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

"SECTION 14.17.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed one million dollars (\$1,000,000) for the ~~2009-2010~~2010-2011 fiscal year to fund State initiatives not currently funded through federal grants.

"SECTION 14.17.(d) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed ~~one million five hundred thousand dollars (\$1,500,000)~~one million two hundred thousand dollars (\$1,200,000) for the ~~2009-2010~~2010-2011 fiscal year to fund a system upgrade to the Common Follow-Up Management Information System.

~~**"SECTION 14.17.(e)** The Employment Security Commission of North Carolina may use funds in the Employment Security Commission Reserve Fund to contract with nonprofit organizations to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.~~

"SECTION 14.17.(f) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year to fund the 'Tar Heel Works Program' which provides work based training opportunities to recipients of unemployment insurance benefits. The Tar Heels Works Program must meet all of the following factors:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.
- (2) The training is for the benefit of the trainee.
- (3) The trainees do not displace regular employees, but work under their close observation.

1 (4) The employer who provides the training derives no immediate advantage from
2 the activities of the trainees and, on occasion, the employer's operations may
3 actually be impeded.

4 (5) The trainees are not necessarily entitled to a job at the conclusion of the training
5 period.

6 (6) The employer and the trainees understand that the trainees are not entitled to
7 wages for the time spent in training.

8 "SECTION 14.17.(g) Of the funds credited to and held in the State of North Carolina's account
9 in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to
10 and in accordance with section 903 of the Social Security Act and pursuant to Title II of P.L. 111-5,
11 the Assistance for Unemployed Workers and Struggling Families Act, the Employment Security
12 Commission of North Carolina may expend the sum of two hundred five million sixty-three
13 thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one hundred million dollars
14 (\$100,000,000) shall be used to design and build the integrated unemployment insurance benefit
15 and tax accounting system; and (ii) the remaining funds shall be used for the operation of the
16 unemployment insurance program."
17

Senate and House Differ

Senate Version

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 14.14. Section 14.26 of S.L. 2009-451 reads as rewritten:

"SECTION 14.26.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after ~~July 1, 2009.~~July 1, 2010.

SECTION 14.26.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the ~~2009-2010~~2010-2011 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 14.26.(c) This section becomes effective ~~July 1, 2009.~~July 1, 2010."

House Version

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 14.14. Section 14.26 of S.L. 2009-451 reads as rewritten:

"SECTION 14.26.(a) The ~~percentage~~ rate to be used in calculating the public utility regulatory fee ~~imposed on public utilities~~ under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional ~~revenues~~ revenues, as defined in G.S. 62-302(b)(4). earned during each quarter that begins on or after ~~July 1, 2009.~~July 1, 2010.

SECTION 14.26.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the ~~2009-2010~~2010-2011 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 14.26.(c) This section becomes effective ~~July 1, 2009.~~July 1, 2010."

Senate and House Differ

Senate Version

**DEFENSE AND SECURITY TECHNOLOGY ACCELERATOR/REPORTING
REQUIREMENT**

SECTION 14.17. By September 1, 2010, and September 1, 2011, the Defense and Security Technology Accelerator shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

House Version

**DEFENSE AND SECURITY TECHNOLOGY ACCELERATOR/REPORTING
REQUIREMENT**

SECTION 14.17. By September 1, 2010, the Defense and Security Technology Accelerator shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

1 **House Only**

2 **RURAL CENTER/REALLOCATION OF CLEAN WATER BOND FUNDS**

3 **SECTION 14.22.** Notwithstanding the provisions of S.L. 1998-132, S.L. 2000-156, and
4 S.L. 2001-416, if the North Carolina Rural Economic Development Center, Inc. (Rural Center)
5 determines that there has been a change in any fiscal year in the relative needs for funds between
6 the supplemental, capacity, and unsewered communities categories of Clean Water Bond funding,
7 the Rural Center may reallocate funds between these categories. The Board of Directors of the
8 Rural Center must approve in advance any reallocation under this section. At least 30 days before
9 making a reallocation under this section, the Rural Center must consult with the Joint Legislative
10 Commission on Governmental Operations.

1 **Senate Only**

2 **DIRECT THE OFFICE OF STATE BUDGET AND MANAGEMENT TO RELEASE**
3 **FUNDS**

4 **SECTION 15.2.** In the event that the Office of Indigent Defense Services has more than
5 the sum of one million dollars (\$1,000,000) in unpaid fee applications received but unpaid at the
6 end of the 2010-2011 fiscal year, the Office of State Budget and Management shall release
7 sufficient funds from the Office of Indigent Defense Services' 2011-2012 fiscal year appropriation
8 in the first month's allotment to allow the Office to pay outstanding obligations at the beginning of
9 the new fiscal year.

Senate Only

INCREASE CERTAIN COURT FEES

SECTION 15.5.(a) G.S. 7A-304(a) reads as rewritten:

"§ 7A-304. Costs in criminal actions.

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...
(4) For support of the General Court of Justice, the sum of ~~ninety-five dollars and fifty cents (\$95.50)~~ one hundred dollars and fifty cents (\$100.50) in the district court, including cases before a magistrate, and the sum of one hundred two dollars and fifty cents (\$102.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. 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.

...
(6) For support of the General Court of Justice, the sum of two hundred dollars (\$200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146, and the sum of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within 20 days of the date specified in the court's judgment. Upon a 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

1 under this subdivision to the North Carolina State Bar for the provision of
2 services described in G.S. 7A-474.19.

3 ...

4 (a5) For the support of the General Court of Justice, a fee of forty dollars (\$40.00) shall be
5 assessed against a party filing a motion for summary judgment pursuant to G.S. 1A-1, Rule 56.
6 Sums collected under this subsection shall be remitted to the State Treasurer.

7"

8 **SECTION 15.5.(c)** G.S. 7A-307(b1) reads as rewritten:

9 "(b1) The clerk shall assess the following miscellaneous fees:

- 10 (1) Filing and indexing a will with no probate
11 – first page.....\$ 1.00
12 – each additional page or fraction thereof..... .25
13 (2) Issuing letters to fiduciaries, per letter over five letters issued.....1.00
14 (3) Inventory of safe deposits of a decedent, per box, per day.....15.00
15 (4) Taking a deposition.....10.00
16 (5) Docketing and indexing a will probated in another county in the State
17 - first page6.00
18 - each additional page or fraction thereof25
19 (6) Hearing petition for year's allowance to surviving spouse or child,
20 in cases not assigned to a magistrate, and allotting the same8.00
21 (7) Assignment of title.....10.00"

1 **Senate Only**

2 **PROVIDE CERTAIN COUNTERCLAIM FEES IN DOMESTIC VIOLENCE ACTIONS**

3 **SECTION 15.8.** G.S. 7A-305(a1) reads as rewritten:

4 "(a1) Costs apply to any and all additional and subsequent actions filed by amendment or
5 counterclaim to the original action brought under Chapter 50B of the General Statutes, unless such
6 additional and subsequent amendment or counterclaim to the action is ~~also brought under~~ limited to
7 requests for relief authorized by Chapter 50B of the General Statutes."

1 **Senate Only**

2 **MODIFY FEES FOR RESUMPTION OF MAIDEN OR FORMER NAME**

3 **SECTION 15.9.(a)** G.S. 50-12 reads as rewritten:

4 **"§ 50-12. Resumption of maiden or premarriage surname.**

5 (a) Any woman whose marriage is dissolved by a decree of absolute divorce may, upon
6 application to the clerk of court of the county in which she resides or where the divorce was granted
7 setting forth her intention to do so, change her name to any of the following:

- 8 (1) Her maiden name; or
9 (2) The surname of a prior deceased husband; or
10 (3) The surname of a prior living husband if she has children who have that
11 husband's surname.

12 (a1) A man whose marriage is dissolved by decree of absolute divorce may, upon application
13 to the clerk of court of the county in which he resides or where the divorce was granted setting forth
14 his intention to do so, change the surname he took upon marriage to his premarriage surname.

15 (b) The application and fee required by subsection (e) of this section shall be ~~addressed~~
16 presented to the clerk of the court of the county in which such divorced person resides or where the
17 divorce was granted, and shall set forth the full name of the former spouse of the applicant, the
18 name of the county and state in which the divorce was granted, and the term or session of court at
19 which such divorce was granted, and shall be signed by the woman in her full maiden name, or by
20 the man in his full premarriage surname. The clerks of court of the several counties of the State
21 shall record and index such applications in such manner as shall be required by the Administrative
22 Office of the Courts.

23 (c) If an applicant, since the divorce, has adopted one of the surnames listed in subsection
24 (a) or (a1) of this section, the applicant's use and adoption of that name is validated.

25 (d) In the complaint, or counterclaim for divorce filed by any person in this State, the person
26 may petition the court to adopt any surname as provided by this section, and the court is authorized
27 to incorporate in the divorce decree an order authorizing the person to adopt that surname.

28 (e) For support of the General Court of Justice, a fee in the amount of ten dollars (\$10.00)
29 shall be assessed against each person requesting the resumption of maiden or premarriage surname
30 in accordance with this section. Sums collected under this section shall be remitted to the State
31 Treasurer."

1 **Senate Only**

2 **INCREASE FEE FOR CERTAIN CASES ASSIGNED TO A MAGISTRATE**

3 **SECTION 15.10.** G.S. 7A-305(a)(2) reads as rewritten:

4 "(a) In every civil action in the superior or district court, except for actions brought under
5 Chapter 50B of the General Statutes, shall be assessed:

6 ...

7 (2) For support of the General Court of Justice, the sum of ninety-three dollars
8 (\$93.00) in the superior court, except that if a case is assigned to a special
9 superior court judge as a complex business case under G.S. 7A-45.3, an
10 additional one thousand dollars (\$1,000) shall be paid upon its assignment, and
11 the sum of seventy-three dollars (\$73.00) in the district court except that if the
12 case is assigned to a magistrate the sum shall be sixty-five dollars (\$65.00) for
13 cases initiated under Article 3 of Chapter 42 of the General Statutes or fifty-five
14 dollars ~~(\$55.00)-(\$55.00) for all other cases assigned to a magistrate.~~ Sums
15 collected under this subdivision shall be remitted to the State Treasurer. The
16 State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each
17 fee collected under this subdivision to the North Carolina State Bar for the
18 provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of
19 each fee collected under this subdivision to the North Carolina State Bar for the
20 provision of services described in G.S. 7A-474.19."

1 **Senate Only**

2 **INCREASE ATTORNEY APPOINTMENT FEE**

3 **SECTION 15.11.** G.S. 7A-455.1 reads as rewritten:

4 "**§ 7A-455.1. Appointment fee in criminal cases.**

5 (a) In every criminal case in which counsel is appointed at the trial level, the judge shall
6 order the defendant to pay to the clerk of court an appointment fee of ~~fifty dollars (\$50.00)~~; sixty
7 dollars (\$60.00). No fee shall be due unless the person is convicted.

8 (b) The mandatory ~~fifty-dollar (\$50.00)~~ sixty-dollar (\$60.00) fee may not be remitted or
9 revoked by the court and shall be added to any amounts the court determines to be owed for the
10 value of legal services rendered to the defendant and shall be collected in the same manner as
11 attorneys' fees are collected for such representation.

12 (c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

13 (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying
14 appointment of counsel, for withdrawal of counsel, or for contempt.

15 (e) The appointment fee required by this section shall be assessed only once for each
16 attorney appointment, regardless of the number of cases to which the attorney was assigned. An
17 additional appointment fee shall not be assessed if the charges for which an attorney was appointed
18 were reassigned to a different attorney.

19 (f) Of each appointment fee collected under this section, the sum of ~~forty-five dollars~~
20 ~~(\$45.00)~~ fifty-five dollars (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and
21 the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under
22 G.S. 7A-343.2. These fees shall not revert.

23 (g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern
24 implementation of this section."

1 **House Only**

2 **MODIFICATION TO THE DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE**
3 **OFFICE OF THE COURTS WITH RESPECT TO PAYMENT OF INTERPRETERS**
4 **AND EXPERT WITNESSES**

5 **SECTION 15.12.** G.S. 7A-343 is amended by adding two new subdivisions to read:

6 "(9e) Prescribe policies and procedures for the appointment and payment of deaf and
7 hearing-impaired interpreters, in accordance with G.S. 8B-8(a), for those cases
8 specified in G.S. 8B-8(b) and (c). These policies and procedures shall be applied
9 uniformly throughout the General Court of Justice. After consultation with the
10 Joint Legislative Commission on Governmental Operations, the Director may
11 also convert contractual hearing-impaired interpreter positions to permanent
12 State positions when the Director determines that it is more cost-effective to do
13 so.

14 (9f) Prescribe policies and procedures for the payment of those experts acting on
15 behalf of the court or prosecutorial offices, as provided for in G.S. 7A-314(d)."

1 **House Only**

2 **ESTABLISH A PILOT PROGRAM FOR ELECTRONIC FILING IN DOMESTIC**
3 **VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE COUNTY**

4 **SECTION 15.13.(a)** A pilot program for electronic filing in domestic violence cases is
5 established in District Court District 15A. In order to implement the program, the chief district
6 court judge in District Court District 15A may adopt local rules that permit the clerk of superior
7 court for Alamance County to accept electronically filed complaints requesting Chapter 50B of the
8 General Statutes ex parte domestic violence protective orders, and Chapter 50C of the General
9 Statutes ex parte civil no-contact orders, that are transmitted from the Alamance County Family
10 Justice Center.

11 **SECTION 15.13.(b)** This section expires June 30, 2012.

Senate and House Differ

Senate Version

REPORTING BY MEDICAID FRAUD CRIMINAL INVESTIGATION TEAM

SECTION 16.1. Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-2.5A. Report by the Medicaid Fraud Criminal Investigation Team required annually.

By September 1 of each year, the Medicaid Fraud Criminal Investigation Team of the Department of Justice shall file a written report about its activities with the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and with the Fiscal Research Division of the Legislative Services Office. This report shall include the following information about the Team's activities during the previous fiscal year:

- (1) The number of cases of potential Medicaid fraud reported.
- (2) The number of cases of potential Medicaid fraud investigated.
- (3) The number of cases in which Medicaid fraud is actually found.
- (4) The total amount of funds recovered in each case in which funds were recovered.
- (5) An explanation of how recovered funds were allocated, including information about any amounts allocated to (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the Department of Justice."

House Version

REPORTING BY MEDICAID FRAUD CONTROL UNIT

SECTION 16.1. Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-2.5A. Report by the Medicaid Fraud Control Unit required annually.

By September 1 of each year, the Medicaid Fraud Control Unit of the Department of Justice shall file a written report about its activities with the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and with the Fiscal Research Division of the Legislative Services Office. This report may be combined with the report required by G.S. 1-617 and shall include the following information about the Unit's activities during the previous fiscal year:

- (1) The number of matters reported to the Unit.
- (2) The number of cases investigated.
- (3) The number of criminal convictions and civil settlements.
- (4) The total amount of funds recovered in each case.
- (5) The allocation of recovered funds in each case to (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the Department of Justice; and (v) other victims."

Senate and House Differ

Senate Version

PROVIDE FEE SCHEDULE REQUIREMENTS FOR LAW ENFORCEMENT SUPPORT SERVICES

SECTION 17.1.(a) The General Assembly finds that a centralized evidence and DNA storage facility will provide local law enforcement agencies and clerks of court with a lower cost storage alternative, reducing or eliminating the need for local entities to provide their own storage and streamlining the evidence storage process.

SECTION 17.1.(b) G.S. 143B-475.2 is repealed.

SECTION 17.1.(c) Part 7 of Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-508.1. Fees for services provided by the Division.

Fees shall be established and collected by the Department for all program services provided by the Law Enforcement Support Services Division, except for Department of Defense property being transferred pursuant to the National Defense Authorization Act of 1997. The fees collected are departmental receipts and are applied to the Division's costs in providing services to these entities.

The fees apply to the following:

(1) A law enforcement agency that receives any services from the Division.

(2) An agency for which the Department stores evidence."

SECTION 17.1.(d) The Department of Crime Control and Public Safety, Law Enforcement Support Services Division (LESS), shall, in consultation with the Fiscal Research Division of the General Assembly, develop a fee schedule for the services provided by LESS. In developing this fee schedule, the Department shall consider the following:

(1) Fees charged in other states for similar services.

(2) Utilization rates for each of the three main program areas of LESS for the last five years.

(3) Actual workload requirements for each of the three main program areas of LESS, including the average time to complete a single transaction for each of the programs. For example, the Division shall determine, on average, how many person hours it takes to log in a piece of evidence for storage.

(4) Projected evidence storage needs for the next five years.

(5) Projected space costs and the feasibility of purchasing a permanent storage facility rather than continuing to lease space.

SECTION 17.1.(e) The fee schedule required to be developed pursuant to this section shall be reported to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division of the General Assembly not later than October 1, 2010.

SECTION 17.1.(f) The fees required by this section shall become effective July 1, 2011, and apply to program services provided on or after that date.

1 **House Version**

2 **AMEND LAW ENFORCEMENT SUPPORT SERVICES FEE AUTHORITY**

3 **SECTION 17.1.(a)** The General Assembly finds that a centralized evidence and DNA
4 storage facility will provide local law enforcement agencies and clerks of court with a lower cost
5 storage alternative, reducing or eliminating the need for local entities to provide their own storage
6 and streamlining the evidence storage process.

7 **SECTION 17.1.(b)** G.S. 143B-475.2 is repealed.

8 **SECTION 17.1.(c)** Part 7 of Article 11 of Chapter 143B of the General Statutes is
9 amended by adding a new section to read:

10 **"§ 143B-508.1. Fees for services provided by the Division.**

11 Fees shall be established and collected by the Department for all program services provided by
12 the Law Enforcement Support Services Division, except for Department of Defense property being
13 transferred pursuant to the National Defense Authorization Act of 1997. The fees collected are
14 departmental receipts and are applied to the Division's costs in providing services to these entities.
15 The fees apply to the following:

16 (1) A law enforcement agency that receives any services from the Division.

17 (2) An agency for which the Department stores evidence."

18 **SECTION 17.1.(d)** Subsections (b) and (c) of this section become effective July 1,
19 2010, and fees established pursuant to subsection (c) of this section apply to program services
20 provided on or after that date.
21

1 **House Only**

2 **REQUIRE DEVELOPMENT AND REPORTING OF LESS FEE SCHEDULE**

3 **SECTION 17.2.(a)** The Department of Crime Control and Public Safety, Law
4 Enforcement Support Services Division (LESS), shall, in consultation with the Fiscal Research
5 Division of the General Assembly, develop a fee schedule for the services provided by LESS. In
6 developing this fee schedule, the Department shall consider the following:

- 7 (1) Fees charged in other states for similar services.
8 (2) Utilization rates for each of the three main program areas of LESS for the last
9 five years.
10 (3) Actual workload requirements for each of the three main program areas of LESS,
11 including the average time to complete a single transaction for each of the
12 programs. For example, the Division shall determine, on average, how many
13 person hours it takes to log in a piece of evidence for storage.
14 (4) Projected evidence storage needs for the next five years.
15 (5) Projected space costs and the feasibility of purchasing a permanent storage
16 facility rather than continuing to lease space.

17 **SECTION 17.2.(b)** The fee schedule required to be developed pursuant to this section
18 shall be reported to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
19 Committee and the Fiscal Research Division of the General Assembly not later than October 1,
20 2010.

House Only

TRANSFER TUITION ASSISTANCE PROGRAM

SECTION 17.3.(a) The North Carolina National Guard Tuition Assistance Program of the Department of Crime Control and Public Safety is transferred to the State Education Assistance Authority. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 17.3.(b) Article 15 of Chapter 127A of the General Statutes is recodified as Part 2 of Article 23 of Chapter 116 of the General Statutes, G.S. 116-209.50 through G.S. 116-209.55. The remainder of Article 23 of Chapter 116 of the General Statutes is recodified as Part 1 of Article 23 of Chapter 116 of the General Statutes and shall be designated "State Education Assistance Authority".

SECTION 17.3.(c) Part 2 of Article 23 of Chapter 116 of the General Statutes, as recodified as Part 2 of Article 23 of Chapter 116 of the General Statutes by subsection (b) of this section, reads as rewritten:

"Part 2. North Carolina National Guard Tuition Assistance Act of 1975.

"§ 116-209.50. Short title.

This Article shall be known and may be cited as the North Carolina National Guard Tuition Assistance Act of 1975.

"§ 116-209.51. Purpose.

The General Assembly of North Carolina, recognizing that the North Carolina National Guard is the only organized, trained and equipped military force subject to the control of the State, hereby establishes a program of tuition assistance for qualifying guard members for the purpose of encouraging voluntary membership in the guard, improving the educational level of its members, and thereby benefiting the State as a whole.

"§ 116-209.52. Definitions.

(a) Academic Year. – Any period of 365 days beginning with the first day of enrollment for a course of instruction.

(a1) Business or Trade School. – Any school within the State of North Carolina which is licensed by the State Board of Education and listed by that Board as an approved private business school or an approved private trade school.

(b) Private Educational Institutions. – Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(c) ~~Secretary. – The Secretary of Crime Control and Public Safety or his or her designee.~~

(d) State Educational Institutions. – Any of the constituent institutions of the University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(e) Repealed by Session Laws 2008-94, s. 2, effective July 1, 2008.

(f) Student Loan. – A loan or loans made to eligible students or parents of students to aid in attaining an education beyond the high school level.

"§ 116-209.53. Benefit.

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed the highest amount charged by a State educational institution per academic year or a lesser amount, as prescribed by the ~~Secretary, Authority,~~ to remain within the funds appropriated, to qualifying members of the North Carolina National Guard. Benefits provided under ~~G.S. 127A-195(g)~~ G.S. 116-209.55(g) shall be payable for a period of one year at a time, renewable

1 at the option of the ~~Secretary~~ Authority. All other benefits provided under this Article shall be
2 payable for a period of one academic year at a time, renewable at the option of the
3 ~~Secretary~~ Authority.

4 **"§ 116-209.54. Eligibility.**

5 (a) Active members of the North Carolina National Guard who are enrolled or who shall
6 enroll in any business or trade school, private educational institution, or State educational institution
7 shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a
8 minimum obligation of two years remaining as a member of the National Guard from the end of the
9 academic period for which tuition assistance is provided or that the applicant commit himself or
10 herself to extended membership for at least two additional years from the end of that academic
11 period.

12 (b) This tuition assistance benefit shall be applicable to students in the following categories:

- 13 (1) Students seeking to achieve completion of their secondary school education at a
14 community college or technical institute.
15 (2) Students seeking trade or vocational training or education.
16 (3) Students seeking to achieve a two-year associate degree.
17 (4) Students seeking to achieve a four-year baccalaureate degree.
18 (5) Students seeking to achieve a graduate degree.

19 (c) The following persons shall be eligible to apply for disbursements to pay outstanding
20 student loans pursuant to ~~G.S. 127A-195(g)~~: G.S. 116-209.55(g):

- 21 (1) Persons described in subsections (a) and (b) of this section.
22 (2) Active members of the North Carolina National Guard who were previously
23 enrolled in any business or trade school, private educational institution, or State
24 educational institution, but only if:
25 a. The applicant has a minimum obligation of two years remaining as a
26 member of the National Guard from the time of the application; or
27 b. The applicant commits himself or herself to extended membership for at
28 least two additional years from the time of the application."

29 **"§ 116-209.55. Administration and funding.**

30 (a) The ~~Secretary of Crime Control and Public Safety~~ Authority is charged with the
31 administration of the tuition assistance program under this Article. ~~He may delegate administrative~~
32 ~~tasks to other persons within the Department of Crime Control and Public Safety as he deems best~~
33 ~~for the orderly administration of this program.~~

34 (b) The ~~Secretary~~ Authority shall determine the eligibility of applicants, select the benefit
35 recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if ~~he the~~
36 Authority finds that the recipient does not maintain an adequate academic status, or if the recipient
37 engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise
38 engages in disorderly conduct, breaches of the peace, or unlawful assemblies. The ~~Secretary~~
39 Authority shall maintain such records and shall promulgate such rules and regulations as ~~he the~~
40 Authority deems necessary for the orderly administration of this program. The ~~Secretary~~ Authority
41 may require of business or trade schools or State or private educational institutions such reports and
42 other information as ~~he the Authority~~ may need to carry out the provisions of this Article and ~~he the~~
43 Authority shall disburse benefit payments for recipients upon certification of enrollment by the
44 enrolling institutions.

45 (c) All tuition benefit disbursements shall be made to the business or trade school or State or
46 private educational institution concerned, for credit to the tuition account of each recipient. Funds
47 disbursed pursuant to subsection (g) of this section shall be made to the student loan creditor
48 concerned to be applied against the outstanding student loans of each National Guard member
49 beneficiary.

1 (d) The participation by any business or trade school or private educational institution in this
2 program shall be subject to the applicable provisions of this Article and to examination by the State
3 Auditor of the accounts of the benefit recipients attending or having attended such private schools
4 or institutions. The ~~Secretary~~ Authority may defer making an award or may suspend an award in
5 any business or trade school or private educational institution which does not comply with the
6 provisions of this Article relating to said institutions. The manner of payment to any business or
7 trade school or private educational institution shall be as prescribed by the ~~Secretary~~ Authority.

8 (e) Irrespective of other provisions of this Article, the ~~Secretary~~ Authority may prescribe
9 special procedures for adjusting the accounts of benefit recipients who, for reasons of illness,
10 physical inability to attend classes or for other valid reason satisfactory to the ~~Secretary~~ Authority,
11 may withdraw from any business or trade school or State or private educational institution prior to
12 the completion of the term, semester, quarter or other academic period being attended at the time of
13 withdrawal.

14 (f) Any balance of the monetary educational assistance grant up to the maximum for the
15 academic year remaining after tuition is paid pursuant to subsection (c) of this section may be
16 disbursed to the recipient as reimbursement for required course books and materials. The manner of
17 obtaining the reimbursement payment for these required books and materials shall be as prescribed
18 by the ~~Secretary~~ Authority.

19 (g) Any funds not needed to accomplish the other purposes of this Article may be used to
20 help members of the North Carolina National Guard repay outstanding student loans in accordance
21 with rules to be adopted by the ~~Secretary~~ Authority. These rules shall provide that the length of a
22 member's deployment may be considered in determining whether or not, and in what amount, a
23 member receives assistance pursuant to this subsection. There shall be no reimbursement under this
24 subsection for payments already made on student loans, and funds shall not be provided under this
25 subsection for the purpose of paying student loans obtained for courses from which the member
26 withdrew or for which the member did not receive a passing grade. Payments for outstanding loans
27 shall not exceed the maximum benefit available under ~~G.S. 127A-193~~ G.S. 116-209.53."

1 **Senate Only**

2 **PLAN FOR A PILOT PROGRAM ON PRIVATIZATION OF PROBATION SERVICES**

3 **SECTION 19.2.** The Department of Correction, Division of Community Corrections,
4 shall develop a plan for implementing a pilot program on the privatization of probation services.
5 The plan shall include a determination of what resources and policy changes are necessary to
6 conduct a pilot program for fee-based supervision of low-risk or community-level offenders by
7 private entities.

8 No pilot program shall be implemented without the prior approval of the General
9 Assembly. The Division shall report its plan to the Joint Legislative Corrections, Crime Control,
10 and Juvenile Justice Oversight Committee and the Fiscal Research Division by March 1, 2011.

1 **Senate Only**

2 **INCREASE FEES FOR PROBATION, PAROLE, AND POST-RELEASE SUPERVISION**

3 **SECTION 19.3.(a)** G.S. 15A-1343(c1) reads as rewritten:

4 "(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a)
5 of this section shall pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) per month,
6 unless exempted by the court. The court may exempt a person from paying the fee only for good
7 cause and upon motion of the person placed on supervised probation. No person shall be required to
8 pay more than one supervision fee per month. The court may require that the fee be paid in advance
9 or in a lump sum or sums, and a probation officer may require payment by such methods if he is
10 authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to
11 the clerk of court for the county in which the judgment was entered or the deferred prosecution
12 agreement was filed. Fees collected under this subsection shall be transmitted to the State for
13 deposit into the State's General Fund."

14 **SECTION 19.3.(b)** G.S. 15A-1368.4(f) reads as rewritten:

15 "(f) Required Supervision Fee. – The Commission shall require as a condition of post-release
16 supervision that the supervisee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00)
17 per month. The Commission may exempt a supervisee from this condition only if it finds that
18 requiring payment of the fee is an undue economic burden. The fee shall be paid to the clerk of
19 superior court of the county in which the supervisee was convicted. The clerk shall transmit any
20 money collected pursuant to this subsection to the State to be deposited in the State's General Fund.
21 In no event shall a supervisee be required to pay more than one supervision fee per month."

22 **SECTION 19.3.(c)** G.S. 15A-1374(c) reads as rewritten:

23 "(c) Supervision Fee. – The Commission must require as a condition of parole that the
24 parolee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) per month. The
25 Commission may exempt a parolee from this condition of parole only if it finds that requiring him
26 to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of
27 superior court of the county in which the parolee was convicted. The clerk must transmit any money
28 collected pursuant to this subsection to the State to be deposited in the general fund of the State. In
29 no event shall a person released on parole be required to pay more than one supervision fee per
30 month."

31 **SECTION 19.3.(d)** This section becomes effective July 1, 2010, and applies to persons
32 placed on supervised probation, parole, or post-release prior to that date and to all persons placed on
33 supervised probation, parole, or post-release on or after that date.

1 **Senate Only**

2 **INCREASE FEE FOR COMMUNITY SERVICE PROGRAM**

3 **SECTION 19.4.** G.S. 143B-262.4(b) reads as rewritten:

4 "(b) A fee of ~~two hundred twenty five dollars (\$225.00)~~ three hundred dollars (\$300.00) shall
5 be paid by all persons who participate in the program or receive services from the program staff.
6 Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the
7 program on more than one occasion, or while on deferred prosecution, or while serving a sentence
8 for the offense. A sentencing transaction shall include all offenses considered and adjudicated
9 during the same term of court. Fees collected pursuant to this subsection shall be deposited in the
10 General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of
11 court in the county in which the person is convicted, regardless of whether the person is
12 participating in the program as a condition of probation imposed by the court or pursuant to the
13 exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the
14 person is participating in the program as a result of a deferred prosecution or similar program, the
15 fee shall be paid to the clerk of court in the county in which the agreement is filed. If the person is
16 participating in the program as a condition of parole, the fee shall be paid to the clerk of the county
17 in which the person is released on parole. Persons participating in the program for any other reason
18 shall pay the fee to the clerk of court in the county in which the services are provided by the
19 program staff. The fee shall be paid in full before the person may participate in the community
20 service program, except that:

- 21 (1) A person convicted in a court in this State may be given an extension of time or
22 allowed to begin the community service before the person pays the fee by the
23 court in which the person is convicted; or
24 (2) A person performing community service pursuant to a deferred prosecution or
25 similar agreement may be given an extension of time or allowed to begin
26 community service before the fee is paid by the official or agency representing
27 the State in the agreement.
28 (3) A person performing community service as a condition of parole may be given
29 an extension of time to pay the fee by the Post-Release Supervision and Parole
30 Commission. No person shall be required to pay the fee before beginning the
31 community service unless the Commission orders the person to do so in writing.
32 (4) A person performing community service as ordered by a probation officer
33 pursuant to authority delegated by G.S. 15A-1343.2 may be given an extension
34 of time to pay the fee by the probation officer exercising the delegated authority."

House Only

STUDY MISDEMEANOR CLASSIFICATION

SECTION 19.5. It is the intent of the General Assembly that there be only three misdemeanor punishment levels: Class A1, Class 1, and Class 2. The North Carolina Sentencing and Policy Advisory Commission, in consultation with the Conference of District Attorneys, the Office of Indigent Defense Services, and the School of Government, shall review all Class 3 misdemeanor offenses and provide recommendations to the 2011 General Assembly for reclassifying each Class 3 misdemeanor as either an infraction or a Class 2 misdemeanor. The Commission may, in its discretion, consider other misdemeanor offenses for reclassification as infractions.

House Only

INMATE MEDICAL COST CONTAINMENT

SECTION 19.6.(a) The Department of Correction may reimburse those providers and facilities providing inmate medical services at a rate not to exceed seventy percent (70%) of the amount charged based on the usual and customary charges in effect for all other patients as of June 30, 2010. This subsection applies to all medical and facility services provided outside the correctional facility, including hospitalizations, professional services, medical supplies, and other medications provided to any inmate confined in a correctional facility.

SECTION 19.6.(b) The Department of Correction shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Correction must utilize other facilities and services to provide health care services to inmates, the Department shall make use of hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall work to ensure that care usage is distributed equitably among all hospitals or other appropriate health care facilities, with no one health care facility being required to admit more than five percent (5%) of all patients requiring hospitalization or hospital services, unless doing so would jeopardize the health of an inmate or unless otherwise agreed to by contract. The Department shall also give preference to those hospitals in the same county or an adjoining county to the correctional facility where an inmate requiring hospitalization is incarcerated.

SECTION 19.6.(c) The Department of Correction shall consult with the Division of Medical Assistance in the Department of Health and Human Services to develop protocols for prisoners who would be eligible for Medicaid if they were not incarcerated to access Medicaid while in custody or under extended limits of confinement. The Department shall seek reimbursement from Medicaid for those health care costs incurred by the Department in those instances when an inmate's Medicaid eligibility has been temporarily reinstated due to a hospitalization.

SECTION 19.6.(d) The Department of Correction, in consultation with the Office of State Budget and Management, shall study the impact on inmate medical costs resulting from the measures set forth in subsections (a), (b), and (c) of this section. The Department shall present its findings by March 1, 2011, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

SECTION 19.6.(e) The Department of Correction shall make every effort to explore other cost containment methods not expressly outlined in this section. These methods may include the following:

- (1) Contracting with a private third party to manage and provide all inmate medical services;
- (2) Partnering with the federal government to allow for treatment of State inmates in federal correctional hospitals; and
- (3) Purchasing a fixed number of beds at a hospital.

SECTION 19.6.(f) The Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than October 1, 2010, on:

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

- 1 (2) The anticipated effects on medical care provided to inmates as a result of the new
2 hospital at Central Prison and the updated facilities at the North Carolina
3 Correctional Institute for Women, as well as any other new medical services
4 capacity within the Department. Specifically, the Department shall report on:
5 a. The types and volumes of services that the new and updated facilities will
6 provide that previously would have been provided by community
7 providers; and
8 b. The projected types and volumes of services that will still be referred to
9 community providers.

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

14 **SECTION 19.6.(g)** The Department of Correction shall report to the Joint Legislative
15 Commission on Governmental Operations no later than October 1, 2010, and quarterly thereafter
16 on:

- 17 (1) The volume of services provided by community medical providers that can be
18 scheduled in advance and, of that volume, the percentage of those services that
19 are provided by contracted providers; and
20 (2) The volume of services provided by community medical providers that cannot be
21 scheduled in advance and, of that volume, the percentage of those services that
22 are provided by contracted providers.

23 **SECTION 19.6.(h)** Section 19.20(a) of S.L. 2009-451, as amended by Section 15A of
24 S.L. 2009-575, is repealed.

1 **House Only**

2 **COMMUNITY-BASED RESIDENTIAL REENTRY PROGRAM FOR INMATES – PILOT**
3 **INITIATIVE**

4 **SECTION 19.7.** The Department of Correction may contract with a community-based
5 residential facility that provides a range of offender services to pilot a two-year reentry program for
6 selected inmates. The Department may use funds available to support the pilot. The eligible inmates
7 shall be assessed by the Department of Correction as low-risk and eligible for minimum custody
8 security level. Selected inmates may be housed at a community-based residential facility with other
9 populations such as those on community supervision and nonoffenders. The pilot will begin during
10 the 2010-2011 fiscal year and end during the 2011-2012 fiscal year. The Department shall report on
11 the outcome of the pilot to the Chairs of the House of Representatives and Senate Appropriations
12 Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime
13 Control, and Juvenile Justice Oversight Committee by February 1, 2012. The report shall include
14 the number of inmates served, the number who successfully completed the program/program
15 services, a cost comparison between placement in a community-based residential facility and
16 incarceration in the State prison system, and may make recommendations regarding continuing
17 placement of offenders in such facilities.

1 **House Only**

2 **STUDY INMATE MEDICAL COSTS**

3 **SECTION 19.8.(a)** The Legislative Research Commission may study the issue of
4 inmate medical costs and develop recommendations for effective means of containing those costs.

5 **SECTION 19.8.(b)** The Legislative Research Commission may make an interim report
6 to the 2011 General Assembly and shall make its final report to the 2011 General Assembly,
7 Regular Session 2012.

1 **House Only**

2 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM GRANT REQUIREMENT**

3 **SECTION 19.9.** G.S. 143B-273.14 is amended by adding a new subsection to read:

4 "(a1) Funding provided under this Article for personnel for satellite substance abuse centers
5 shall only be used for personnel who provide direct services to offenders."

1 **Senate Only**

2 **FREEZE STATE MOTOR FLEET VEHICLE ACQUISITION PROGRAM**

3 **SECTION 20.1.** The Department of Administration, Motor Fleet Management, shall
4 not acquire any vehicles during the 2010-2011 fiscal year and shall minimize any impact on Motor
5 Fleet operations through enhanced operational efficiencies. By July 1, 2011, Motor Fleet
6 Management shall develop and implement a plan to ensure that thirty-three percent (33%) of new
7 vehicles purchased in subsequent fiscal years have a fuel economy for the new vehicle's model year
8 that is in the top fifteen percent (15%) of its class of comparable automobiles.

1 **House Only**

2 **CURB EXCESS PRIVATE MOTOR VEHICLE EXPENSE REIMBURSEMENT.**

3 **SECTION 20.2.** The Division of Motor Fleet Management of the Department of
4 Administration shall work with State agencies to analyze the travel costs of employees receiving
5 excessive private automobile travel reimbursements associated with their job, and if it is determined
6 the State would save money from that employee using a State vehicle (including the assignment of a
7 vehicle to that employee) then the employee may not be reimbursed for private automobile use.
8 Affected employees shall be given adequate notice.

House Only

FUNDS FOR NC SYMPHONY

SECTION 22.2.(a) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the 2010-2011 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section.

SECTION 22.2.(b) It is the intent of the General Assembly that the NC Symphony achieve its goal of raising the sum of eight million dollars (\$8,000,000) in non-State funding to support the operations of the Symphony. To that end, upon demonstrating to the Office of State Budget and Management that the NC Symphony has reached fund-raising targets in the amounts set forth in this subsection, the NC Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) for the 2010-2011 fiscal year.

SECTION 22.2.(c) Funds allocated pursuant to this section are in addition to any other funds allocated to the NC Symphony in this act.

Senate and House Differ

Senate Version

ALLOW CREATION OF HOUSING FINANCE CORPORATIONS TO RECEIVE FEDERAL "HARDEST HIT HOUSING MARKETS" FUNDING

SECTION 23.1.(a) Chapter 55 of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Housing Finance Corporations.

"§ 55-18-01. General provisions.

A corporation may be formed under this Article for the purpose of (i) applying for and receiving federal funding from the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, or similar fund, administered under the Emergency Economic Stabilization Act of 2008, P.L. 110-343, as amended, and (ii) administering the federal funding in a manner consistent with the program. A corporation formed under this Article shall be subject to the provisions of this Chapter that are not in conflict with the provisions of this Article.

"§ 55-18-02. Incorporation.

A corporation may be incorporated under this Article only by a minimum of 13 incorporators, a majority of whom must also be members of the board of directors of the North Carolina Housing Finance Agency. The articles of incorporation may provide that only the State may own the capital stack of the corporation.

"§ 55-18-03. Powers.

A corporation formed under this Article shall have the following corporate powers in addition to those generally provided under this Chapter:

- (1) Apply for and receive funds from the federal government from the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, or similar fund.
- (2) Contract with the North Carolina Housing Finance Agency to carry out the program requirements of the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, or similar fund.

"§ 55-18-04. Name.

A corporation formed under this Article shall include in its name the words "Housing Finance Corporation" but shall not use language that would confuse the corporation with the State instrumentality known as the North Carolina Housing Finance Agency. The Secretary of State shall have the power to determine whether a corporation's name causes confusion.

"§ 55-18-05. Relationship to State.

A corporation formed under this Article is not an agency of the State.

"§ 55-18-06. Other requirements.

A corporation formed under this Article shall structure and conduct itself in such a way as to meet the definition of "financial institution" under the Emergency Economic Stabilization Act of 2008, P.L. 110-343, as amended."

SECTION 23.1.(b) Chapter 55A of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Housing Finance Corporations.

"§ 55A-18-01. General provisions.

A corporation may be formed under this Article for the purpose of (i) applying for and receiving federal funding from the Housing Finance Agency Innovation Fund for the Hardest Hit Housing

1 Markets, or similar fund, administered under the Emergency Economic Stabilization Act of 2008,
2 P.L. 110-343, as amended, and (ii) administering the federal funding in a manner consistent with the
3 program. A corporation formed under this Article shall be subject to the provisions of this Chapter
4 that are not in conflict with the provisions of this Article.

5 **"§ 55A-18-02. Incorporation.**

6 A corporation may be incorporated under this Article only by a minimum of 13 incorporators, a
7 majority of whom must also be members of the board of directors of the North Carolina Housing
8 Finance Agency.

9 **"§ 55A-18-03. Powers.**

10 A corporation formed under this Article shall have the following corporate powers in addition to
11 those generally provided under this Chapter:

12 (1) Apply for and receive funds from the federal government from the Housing
13 Finance Agency Innovation Fund for the Hardest Hit Housing Markets, or
14 similar fund.

15 (2) Contract with the North Carolina Housing Finance Agency to carry out the
16 program requirements of the Housing Finance Agency Innovation Fund for the
17 Hardest Hit Housing Markets, or similar fund.

18 **"§ 55A-18-04. Name.**

19 A corporation formed under this Article shall include in its name the words "Housing Finance
20 Corporation" but shall not use language that would confuse the corporation with the state
21 instrumentality known as the North Carolina Housing Finance Agency. The Secretary of State shall
22 have the power to determine whether a corporation's name causes confusion.

23 **"§ 55A-18-05. Relationship to State.**

24 A corporation formed under this Article is not an agency of the State.

25 **"§ 55A-18-06. Other requirements.**

26 A corporation formed under this article shall structure and conduct itself in such a way as to
27 meet the definition of "financial institution" under the Emergency Economic Stabilization Act of
28 2008, P.L. 110-343, as amended."

29 **SECTION 23.1.(c)** G.S. 122A-5 is amended by adding a new subdivision to read:

30 **"§ 122A-5. General powers.**

31 The Agency shall have all of the powers necessary or convenient to carry out and effectuate the
32 purposes and provisions of this Chapter, including, but without limiting the generality of the
33 foregoing, the power:

34 ...

35 (28) To contract with housing finance corporations organized under Article 18 of
36 Chapter 55 or under Article 18 of Chapter 55A of the General Statutes to carry
37 out programs related to the funding awarded to the housing finance corporations
38 from the Housing Finance Agency Innovation Fund for the Hardest Hit Housing
39 Markets, or similar fund, administered under the Emergency Economic
40 Stabilization Act of 2008, P.L. 110-343, as amended."

1 **House Version**

2 **ALLOW HOUSING FINANCE AGENCY TO CREATE A CORPORATION TO RECEIVE**
3 **FEDERAL FUNDS FROM THE "HARDEST HIT HOUSING MARKETS" PROGRAM**

4 **SECTION 23.1.** G.S. 122A-5 reads as rewritten:

5 **"§ 122A-5. General powers.**

6 The Agency shall have all of the powers necessary ~~or convenient~~ to carry out ~~and effectuate~~ the
7 ~~purposes and~~ provisions of this Chapter, including, but without limiting the generality of the
8 foregoing, the power:

9 ...

10 (28) To form corporations for the purpose of receiving and administering funds from
11 federal programs that prohibit an entity receiving funds from being a State
12 agency."
13

1 **Senate Only**

2 **DEPARTMENT OF INSURANCE HEALTH REFORM AUTHORITY AND POSITIONS**

3 **SECTION 24.2.(a)** G.S. 58-2-40 is amended by adding a new subdivision to read:

4 "(10) Administer and enforce the provisions of the federal Patient Protection and
5 Affordable Care Act (Public Law 111-148) and the provisions of the Health Care
6 and Education Reconciliation Act of 2010 (Public Law 111-152) to the extent
7 that the provisions apply to persons subject to the Commissioner's jurisdiction
8 and to the extent that the provisions are not under the exclusive jurisdiction of
9 any federal agency."

10 **SECTION 24.2.(b)** The Department shall apply for federal funds that are available
11 through the Patient Protection and Affordable Insurance Care Act, Public Law 111-148, or the
12 Health Care and Education Reconciliation Act of 2010, Public Law 111-152, to support the
13 following 13 positions within the Department to implement this section:

- 14 (1) Attorney III.
- 15 (2) Health Actuary.
- 16 (3) Examiner III.
- 17 (4) Insurance Regulatory Analysts I, II (two positions), and III.
- 18 (5) Office Assistant, and Program Assistant.
- 19 (6) Insurance Investigator.
- 20 (7) Insurance Complaint Analyst (two positions).
- 21 (8) Complaint Analyst Supervisor.

22 In the event that federal funds cannot be obtained by the Department for the purposes of this
23 section, the Department shall, in consultation with the Joint Legislative Commission on
24 Governmental Operations, utilize funds from the Insurance Regulatory Fund to support these
25 positions.

1 **Senate Only**

2 **INCREASE FEES FOR FILING A CONTESTED CASE**

3 **SECTION 25.1.** G.S. 150B-23.2 reads as rewritten:

4 **"§ 150B-23.2. Fee for filing a contested case hearing.**

5 (a) Filing Fee. – In every contested case where the value of the amount in controversy
6 equals or exceeds fifty thousand dollars (\$50,000) commenced in the Office of Administrative
7 Hearings by a person aggrieved, aggrieved or heard in the Office of Administrative Hearings
8 pursuant to agency application under G.S. 150B-40(e), the petitioner shall pay a filing fee, and the
9 administrative law judge shall have the authority to assess that filing fee against the losing party, in
10 the amount of one hundred twenty-five dollars (\$125.00), five hundred dollars (\$500.00) unless the
11 Office of Administrative Hearings establishes a lesser filing fee by rule. The value of the amount in
12 controversy, for purposes of determining the filing fee, shall be determined solely by the Office of
13 Administrative Hearings.

14 (b) Time of Collection. – All fees that are required to be assessed, collected, and remitted
15 under subsection (a) of this section shall be collected by the Office of Administrative Hearings at
16 the time of commencement of the contested case (except in suits in forma pauperis).

17 (c) Forms of Payment. – The Office of Administrative Hearings may by rule provide for the
18 acceptable forms for payment and transmission of the filing fee.

19 (d) ~~Wavier~~ Waiver or Refund. – The Office of Administrative Hearings shall by rule
20 provide for the fee to be waived in a contested case in which the petition is filed in forma pauperis
21 and supported by such proofs as are required in G.S. 1-110 and in a contested case involving a
22 mandated federal cause of action. The Office of Administrative Hearings shall by rule provide for
23 the fee to be refunded in a contested case in which the losing party is the State."

1 **Senate Only**

2 **CONTINUE TRANSFER FROM DHHS TO OAH FOR MEDICAID APPEALS**

3 **SECTION 25.2.** From funds available to the Department of Health and Human
4 Services for the 2010-2011 fiscal year, the sum of two million dollars (\$2,000,000) shall be
5 transferred by the Department of Health and Human Services to the Office of Administrative
6 Hearings. These funds shall be allocated by the Office of Administrative Hearings for mediation
7 services provided for Medicaid applicant and recipient appeals and to contract for other services
8 necessary to conduct the appeals process.

Senate Only

**MODIFICATION OF METHOD BY WHICH LOCAL GOVERNMENTS REIMBURSE
THE STATE FOR PROGRAMS THAT SUPPORT LOCAL GOVERNMENTS**

SECTION 26.1.(a) G.S. 105-501(b) reads as rewritten:

"(b) Deductions. – ~~In determining the net proceeds of the tax to be distributed, the Secretary must deduct from the collections to be allocated an amount equal to one-twelfth of the costs during the preceding fiscal year of:~~

- ~~(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.~~
- ~~(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.~~
- ~~(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.

Senate Only

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
All District Attorneys of the General Court of Justice	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
United States Senator	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
State Senator	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) <u>One and one-half percent (1.5%)</u> of the annual salary of the office sought
All county offices compensated partly by salary and partly by fees	One percent (1%) <u>One and one-half percent (1.5%)</u> of the first annual salary to be received (exclusive of fees)

The salary of any office that is the basis for calculating the filing fee is the starting salary for the office, rather than the salary received by the incumbent, if different. If no starting salary can be determined for the office, then the salary used for calculation is the salary of the incumbent, as of January 1 of the election year."

SECTION 27.1.(b) G.S. 163-324(a) reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy under this Article, each candidate shall pay to the State Board of Elections a filing fee for the office he seeks in the amount of ~~one percent (1%)~~ one and one-half percent (1.5%) of the annual salary of the office sought."

SECTION 27.1.(c) G.S. 163-291(3) reads as rewritten:

"(3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than ~~one percent (1%)~~ one and one-half percent (1.5%) of the annual salary of the office sought unless ~~one percent (1%)~~ one and

1 one-half percent (1.5%) of the annual salary of the office sought is less than five
2 dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will
3 be charged. The fee shall be paid to the board of elections at the time notice of
4 candidacy is filed."

5 **SECTION 27.1.(d)** G.S. 163-294.2(e) reads as rewritten:

6 "(e) The filing fee for the primary or election shall be fixed by the governing board not later
7 than the day before candidates are permitted to begin filing notices of candidacy. There shall be a
8 minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the
9 filing fee at not less than five dollars (\$5.00) nor more than ~~one percent (1%)~~ one and one-half
10 percent (1.5%) of the annual salary of the office sought unless ~~one percent (1%)~~ one and one-half
11 percent (1.5%) of the annual salary of the office sought is less than five dollars (\$5.00), in which
12 case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the
13 board of elections at the time notice of candidacy is filed."

14 **SECTION 27.1.(e)** This section is effective with respect to elections held on or after
15 January 1, 2011.

1 **House Only**

2 **MILITARY MORALE AND WELFARE FUND**

3 **SECTION 27A.1.(a)** Of the funds appropriated to the Office of State Budget and
4 Management, the sum of five hundred thousand dollars (\$500,000) for the 2010-2011 fiscal year
5 shall be placed in a Reserve for the Military Morale, Recreation, and Welfare Fund.

6 **SECTION 27A.1.(b)** The Office of State Budget and Management shall distribute for
7 the purposes described in this section the amount appropriated by subsection (a) of this section.
8 That amount shall be distributed to each military installation on a per capita basis.

9 **SECTION 27A.1.(c)** Funds distributed to a military installation exchange under this
10 section must be deposited in the Military Morale, Recreation, and Welfare Fund for that installation
11 and used only for community services and other expenditures to improve quality of life programs
12 for military members and their families in North Carolina.

13 **SECTION 27A.1.(d)** Beginning with the 2010-2011 fiscal year, each military
14 installation shall report at least annually on the allocation and use of the funding to the Joint
15 Legislative Commission on Governmental Operations.

1 **House Only**

2 **ADD OFFICE OF STATE PERSONNEL DIRECTOR TO BEACON PROJECT STEERING**
3 **COMMITTEE**

4 **SECTION 27B.1.** Section 6.16(b) of S.L. 2008-107, as amended by S.L. 2008-118,
5 reads as rewritten:

6 "SECTION 6.16.(b) The State Controller shall serve as the Chairman of the BEACON Project
7 Steering Committee. The other members of the committee shall be the State Chief Information
8 Officer, the State Treasurer, the Attorney General, the Secretary of Correction, the Administrative
9 Officer of the Courts, the State Budget Officer, the Secretary of Administration, the State Personnel
10 Director, and the Chief Financial Officer of the Department of Transportation."

1 **Senate and House Differ**

2

3 **Senate Version**

4

5 **DRIVER EDUCATION PROGRAM FUND REVERSION**

6 **SECTION 28.2.** G.S. 20-88.1 reads as rewritten:

7 **"§ 20-88.1. Driver education.**

8 ...

9 (a1) For each fiscal year, the State Superintendent of Public Instruction shall calculate a per
10 student allocation for the driver education program by dividing the total funds allocated for the
11 program by the estimated number of qualified students throughout the State, as described in
12 subsection (a) of this section. The Superintendent shall distribute funds to local school
13 administrative units by giving each local school administrative unit an amount equal to the per
14 student allocation multiplied by the estimated number of qualified students within that local school
15 administrative unit's district, including students enrolled in both public and private schools. If, at the
16 end of the fiscal year, fewer than the expected number of students have participated in the driver
17 education program in a local school administrative unit, then the local school administrative unit
18 shall revert the per student allocation for each student that was estimated to be eligible to participate
19 but did not actually participate in the driver education program.

20 ...

21 (c) All expenses incurred by the State in carrying out the provisions of this section shall be
22 paid out of the Highway Fund. At the end of each fiscal year, the Department of Public Instruction
23 shall collect and revert any unused funds allocated for this program back to the Highway Fund.

24 ..."

25

1 **House Version**

2 **DRIVER EDUCATION PROGRAM FUND REVERSION AND STUDIES**

3 **SECTION 28.2.(a)** G.S. 20-88.1 reads as rewritten:

4 **"§ 20-88.1. Driver education.**

5 ...

6 (a) For each fiscal year, the State Superintendent of Public Instruction shall calculate a per
7 student allocation for the driver education program by dividing the total funds allocated for the
8 program by the estimated number of qualified students throughout the State, as described in
9 subsection (a) of this section. The Superintendent shall distribute funds to local school
10 administrative units by giving each local school administrative unit an amount equal to the per
11 student allocation multiplied by the estimated number of qualified students within that local school
12 administrative unit's district, including students enrolled in both public and private schools. If, at the
13 end of the fiscal year, fewer than the expected number of students have participated in the driver
14 education program in a local school administrative unit, then the local school administrative unit
15 shall revert the per student allocation for each student that was estimated to be eligible to participate
16 but did not actually participate in the driver education program.

17 ...

18 (c) All expenses incurred by the State in carrying out the provisions of this section shall be
19 paid out of the Highway Fund. At the end of each fiscal year, the Department of Public Instruction
20 shall collect and revert any unused funds allocated for this program back to the Highway Fund.

21"

22 **SECTION 28.2.(b)** The Highway Safety Research Center Institute of the University of
23 North Carolina at Chapel Hill shall work in collaboration with the Department of Public Instruction
24 and the Governor's Highway Safety Commission to create a standard curriculum to be used for the
25 Driver Education Program in the Department of Public Instruction. The curriculum shall be ready
26 for use in the school year beginning in the fall of 2011 and shall be used for all driver education
27 programs funded with State funds.

28 **SECTION 28.2.(c)** The Office of State Budget and Management (OSBM) shall review
29 the funding and efficacy of the Driver Education Program to determine the most appropriate source
30 of funds to support the program and outcomes of the funding on student driving. The review shall
31 include recommendations for improving services, reducing costs and/or duplication, and alternative
32 funding mechanisms including fees. OSBM shall also work with the Department of Public
33 Instruction to establish performance measures for the program to be used to determine the program's
34 effectiveness. OSBM shall make recommendations to the Governor and the General Assembly no
35 later than November 1, 2010.

1 **House Only**

2 **REQUIRE GLOBAL TRANSPARK TO REPORT ON ANTICIPATED REPAYMENT**
3 **SCHEDULE**

4 **SECTION 28.3.** The Board of Directors of the Global TransPark Authority shall report
5 on or before December 31, 2010, to the House Appropriations Subcommittee on Transportation and
6 the Senate Committee on Appropriations on Department of Transportation on the Authority's
7 strategic, business, and financial plans. The report shall include the Authority's proposed schedule
8 to achieve financial self-sufficiency and proposed schedule to repay to the Escheat Fund the
9 investment authorized under G.S. 147-69.2(b)(11) and any accumulated interest, both of which
10 totaled thirty-seven million seven hundred ninety-eight thousand eight hundred ninety-eight dollars
11 and fifty cents (\$37,798,898.50) as of March 31, 2010.

1 **House Only**

2 **ADJUST ROAD NAMING POLICY**

3 **SECTION 28.4.** The Department of Transportation shall remove the existing
4 prohibition on naming State roads after specific military veterans and shall adopt a policy for
5 naming highways after specific military veterans. This new policy shall be part of the Department
6 of Transportation's existing system for naming State roads after people. The Department of
7 Transportation shall report to the Joint Legislative Transportation Oversight Committee no later
8 than December 1, 2011, on the new policy and the Department's implementation of the policy.

1 **House Only**

2 **STATE HIGHWAY PATROL TO USE FORFEITURE FUNDS FOR VIPER PROGRAM**

3 **SECTION 28.5.** The Department of Crime Control and Public Safety, State Highway
4 Patrol Division, shall use two million five hundred thousand dollars (\$2,500,000) of the funds in the
5 State Highway Patrol's asset forfeiture account from its participation in the United States Asset
6 Forfeiture Program for the Voice Interoperability Plan for Emergency Responders (VIPER) project
7 for expenditures that would be permitted under the Asset Forfeiture Program's rules.

8 In the event that the State Highway Patrol's 2010-2011 budget, as established by S.L.
9 2009-451, this act, or any other act, is reduced in any way, the State Highway Patrol may use, but
10 shall not be required to use, two million five hundred thousand dollars (\$2,500,000) of the funds in
11 the State Highway Patrol's asset forfeiture account from its participation in the Asset Forfeiture
12 Program for the VIPER project.

House Only

DEVELOP FEE SCHEDULE FOR FERRY SYSTEM

SECTION 28.6. The Department of Transportation, Ferry Division, shall develop a fee schedule for all ferry routes in an amount necessary to cover the operating costs of the existing ferry routes. As part of developing a fee schedule, the Department of Transportation, Ferry Division, shall provide a fee exception for schoolchildren and teachers who reside on a barrier island and travel on a ferry to attend or teach at a primary or secondary school. The Division shall also consider the needs of commuters and other frequent passengers in developing the fee schedule. The Department of Transportation, Ferry Division, shall report on its planned fee schedule and implementation time line to the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation no later than February 1, 2011.

1 **House Only**

2 **ESTABLISH NC MOBILITY FUND**

3 **SECTION 28.7.(a)** Chapter 136 of the General Statutes is amended by adding a new
4 Article to read:

5 "Article 14A.

6 "North Carolina Mobility Fund.

7 **"§ 136-187. Creation of the North Carolina Mobility Fund.**

8 (a) A special fund designated as the North Carolina Mobility Fund is hereby created. The
9 Mobility Fund consists of revenue from appropriations or transfers by the General Assembly.

10 (b) The amounts deposited to the Mobility Fund shall be used as provided in this Article,
11 notwithstanding any provision of Article 14 to the contrary. The provisions of G.S. 136-17.2A shall
12 not apply to the application of the Mobility Fund.

13 **"§ 136-188. Use of North Carolina Mobility Fund.**

14 (a) The Department of Transportation shall use the Mobility Fund to fund transportation
15 projects of statewide and regional significance that relieve congestion and enhance mobility across
16 all modes of transportation. The Department of Transportation shall establish project selection
17 criteria based on the provisions of this Article.

18 (b) The initial project funded from the Mobility Fund shall be the widening and
19 improvement of Interstate 85 north of the Yadkin River Bridge.

20 **"§ 136-189. Reports by Department of Transportation.**

21 The Department of Transportation shall develop, and update annually, a report containing a
22 completion schedule for all projects to be funded from the Mobility Fund, including the selection
23 criteria and reasoning used for each project. The annual update shall indicate the projects, or
24 portions thereof, that were completed during the preceding fiscal year, any changes in the original
25 completion schedules, and the reasons for the changes. The report shall also include the
26 Department's anticipated schedule for future projects. The Department shall submit the report and
27 the annual updates to the Joint Legislative Transportation Oversight Committee."

28 **SECTION 28.7.(b)** The Department of Transportation shall develop a selection criteria
29 under G.S. 136-188, as enacted by this act, and shall report to the Joint Legislative Transportation
30 Oversight Committee on its development of the selection criteria. A preliminary report on the
31 selection criteria for projects is due to the Joint Legislative Transportation Oversight Committee by
32 October 1, 2010. A final report is due to the Joint Legislative Transportation Oversight Committee
33 by December 15, 2010. When developing the project criteria and selection process, the Department
34 shall give preferential consideration to projects qualified to receive state grants from the Congestion
35 Relief and Intermodal Transportation 21st Century Fund under Article 19 of Chapter 136 of the
36 General Statutes. When developing the project criteria and selection process, the Department shall
37 involve the public and other stakeholders, including, but not limited to, the North Carolina
38 Association of Municipal Planning Organizations, the North Carolina Association of Rural Planning
39 Organizations, the North Carolina League of Municipalities, the North Carolina Association of
40 County Commissioners, the North Carolina Metropolitan Mayors Coalition, and the North Carolina
41 Council of Regional Governments.

42 **SECTION 28.7.(c)** Any funds appropriated to the North Carolina Turnpike Authority
43 in fiscal year 2009-2010 under G.S. 136-176(b2) that remain unencumbered at the end of fiscal year
44 2009-2010 are hereby transferred to the North Carolina Mobility Fund, as enacted by this act, to be
45 used for Phase II of the Yadkin River Bridge project.

46 **SECTION 28.7.(d)** G.S. 105-187.9 reads as rewritten:

47 **"§ 105-187.9. Disposition of tax proceeds.**

48 ...

1 (b) ~~Transfer.~~ General Fund Transfer. – In each fiscal ~~year~~ year, the State Treasurer shall
2 transfer the amounts provided below from the taxes deposited in the Trust Fund to the General
3 Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of
4 the amount at the end of each quarter in the fiscal year or by transferring the full amount annually
5 on July 1 of each fiscal year, subject to the availability of revenue.

6 (1) The sum of ~~seventy-one million dollars (\$71,000,000).~~ forty million dollars
7 (\$40,000,000).
8

9 ...

9 (c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~thirty-one~~
10 million dollars (\$31,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The
11 transfer of funds authorized by this section may be made by transferring one-fourth of the amount at
12 the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of
13 each fiscal year, subject to the availability of revenue."

14 **SECTION 28.7.(e)** G.S. 105-187.9, as amended by this act, reads as rewritten:
15 "**§ 105-187.9. Disposition of tax proceeds.**

16 ...

17 (b) General Fund Transfer. – In each fiscal year, the State Treasurer shall transfer the
18 amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The
19 transfer of funds authorized by this section may be made by transferring one-fourth of the amount at
20 the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of
21 each fiscal year, subject to the availability of revenue."

22 (1) The sum of ~~forty million dollars (\$40,000,000).~~ twenty-six million dollars
23 (\$26,000,000).
24

25 ...

25 (c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~thirty-one~~
26 ~~million dollars (\$31,000,000)~~ forty-five million dollars (\$45,000,000) from the taxes deposited in
27 the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made
28 by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by
29 transferring the full amount annually on July 1 of each fiscal year, subject to the availability of
30 revenue."

31 **SECTION 28.7.(f)** Subsection (d) of this section becomes effective July 1, 2011.
32 Subsection (e) of this section becomes effective July 1, 2012.

Senate Only

FURLOUGHS AUTHORIZED/PUBLIC SCHOOLS

SECTION 29.1.(a) The General Assembly finds that:

- (1) North Carolina's citizens and businesses are suffering from the effects of a significant State financial crisis.
- (2) The financial crisis has resulted in large reductions in revenues projected to be available to fund the State's budget for the 2010-2011 fiscal year.
- (3) Each local school administrative unit is required to reduce its budget and should attempt to protect employees when possible.
- (4) The implementation of furloughs may be necessary to balance local school administrative unit budgets for the 2010-2011 fiscal year.

SECTION 29.1.(b) In accordance with Section 7.13 of this act, local boards of education may implement furloughs of State-funded public school employees to offset the LEA funding flexibility adjustment.

SECTION 29.1.(c) The following definitions apply in this section:

- (1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by a local board of education and (ii) is not in connection with a demotion or other disciplinary action.
- (2) Public school employee. – Any person employed by a local school administrative unit. The term includes public officers.

SECTION 29.1.(d) The provisions of Section 26.14E.(b) and (c) of S.L. 2009-451 apply to public school employees furloughed pursuant to the section.

SECTION 29.1.(e) Local school administrative units shall cooperate with the Department of Public Instruction in the implementation of a furlough, if required.

SECTION 29.1.(f) As soon as practicable, and no more than 30 calendar days from the effective date of this section, the State Board of Education shall adopt rules for the implementation of this section in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until the expiration of this section. These rules shall be applied by local boards of education in designating the times public school employees may be subject to furlough. These rules shall provide, at a minimum, that:

- (1) Employees who work only on instructional days shall not be subject to furlough.
- (2) Employees who earn an annual base rate of thirty thousand dollars (\$30,000) or less shall not be subject to furlough.
- (3) A furlough for other employees shall be for the same number of days for all such employees and shall be for a maximum of two days;
- (4) No teacher shall be subject to a furlough on an instructional day or a protected work day.
- (5) A local board of education shall have a public hearing and shall disclose the local school administrative unit's finances before the local board implements a furlough.
- (6) The local school administrative unit shall cut all bonus pay before it imposes a furlough.
- (7) A local school administrative unit may spread the salary or wage reduction for furloughed employees over the contract period in order to lessen the impact on the employees.
- (8) All savings realized as a result of a furlough shall be used to offset the LEA funding flexibility adjustment.

1 (9) A county in which a local school administrative unit implements a furlough
2 pursuant to this section shall not supplant existing local current expense funds for
3 schools.

4 (10) Each local board of education shall report to the State Board of Education on the
5 details of any furlough implemented by the local school administrative unit and
6 certify that the furlough complied with the provisions of this section and the rules
7 adopted by the State Board.

8 **SECTION 29.1.(g)** The provisions of Section 26.14E.(e) of S.L. 2009-451 apply to
9 furloughs under this section.

10 **SECTION 29.1.(h)** A furlough as implemented by this section does not constitute a
11 demotion pursuant to Part 3 of Article 22 of Chapter 115C of the General Statutes or under any
12 other personnel law or policy.

13 **SECTION 29.1.(i)** Notwithstanding G.S. 115C-273, 115C-285(b), 115C-302.1(h), and
14 115C-316(b), or any other provision of law, public school employees who are not paid out of State
15 funds shall receive the same reduction in pay applicable to State-paid employees in the event a
16 furlough is enacted by a local school administrative unit.

17 **SECTION 29.1.(j)** This section is effective when it becomes law and expires June 30,
18 2011.

Senate and House Differ

Senate Version

TEACHER SALARY SCHEDULES

SECTION 29.2.(a) The following monthly salary schedules shall apply for the 2010-2011 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 34 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2010-2011 Monthly Salary Schedule

"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,043	N/A
3	\$3,085	\$3,455
4	\$3,129	\$3,504
5	\$3,264	\$3,656
6	\$3,404	\$3,812
7	\$3,538	\$3,963
8	\$3,667	\$4,107
9	\$3,771	\$4,224
10	\$3,819	\$4,277
11	\$3,868	\$4,332
12	\$3,918	\$4,388
13	\$3,967	\$4,443
14	\$4,018	\$4,500
15	\$4,069	\$4,557
16	\$4,122	\$4,617
17	\$4,176	\$4,677
18	\$4,231	\$4,739
19	\$4,286	\$4,800
20	\$4,345	\$4,866
21	\$4,403	\$4,931
22	\$4,461	\$4,996
23	\$4,523	\$5,066
24	\$4,584	\$5,134
25	\$4,650	\$5,208
26	\$4,714	\$5,280
27	\$4,779	\$5,352
28	\$4,845	\$5,426
29	\$4,913	\$5,503
30	\$4,984	\$5,582
31	\$5,055	\$5,662

1	32	\$5,153	\$5,771
2	33+	\$5,255	\$5,886

2010-2011 Monthly Salary Schedule
"M" Teachers

6	Years of Experience	"M" Teachers	NBPTS Certification
7	0	\$3,347	N/A
8	1	\$3,347	N/A
9	2	\$3,347	N/A
10	3	\$3,394	\$3,801
11	4	\$3,442	\$3,855
12	5	\$3,590	\$4,021
13	6	\$3,744	\$4,193
14	7	\$3,892	\$4,359
15	8	\$4,034	\$4,518
16	9	\$4,148	\$4,646
17	10	\$4,201	\$4,705
18	11	\$4,255	\$4,766
19	12	\$4,310	\$4,827
20	13	\$4,364	\$4,888
21	14	\$4,420	\$4,950
22	15	\$4,476	\$5,013
23	16	\$4,534	\$5,078
24	17	\$4,594	\$5,145
25	18	\$4,654	\$5,212
26	19	\$4,715	\$5,281
27	20	\$4,780	\$5,354
28	21	\$4,843	\$5,424
29	22	\$4,907	\$5,496
30	23	\$4,975	\$5,572
31	24	\$5,042	\$5,647
32	25	\$5,115	\$5,729
33	26	\$5,185	\$5,807
34	27	\$5,257	\$5,888
35	28	\$5,330	\$5,970
36	29	\$5,404	\$6,052
37	30	\$5,482	\$6,140
38	31	\$5,561	\$6,228
39	32	\$5,668	\$6,348
40	33+	\$5,781	\$6,475

SECTION 29.2.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 29.2.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers

1 with certification based on academic preparation at the doctoral degree level shall receive a salary
2 supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation
3 provided for certified personnel of the public schools who are classified as "M" teachers.

4 **SECTION 29.2.(d)** The first step of the salary schedule for school psychologists shall
5 be equivalent to Step 5, corresponding to five years of experience, on the salary schedule
6 established in this section for certified personnel of the public schools who are classified as "M"
7 teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based
8 on their years of experience. Certified psychologists shall receive longevity payments based on
9 years of State service in the same manner as teachers.

10 Certified psychologists with certification based on academic preparation at the six-year
11 degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per
12 month in addition to the compensation provided for certified psychologists. Certified psychologists
13 with certification based on academic preparation at the doctoral degree level shall receive a salary
14 supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation
15 provided for certified psychologists.

16 **SECTION 29.2.(e)** Speech pathologists who are certified as speech pathologists at the
17 master's degree level and audiologists who are certified as audiologists at the master's degree level
18 and who are employed in the public schools as speech and language specialists and audiologists
19 shall be paid on the school psychologist salary schedule.

20 Speech pathologists and audiologists with certification based on academic preparation at
21 the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars
22 (\$126.00) per month in addition to the compensation provided for speech pathologists and
23 audiologists. Speech pathologists and audiologists with certification based on academic preparation
24 at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars
25 (\$253.00) per month in addition to the compensation provided for speech pathologists and
26 audiologists.

27 **SECTION 29.2.(f)** Certified school nurses who are employed in the public schools as
28 nurses shall be paid on the "M" salary schedule.

29 **SECTION 29.2.(g)** As used in this section, the term "teacher" shall also include
30 instructional support personnel.
31

House Version

TEACHER SALARY SCHEDULES

SECTION 29.2.(a) The following monthly salary schedules shall apply for the 2010-2011 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 34 steps, with each step corresponding to one year of teaching experience. Provided, however, teachers employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2010-2011 Monthly Salary Schedule**"A" Teachers**

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,043	N/A
3	\$3,085	\$3,455
4	\$3,129	\$3,504
5	\$3,264	\$3,656
6	\$3,404	\$3,812
7	\$3,538	\$3,963
8	\$3,667	\$4,107
9	\$3,771	\$4,224
10	\$3,819	\$4,277
11	\$3,868	\$4,332
12	\$3,918	\$4,388
13	\$3,967	\$4,443
14	\$4,018	\$4,500
15	\$4,069	\$4,557
16	\$4,122	\$4,617
17	\$4,176	\$4,677
18	\$4,231	\$4,739
19	\$4,286	\$4,800
20	\$4,345	\$4,866
21	\$4,403	\$4,931
22	\$4,461	\$4,996
23	\$4,523	\$5,066
24	\$4,584	\$5,134
25	\$4,650	\$5,208
26	\$4,714	\$5,280
27	\$4,779	\$5,352
28	\$4,845	\$5,426
29	\$4,913	\$5,503
30	\$4,984	\$5,582
31	\$5,055	\$5,662
32	\$5,153	\$5,771
33+	\$5,255	\$5,886

2010-2011 Monthly Salary Schedule**"M" Teachers**

	Years of Experience	"M" Teachers	NBPTS Certification
1			
2	0	\$3,347	N/A
3	1	\$3,347	N/A
4	2	\$3,347	N/A
5	3	\$3,394	\$3,801
6	4	\$3,442	\$3,855
7	5	\$3,590	\$4,021
8	6	\$3,744	\$4,193
9	7	\$3,892	\$4,359
10	8	\$4,034	\$4,518
11	9	\$4,148	\$4,646
12	10	\$4,201	\$4,705
13	11	\$4,255	\$4,766
14	12	\$4,310	\$4,827
15	13	\$4,364	\$4,888
16	14	\$4,420	\$4,950
17	15	\$4,476	\$5,013
18	16	\$4,534	\$5,078
19	17	\$4,594	\$5,145
20	18	\$4,654	\$5,212
21	19	\$4,715	\$5,281
22	20	\$4,780	\$5,354
23	21	\$4,843	\$5,424
24	22	\$4,907	\$5,496
25	23	\$4,975	\$5,572
26	24	\$5,042	\$5,647
27	25	\$5,115	\$5,729
28	26	\$5,185	\$5,807
29	27	\$5,257	\$5,888
30	28	\$5,330	\$5,970
31	29	\$5,404	\$6,052
32	30	\$5,482	\$6,140
33	31	\$5,561	\$6,228
34	32	\$5,668	\$6,348
35	33+	\$5,781	\$6,475

SECTION 29.2.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 29.2.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 29.2.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule

1 established in this section for certified personnel of the public schools who are classified as "M"
2 teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based
3 on their years of experience. Certified psychologists shall receive longevity payments based on
4 years of State service in the same manner as teachers.

5 Certified psychologists with certification based on academic preparation at the six-year
6 degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per
7 month in addition to the compensation provided for certified psychologists. Certified psychologists
8 with certification based on academic preparation at the doctoral degree level shall receive a salary
9 supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation
10 provided for certified psychologists.

11 **SECTION 29.2.(e)** Speech pathologists who are certified as speech pathologists at the
12 master's degree level and audiologists who are certified as audiologists at the master's degree level
13 and who are employed in the public schools as speech and language specialists and audiologists
14 shall be paid on the school psychologist salary schedule.

15 Speech pathologists and audiologists with certification based on academic preparation at
16 the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars
17 (\$126.00) per month in addition to the compensation provided for speech pathologists and
18 audiologists. Speech pathologists and audiologists with certification based on academic preparation
19 at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars
20 (\$253.00) per month in addition to the compensation provided for speech pathologists and
21 audiologists.

22 **SECTION 29.2.(f)** Certified school nurses who are employed in the public schools as
23 nurses shall be paid on the "M" salary schedule.

24 **SECTION 29.2.(g)** As used in this section, the term "teacher" shall also include
25 instructional support personnel.
26

Senate and House Differ

Senate Version

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 29.3.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2010-2011 fiscal year, commencing July 1, 2010. Provided, however, school-based administrators (i) employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2010-2011 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2010-2011 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-6	\$3,781	-	-	-	-
7	\$3,931	-	-	-	-
8	\$4,074	-	-	-	-
9	\$4,189	-	-	-	-
10	\$4,243	\$4,243	-	-	-
11	\$4,298	\$4,298	-	-	-
12	\$4,353	\$4,353	\$4,408	-	-
13	\$4,408	\$4,408	\$4,464	-	-
14	\$4,464	\$4,464	\$4,521	\$4,579	-
15	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
16	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
17	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
18	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
19	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
20	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
21	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
22	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
23	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
24	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
25	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
26	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
27	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
28	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
29	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
30	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
31	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
32	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
33	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
34	-	\$5,956	\$6,075	\$6,197	\$6,321
35	-	-	\$6,197	\$6,321	\$6,447
36	-	-	\$6,321	\$6,447	\$6,576
37	-	-	-	\$6,576	\$6,708

1	38	-	-	-	\$6,708	\$6,842
2	39	-	-	-	-	\$6,979
3						

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
28	\$5,725	\$5,839	\$6,075	\$6,197
29	\$5,839	\$5,956	\$6,197	\$6,321
30	\$5,956	\$6,075	\$6,321	\$6,447
31	\$6,075	\$6,197	\$6,447	\$6,576
32	\$6,197	\$6,321	\$6,576	\$6,708
33	\$6,321	\$6,447	\$6,708	\$6,842
34	\$6,447	\$6,576	\$6,842	\$6,979
35	\$6,576	\$6,708	\$6,979	\$7,119
36	\$6,708	\$6,842	\$7,119	\$7,261
37	\$6,842	\$6,979	\$7,261	\$7,406
38	\$6,979	\$7,119	\$7,406	\$7,554
39	\$7,119	\$7,261	\$7,554	\$7,705
40	\$7,261	\$7,406	\$7,705	\$7,859
41	-	\$7,554	\$7,859	\$8,016
42	-	\$7,705	\$8,016	\$8,176
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:

Number of Teachers

Classification

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

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 twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 29.3.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 29.3.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 29.3.(g) Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 29.3.(h) During the 2010-2011 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

House Version

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 29.3.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2010-2011 fiscal year, commencing July 1, 2010. Provided, however, school-based administrators (i) employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2010-2011 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2010-2011 Principal and Assistant Principal Salary Schedules

Years of Exp	Classification					
	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)	
0-6	\$3,781	-	-	-	-	
7	\$3,931	-	-	-	-	
8	\$4,074	-	-	-	-	
9	\$4,189	-	-	-	-	
10	\$4,243	\$4,243	-	-	-	
11	\$4,298	\$4,298	-	-	-	
12	\$4,353	\$4,353	\$4,408	-	-	
13	\$4,408	\$4,408	\$4,464	-	-	
14	\$4,464	\$4,464	\$4,521	\$4,579	-	
15	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701	
16	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762	
17	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828	
18	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891	
19	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956	
20	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025	
21	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092	
22	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166	
23	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237	
24	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310	
25	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383	
26	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458	
27	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537	
28	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617	
29	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725	
30	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839	
31	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956	
32	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075	
33	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197	
34	-	\$5,956	\$6,075	\$6,197	\$6,321	
35	-	-	\$6,197	\$6,321	\$6,447	
36	-	-	\$6,321	\$6,447	\$6,576	
37	-	-	-	\$6,576	\$6,708	
38	-	-	-	\$6,708	\$6,842	
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
28	\$5,725	\$5,839	\$6,075	\$6,197
29	\$5,839	\$5,956	\$6,197	\$6,321
30	\$5,956	\$6,075	\$6,321	\$6,447
31	\$6,075	\$6,197	\$6,447	\$6,576
32	\$6,197	\$6,321	\$6,576	\$6,708
33	\$6,321	\$6,447	\$6,708	\$6,842
34	\$6,447	\$6,576	\$6,842	\$6,979
35	\$6,576	\$6,708	\$6,979	\$7,119
36	\$6,708	\$6,842	\$7,119	\$7,261
37	\$6,842	\$6,979	\$7,261	\$7,406
38	\$6,979	\$7,119	\$7,406	\$7,554
39	\$7,119	\$7,261	\$7,554	\$7,705
40	\$7,261	\$7,406	\$7,705	\$7,859
41	-	\$7,554	\$7,859	\$8,016
42	-	\$7,705	\$8,016	\$8,176
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:

Number of Teachers

Classification

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

1 The number of teachers supervised includes teachers and assistant principals paid from
2 State funds only; it does not include teachers or assistant principals paid from non-State funds or the
3 principal or teacher assistants.

4 The beginning classification for principals in alternative schools and in cooperative
5 innovative high school programs shall be the Principal III level. Principals in alternative schools
6 who supervise 33 or more teachers shall be classified according to the number of teachers
7 supervised.

8 **SECTION 29.3.(c)** A principal shall be placed on the step on the salary schedule that
9 reflects total number of years of experience as a certificated employee of the public schools and an
10 additional step for every three years of experience as a principal. Provided, however, a principal
11 who acquires an additional step for the 2009-2010 or 2010-2011 fiscal years shall not receive a
12 corresponding increase in salary during the 2009-2011 fiscal biennium. A principal or assistant
13 principal shall also continue to receive any additional State-funded percentage increases earned for
14 the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or
15 maintaining a safe and orderly school.

16 **SECTION 29.3.(d)** Principals and assistant principals with certification based on
17 academic preparation at the six-year degree level shall be paid a salary supplement of one hundred
18 twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary
19 supplement of two hundred fifty-three dollars (\$253.00) per month.

20 **SECTION 29.3.(e)** Longevity pay for principals and assistant principals shall be as
21 provided for State employees under the State Personnel Act.

22 **SECTION 29.3.(f)** If a principal is reassigned to a higher job classification because the
23 principal is transferred to a school within a local school administrative unit with a larger number of
24 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had
25 served the principal's entire career as a principal at the higher job classification.

26 If a principal is reassigned to a lower job classification because the principal is
27 transferred to a school within a local school administrative unit with a smaller number of
28 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had
29 served the principal's entire career as a principal at the lower job classification.

30 This subsection applies to all transfers on or after the effective date of this section,
31 except transfers in school systems that have been created, or will be created, by merging two or
32 more school systems. Transfers in these merged systems are exempt from the provisions of this
33 subsection for one calendar year following the date of the merger.

34 **SECTION 29.3.(g)** Participants in an approved full-time master's in school
35 administration program shall receive up to a 10-month stipend at the beginning salary of an assistant
36 principal during the internship period of the master's program. For the 2006-2007 fiscal year and
37 subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of
38 an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by
39 the intern as a full-time student, including awards of the Principal Fellows Program. The Principal
40 Fellows Program or the school of education where the intern participates in a full-time master's in
41 school administration program shall supply the Department of Public Instruction with certification
42 of eligible full-time interns.
43

Senate Only

FURLOUGHS AUTHORIZED/UNC

SECTION 29.4.(a) Findings. – The General Assembly finds that:

- (1) North Carolina's citizens and businesses are suffering from the effects of a significant State financial crisis.
- (2) The financial crisis has resulted in large reductions in revenues projected to be available to fund the State's budget for the 2010-2011 fiscal year.
- (3) The University of North Carolina and its constituent institutions are required to reduce their budgets and should attempt to protect university employees when possible.
- (4) The implementation of furloughs may be necessary to balance The University of North Carolina's and its constituent institutions' budgets for the 2010-2011 fiscal year.

SECTION 29.4.(b) The President of The University of North Carolina may implement furloughs of university employees or delegate furlough authority to a chancellor of a constituent institution to offset the UNC Management Flexibility Reduction.

SECTION 29.4.(c) Definitions. – The following definitions apply in this section:

- (1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by the President of The University of North Carolina or a chancellor when delegated and (ii) is not in connection with a demotion or other disciplinary action.
- (2) University employee. – Any permanent full-time, permanent part-time, or time-limited employee of The University of North Carolina, including employees exempt from the State Personnel Act under G.S. 126-5(c), 126-5(c1), 126-5(c7), and 126-5(c8). The term includes public officers.

SECTION 29.4.(d) Compensation and Benefits. – The provisions of Section 26.14E.(b) and (c) of S.L. 2009-451 apply to university employees furloughed pursuant to the section.

SECTION 29.4.(e) Cooperation with The University of North Carolina – General Administration. – Constituent institutions shall cooperate with UNC General Administration in the implementation of furloughs, if required.

SECTION 29.4.(f) As soon as practicable, and no more than 30 calendar days from the effective date of this section, the Board of Governors of The University of North Carolina shall adopt policies for the implementation of this section to remain in effect until the expiration of this section. These policies shall be applied by the President and the constituent institutions in implementing a furlough of university employees. These policies shall provide, at a minimum, that:

- (1) The President may establish a salary threshold below which university employees shall not be subject to furlough. In no event may any full-time university employee, prorated for any part-time employee, earning an annual base rate of thirty thousand dollars (\$30,000) or less be subject to furlough.
- (2) The scheduling of any furlough period shall be at the discretion of the President or the chancellor of the constituent institution when delegated.
- (3) Paid leave shall not be used to offset all or any portion of a furlough.
- (4) If a holiday falls during the mandatory furlough period, the university employee must be paid for the holiday.
- (5) All savings realized as a result of a furlough shall be used to offset the Management Flexibility Reduction for The University of North Carolina..

SECTION 29.4.(g) Reporting Requirements. – The provisions of Section 26.14E.(e) of S.L. 2009-451 apply to furloughs under this section.

1 **SECTION 29.4.(h)** Upon delegation of furlough authority to a chancellor, the
2 constituent institution shall develop a furlough plan to be approved by the President consistent with
3 the policies adopted by the UNC Board of Governors. Access to approved furlough plans shall be
4 provided to all affected employees.

5 **SECTION 29.4.(i)** Effective Date. – This section is effective when it becomes law and
6 expires June 30, 2011.

Senate and House Differ

Senate Version

MONITOR COMPLIANCE WITH FREEZE ON MOST SALARY INCREASES

SECTION 29.5.(a) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 26.1A of S.L. 2009-451, and beginning September 1, 2010, shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

- (1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.
- (2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the university as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any similar actions increasing employee pay.
- (3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

SECTION 29.5.(b) Beginning September 1, 2010, and quarterly thereafter, the Legislative Services Officer shall report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with Section 26.1A of S.L. 2009-451.

House Version

NO SALARY INCREASES

SECTION 29.5.(a) Section 26.1A(a) of S.L. 2009-451, as amended by Section 21 of S.L. 2009-575, reads as rewritten:

"SECTION 26.1A.(a) The salaries of those officers and employees, whose salaries for the 2008-2009 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of Session Law 2008-107, and in effect on June 30, 2009, or the last date in pay status during the 2008-2009 fiscal year if earlier, shall remain in effect and shall not increase for the 2009-2010 ~~and 2010-2011 fiscal years, fiscal year,~~ except:

- (1) As provided for by Section 29.20A of S.L. 2005-276.
- (2) For Community College faculty as otherwise provided in Section 8.1 of this act.
- (3) For University of North Carolina faculty as otherwise provided by the Faculty Recruiting and Retention Fund or the Distinguished Professors Endowment Fund.
- (4) Salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this subsection. All other salary increases are prohibited."

SECTION 29.5.(b) Section 26.1 of S.L. 2009-451, as amended by S.L. 2009-575, is further amended by adding two new subsections to read:

"SECTION 26.1A.(a1) Notwithstanding any provisions of law to the contrary, the salaries, regardless of the funding source, of those officers and employees of:

- (1) State agencies; departments; institutions; authorities; boards; commissions;
- (2) The judicial branch;
- (3) The legislative branch;
- (4) The University of North Carolina, including, but not limited to, its constituent institutions, affiliated enterprises, and foundations; and
- (5) The North Carolina Community College System;

and in effect on May 31, 2010, or the last date in pay status during the 2009-2010 fiscal year if earlier, shall remain in effect and shall not increase for the 2010-2011 fiscal year; however, salaries may be increased in the event an officer or employee is promoted to a higher level position provided the salary increase action complies with applicable personnel policies governing promotions.

"SECTION 26.1A.(a2). Notwithstanding any law to the contrary, the salaries of central office and non-certified public school personnel (regardless of the funding source) in effect on May 31, 2010, or the last date in pay status during the 2009-2010 fiscal year if earlier, shall remain in effect and shall not increase for the 2010-2011 fiscal year unless the salary increase is:

- (1) Required by a valid contract that does not contain a non-appropriation clause or other similar provision. Any such increase shall be paid from non-State funding sources only; or
- (2) Awarded because the employee is promoted to a higher level position provided that the salary increase action complies with the applicable personnel policies governing promotions."

SECTION 29.5.(c) Section 26.1 of S.L. 2009-451, as amended by S.L. 2009-575, is further amended by adding a new subsection to read:

"SECTION 26.1A.(a3) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of subsection (a1) of this section: (i) State agencies, departments, and institutions,

1 including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of
2 North Carolina, its constituent institutions, and affiliated enterprises. Beginning November 1, 2010,
3 and through August 1, 2011, the Office of State Budget and Management and the Office of State
4 Personnel shall submit quarterly reports (covering the preceding calendar quarter) of their
5 monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of
6 Representatives, and the Fiscal Research Division. Quarterly reports shall include a summary of the
7 actions taken by the Office of State Budget and Management and the Office of State Personnel with
8 respect to any unauthorized salary increases granted by the above units of government."
9

House Only

LIMIT TRANSITION PACKAGES OR GOLDEN PARACHUTES FOR STATE EMPLOYEES

SECTION 29.5A.(a) Effective for the 2010-2011 fiscal year only, the amount of any transition salary package payable to certain State employees employed by State agencies, departments, institutions, and The University of North Carolina shall be limited by the provisions of this section as follows:

- (1) Notwithstanding any other provision of law, no State employee who leaves the position that the employee most recently held shall continue to be paid the salary for that position when the employee is no longer carrying out the responsibilities for that position. This includes periods of transition.
- (2) Notwithstanding subdivision (1) of this subsection, a State employee who leaves the position that the employee most recently held may continue to be paid the salary for a position that he or she no longer holds in the following circumstances only:
 - a. The payment is required as a term of the contract that was entered into at the time the person was hired for, or promoted to, the position most recently held; and
 - b. The contract is signed by the appropriate finance officer or a properly designated deputy finance officer for the agency hiring the person, approved by the agency head, and approved by the Office of State Budget and Management. If the State agency is The University of North Carolina or a constituent institution of The University of North Carolina, then the contract must be signed by the appropriate finance officer or a properly designated deputy finance officer for The University of North Carolina or the constituent institution, approved by the appropriate chancellor, and approved by the UNC Board of Governors or by the Board of Trustees of the constituent institution as appropriate.
- (3) This section does not affect or impair a State employee's rights to severance wages or a discontinued service retirement allowance as provided by G.S. 126-8.5, or terminal leave payments for vacation leave, bonus leave, and longevity, if applicable.
- (4) The following definitions apply in this section:
 - a. State employee who leaves the position that the employee most recently held. – Includes those circumstances in which a person retires, resigns, or voluntarily or involuntarily terminates employment. The phrase also includes those circumstances in which a person continues to work for the State but accepts a lesser position with the State.
 - b. Transition. – When a State employee moves from the position that the employee most recently held to a lesser position of employment. The term includes a 'golden parachute' or a sabbatical.

SECTION 29.5A.(b) This section applies retroactively and also applies to payments that have not yet been made unless there is a legally enforceable contract to pay.

Senate and House Differ

Senate Version

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 29.6. Section 6(c) of S.L. 2009-16, as amended by Section 26.20(b) of S.L. 2009-451, reads as rewritten:

"**SECTION 6.(c)** Effective July 1, 2010, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal year are: (i) ~~ten and fifty-one hundredths percent (10.51%)~~ ten and seventy-one hundredths percent (10.71%) – Teachers and State Employees; (ii) ~~fifteen and fifty-one hundredths percent (15.51%)~~ fifteen and seventy-one hundredths percent (15.71%) – State Law Enforcement Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees' Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) – Community College Optional Retirement Program; (v) twenty and one hundredths percent (20.01%) – Consolidated Judicial Retirement System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

House Version

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 29.6. Section 6(c) of S.L. 2009-16, as amended by Section 26.20(b) of S.L. 2009-451, reads as rewritten:

"**SECTION 6.(c)** Effective July 1, 2010, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal year are: (i) ~~ten and fifty-one hundredths percent (10.51%)~~ ten and ninety-two hundredths percent (10.92%) – Teachers and State Employees; (ii) ~~fifteen and fifty-one hundredths percent (15.51%)~~ fifteen and ninety-two hundredths percent (15.92%) – State Law Enforcement Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees' Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) – Community College Optional Retirement Program; (v) ~~twenty and one hundredths percent (20.01%)~~ twenty-one and forty-six hundredths percent (21.46%) – Consolidated Judicial Retirement System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

Senate and House Differ

Senate Version

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 30.1. There is appropriated from the General Fund for the 2010-2011 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	
Life Sciences Building Advance Planning	6,100,000

Elizabeth City State University	
Aviation Complex Planning	533,778

University of North Carolina at Charlotte	
Science Building Advance Planning	4,800,000

University of North Carolina at Wilmington	
Allied Health and Human Sciences Building Advance Planning	1,900,000

Western Carolina University	
Mountain Area Health Education Center Advance Planning	1,300,000

Winston-Salem State University	
Science Building Advance Planning	1,400,000

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$27,563,778
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House Version

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 30.1. There is appropriated from the General Fund for the 2010-2011 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2010-2011
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Department of Environment and Natural Resources	
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Water Resources Development Projects	\$9,130,000
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TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$9,130,000
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Senate and House Differ

Senate Version

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.

Name of Project	2010-2011
(1) Wilmington Harbor Deepening	\$900,000
(2) Wilmington Harbor Maintenance	2,000,000
(3) Morehead City Harbor Maintenance	100,000
(4) Dredging Contingency Fund	1,250,000
(5) AIWW Dredging	1,000,000
(6) Bogue Banks Shore Protection Study	5,000
(7) John H. Kerr Dam and Reservoir Sec. 216	50,000
(8) Neuse River Basin PED	—
(9) Princeville Flood Damage Reduction	200,000
(10) Currituck Sound Environmental Restoration Study	50,000
(11) Belhaven Harbor – Cap – Sec 1135	350,000
(12) Surf City/North Topsail Beach Protection Study PED	—
(13) West Onslow Beach (Topsail Beach) PED	50,000
(14) Silver Lake Harbor Disposal Area Maintenance	800,000
(15) Manteo Old House Channel – CAP – Sec. 204	25,000
(16) Concord Streams Restoration – CAP – Sec. 206	—
(17) North Carolina International Terminal	—
(18) Planning Assistance to Communities	—
(19) State-Local Projects	2,000,000
(20) Aquatic Plant Control, Statewide and Lake Gaston	350,000
TOTALS	\$9,130,000

SECTION 30.2.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2010-2011 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2010-2011.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2011-2012 fiscal year.

SECTION 30.2.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research

1 Division, and the Office of State Budget and Management. Each report shall include all of the
2 following:

- 3 (1) All projects listed in this section.
- 4 (2) The estimated cost of each project.
- 5 (3) The date that work on each project began or is expected to begin.
- 6 (4) The date that work on each project was completed or is expected to be
7 completed.
- 8 (5) The actual cost of each project.

9 The semiannual reports shall also show those projects advanced in schedule, those
10 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the
11 General Fund.
12

House Version

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 three hundred thousand dollars (\$27,300,000) in federal funds.

Name of Project	2010-2011
(1) Wilmington Harbor Deepening	\$900,000
(2) Wilmington Harbor Maintenance	2,000,000
(3) Morehead City Harbor Maintenance	100,000
(4) B. Everett Jordan Lake Water Supply Storage	200,000
(5) Dredging Contingency Fund	1,250,000
(6) AIWW Dredging	1,000,000
(7) Bogue Banks Shore Protection Study	5,000
(8) John H. Kerr Dam and Reservoir Sec. 216	50,000
(9) Neuse River Basin PED	—
(10) Princeville Flood Damage Reduction	200,000
(11) Currituck Sound Environmental Restoration Study	50,000
(12) Belhaven Harbor – Cap – Sec 1135	350,000
(13) Surf City/North Topsail Beach Protection Study PED	—
(14) West Onslow Beach (Topsail Beach) PED	50,000
(15) Silver Lake Harbor Disposal Area Maintenance	800,000
(16) Manteo Old House Channel – CAP – Sec. 204	25,000
(17) Concord Streams Restoration – CAP – Sec. 206	—
(18) Planning Assistance to Communities	—
(19) State-Local Projects	1,800,000
(20) Aquatic Plant Control, Statewide and Lake Gaston	350,000
TOTALS	\$9,130,000

SECTION 30.2.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2010-2011 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2010-2011.
- (3) State-local water resources development projects.

However, fund availability shall not be used to fund the North Carolina International Terminal. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2011-2012 fiscal year.

SECTION 30.2.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 30.2.(d) Notwithstanding the provisions of Item 1 on Page M-1 of the Report on the Continuation, Expansion and Capital Budgets, dated June 2, 2010, the funds allocated in this section shall provide a State match for an estimated twenty-seven million three hundred thousand dollars (\$27,300,000) in federal funds.

Senate and House Differ

Senate Version

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 30.3.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2010-2011
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Department of Agriculture and Consumer Services

Upgrade Steam Generation Capability at Food and Drug Facility	\$ 18,000
Western NC Agricultural Center – Storage Shed	23,000
Western NC Agricultural Center – Entertainment Stage	35,000
Western NC Agricultural Center – Youth Building Roof Replacement	3,000
Western NC Agricultural Center – RV Site Improvements	20,000
Western NC Agricultural Center – C&D Barn Access Road	125,000
Western NC Agricultural Center – Handicap Platform	8,000
Western NC Agricultural Center – Exhibits/Cashier Office	70,000
Western NC Agricultural Center – Retention Pond Parking	225,000
Constable Lab Standby Generator/Rollins Lab Security	363,245
Southeastern Agricultural Center – Multipurpose Pavilion	1,290,000
Southeastern Agricultural Center – Horse Stalls	700,000
Research Stations Irrigation Renovations	200,000
Piedmont Research Station – Grain Storage Renovation	400,000

Department of Correction

Southern Medium Programs Building	600,000
Caledonia Programs Building	600,000
Caswell Programs Building	600,000
Southern Minimum Programs Building	600,000
Randolph Programs Building	600,000

Department of Cultural Resources

USS NC Battleship Repairs, Dredging, Construction	
Commission Battleship Fund	1,700,000

Department of Environment and Natural Resources

Forest Resources – Bladen Lakes Ranger Residence	399,000
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Department of Justice

NC Justice Academy Live Fire Shoot House	282,000
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Wildlife Resources Commission

Pisgah Education Center Repairs & Renovation	60,000
Outer Banks Education Center Repairs and Renovation	26,000
Mt. Holly Depot Acquisition	150,000

1	Statewide Boating Access Areas (BAA) Renovations	3,610,000
2	Table Rock Hatchery Residence Renovation	150,000
3	McKinney Lake Equipment Shed	70,000
4	Fishing Access Areas Construction	180,000
5		
6	TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL	
7	PROJECTS AUTHORIZED	\$13,107,245
8		

9 **SECTION 30.3.(b)** From funds deposited with the State Treasurer in a capital
10 improvement account to the credit of the Department of Agriculture and Consumer Services
11 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 fiscal year
12 shall be transferred to the Department of Agriculture and Consumer Services to be used,
13 notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article
14 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as
15 land appraisals, land surveys, title searches, environmental studies, and for the management of the
16 plant conservation program preserves owned by the Department.

House Version

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 30.3.(a) Subject to subsection (c) of this section, the General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2010-2011
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Department of Agriculture and Consumer Services

Food and Drug – Upgrade Steam Generation	\$18,000
Markets/Southeast NC Ag Center – Multipurpose Pavilion	\$1,290,000
Markets/Southeast NC Ag Center – Associated Development Around Multipurpose Pavilion	\$1,500,000
Markets/State Farmers Market – Electrical Improvements	\$200,000
Markets/State Farmers Market – Restroom Improvements	\$600,000
Markets/WNC Ag Center – Livestock Sales Area HVAC	\$500,000
Markets/WNC Ag Center – Code, Facility and Site Improvements	\$300,000
Plant Industry – Support Facility Renovations and Repairs	\$50,000
Research Stations – Irrigation	\$200,000
Research Stations – Grain Storage	\$400,000
State Fair – Site Development	\$500,000
State Fair – Hunt Horse Complex Improvements	\$250,000
Veterinary/Food and Drug – Standby Generators	\$700,000

Department of Correction

Southern Medium Programs Building	600,000
Caledonia Programs Building	600,000
Caswell Programs Building	600,000
Southern Minimum Programs Building	600,000
Randolph Programs Building	600,000

Department of Cultural Resources

USS NC Battleship Repairs, Dredging, Construction Commission Battleship Fund	1,700,000
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Department of Environment and Natural Resources

Forest Resources – Bladen Lakes Ranger Residence	399,000
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Department of Justice

NC Justice Academy Live Fire Shoot House	282,000
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Wildlife Resources Commission

Pisgah Education Center Repairs & Renovation	60,000
Outer Banks Education Center Repairs and Renovation	26,000
Mt. Holly Depot Acquisition	150,000
Statewide Boating Access Areas (BAA) Renovations	3,610,000
Table Rock Hatchery Residence Renovation	150,000
McKinney Lake Equipment Shed	70,000

Fishing Access Areas Construction

180,000

TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL

PROJECTS AUTHORIZED

\$16,135,000

SECTION 30.3.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of the plant conservation program preserves owned by the Department.

SECTION 30.3.(c) A project authorized in subsection (a) of this section is authorized only if upon completion the project will not require operating support from the General Fund.

Senate and House Differ

Senate Version

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 30.4.(a) Of the funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, fifty-four percent (54%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and forty-six percent (46%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 30.4.(b) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

SECTION 30.4.(c) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

House Version

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 30.4.(a) Of the funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty percent (50%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 30.4.(b) In addition to any other funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, the proceeds of any bonds and notes issued pursuant to Section 30.7 of this act are transferred to that Reserve.

SECTION 30.4.(c) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

1 **SECTION 30.4.(d)** Of the funds allocated to the Board of Governors of The University
2 of North Carolina in subsection (a) of this section, a portion shall be used by the Board of
3 Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

4 **SECTION 30.4.(e)** Of the funds allocated to the Office of State Budget and
5 Management in subsection (a) of this section, five hundred thousand dollars (\$500,000) shall be
6 transferred to the Department of Crime Control and Public Safety to be used for Armory Repair and
7 Renovation.
8

Senate and House Differ

Senate Version

AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 30.5.(a) Subsection 27.4.(a) of S.L. 2009-451 reads as rewritten:

"SECTION 27.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2009-2010
Department of Crime Control and Public Safety	
Additions and Renovations to Armories	\$ 9,303,442
Camp Butner Cantonment – Phase 1 Design	1,367,000
Family Assistance Centers	2,000,000
Gastonia Armory Renovation and Expansion	1,100,000
Tactical Unmanned Aerial Systems Facility	6,746,000
Department of Cultural Resources	
Aycock Birthplace Picnic Shelter	86,100
Maritime Museum – Floating Dock	130,000
Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
Department of Environment and Natural Resources	
Zoo – Elephant Exhibit New Restrooms	300,000
Wildlife Resources Commission	
Armstrong Hatchery Lower Raceway Replacement	1,725,000
Centennial Campus Education Center Exhibit Completion	180,000
Chinquapin Equipment Storage Pole Shed	60,000
Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
Emerald Isle New Boating Access Area	600,000
Falls Lake Office Building	550,000
Hampstead Land Acquisition	10,000,000
Land Acquisitions – State Gamelands	59,135,000 20,000,000
Lewelyn Branch New Boating Access Area	150,000
Manns Harbor Bridge Marina Acquisition	5,750,000
Marion Depot Drainage Repairs	200,000
<u>Marion Hatchery and Depot Renovation</u>	<u>4,000,000</u>
McKinney Lake Hatchery Kettles Replacement	1,700,000
Minor Boating Access Area Renovations – Various Locations	150,000
New Coldwater Fish Hatchery Construction	7,900,000
Ocean Isle Boating Access Area Renovations	150,000
Outer Banks Education Center Teaching Facility Repairs	245,000
Pechmann Fishing Education Center Pond Restoration	160,000
Pechmann Fishing Education Center Storage Building	220,000

1	Pisgah Education Center Gift Shop Renovation and Expansion	200,000
2	Pisgah Education Center Outdoor Exhibit Renovation	450,000
3	Pisgah Education Center Repairs	155,000
4	Pisgah Hatchery Water System Renovation	100,000
5	Rhodes Pond Dam Repairs	500,000
6	Sneads Ferry Land Acquisition	6,500,000
7	<u>Statewide Emergency Repair & Renovation</u>	<u>3,500,000</u>
8	Sunset Harbor Land Acquisition	925,000
9	Swan Quarter Land Acquisition	1,700,000
10	Sykes Depot Pond, Office, Storage Construction	350,000
11	Table Rock Hatchery Office and Workshop Replacement	345,000

12

13 **TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**

14 **PROJECTS AUTHORIZED** **\$122,782,542****83,247,542"**

15 **SECTION 30.5.(b)** Section 27.4 of S.L. 2009-451 is amended by adding a new

16 subsection to read:

17 **"SECTION 27.4.(a1)** The Wildlife Resources Commission shall not expend any of the funds

18 authorized to be spent on Statewide Emergency Repair & Renovation by subsection (a) of this

19 section without first obtaining approval from the Office of State Budget and Management."

20

House Version

**AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND
CAPITAL IMPROVEMENT AUTHORIZATIONS**

SECTION 30.5.(a) Subsection 27.4(a) of S.L. 2009-451 reads as rewritten:

"SECTION 27.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2009-2010
Department of Crime Control and Public Safety	
Additions and Renovations to Armories	\$ 9,303,442
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Family Assistance Centers	2,000,000
Gastonia Armory Renovation and Expansion	1,100,000
Tactical Unmanned Aerial Systems Facility	6,746,000
Department of Cultural Resources	
Aycock Birthplace Picnic Shelter	86,100
Maritime Museum – Floating Dock	130,000
Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
Department of Environment and Natural Resources	
Zoo – Elephant Exhibit New Restrooms	300,000
Wildlife Resources Commission	
Armstrong Hatchery Lower Raceway Replacement	1,725,000
Centennial Campus Education Center Exhibit Completion	180,000
Chinquapin Equipment Storage Pole Shed	60,000
Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
Emerald Isle New Boating Access Area	600,000
Falls Lake Office Building	550,000
Hampstead Land Acquisition	10,000,000
Land Acquisitions – State Gamelands	59,135,000 20,000,000
Lewelyn Branch New Boating Access Area	150,000
Manns Harbor Bridge Marina Acquisition	5,750,000
Marion Depot Drainage Repairs	200,000
<u>Marion Hatchery and Depot Renovation</u>	<u>4,000,000</u>
McKinney Lake Hatchery Kettles Replacement	1,700,000
Minor Boating Access Area Renovations – Various Locations	150,000
New Coldwater Fish Hatchery Construction	7,900,000
Ocean Isle Boating Access Area Renovations	150,000
Outer Banks Education Center Teaching Facility Repairs	245,000
Pechmann Fishing Education Center Pond Restoration	160,000
Pechmann Fishing Education Center Storage Building	220,000
Pisgah Education Center Gift Shop Renovation and Expansion	200,000
Pisgah Education Center Outdoor Exhibit Renovation	450,000
Pisgah Education Center Repairs	155,000

1	Pisgah Hatchery Water System Renovation	100,000
2	Rhodes Pond Dam Repairs	500,000
3	Sneads Ferry Land Acquisition	6,500,000
4	Sunset Harbor Land Acquisition	925,000
5	Swan Quarter Land Acquisition	1,700,000
6	Sykes Depot Pond, Office, Storage Construction	350,000
7	Table Rock Hatchery Office and Workshop Replacement	345,000
8		
9	TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL	
10	PROJECTS AUTHORIZED	\$122,782,54279,747,542"
11		

1 **Senate Only**

2 **AMEND COPS AUTHORIZATION LANGUAGE/UNCG**

3 **SECTION 30.6.(a)** Subdivision (13) of Section 27.8(a) of S.L. 2008-107 reads as
4 rewritten:

5 "(13) In the maximum aggregate principal amount of thirty-eight million six hundred
6 seventy thousand dollars (\$38,670,000) to finance the capital facility costs of
7 completing an academic classroom and office building at the University of North
8 Carolina at Greensboro. Up to a total of four million five hundred thousand
9 dollars (\$4,500,000) may be used to acquire real property for an academic
10 building, a University Police building, and a student recreation facility and for
11 the development and construction of a new railroad underpass to connect the
12 current central campus to West Lee Street. No more than a maximum aggregate
13 amount of twenty-one million dollars (\$21,000,000) of special indebtedness may
14 be issued or incurred under this subdivision prior to July 1, 2009."

15 **SECTION 30.6.(b)** Section 27.8(a) of S.L. 2008-107 is amended by adding a new
16 subdivision to read:

17 "(11a) In the maximum aggregate principal amount of four million dollars (\$4,000,000)
18 to finance the capital facility costs of completing infrastructure at the Innovation
19 Center at The Carolina North Campus of The University of North Carolina at
20 Chapel Hill."

1 **House Only**

2 **SPECIAL INDEBTEDNESS FOR REPAIRS AND RENOVATIONS**

3 **SECTION 30.7.(a)** The State, with the prior approval of the State Treasurer and the
4 Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to
5 issue or incur special indebtedness in order to provide funds to the State to be used, together with
6 other available funds, to pay the capital facility costs of the projects described in this subsection. In
7 accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special
8 indebtedness in the maximum aggregate principal amount of seventy million dollars (\$70,000,000)
9 to finance the capital facility costs of repairing and renovating State facilities and related
10 infrastructure, to be allocated in accordance with Section 30.4 of this act.

11 **SECTION 30.7.(b)** This section is effective when it becomes law.

House Only

PHASE I OF STATE HIGHWAY PATROL TRAINING FACILITY

SECTION 30.8.(a) Section 27.8(a) of S.L. 2008-107 is amended by adding a new subdivision to read:

"(29) In the maximum aggregate principal amount of twenty-three million forty-three thousand dollars (\$23,043,000) to finance the capital facility costs of completing Phase I of the State Highway Patrol Training Facility, to include an armory, computer security, medical office, and dorm facilities, and related site work. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011."

SECTION 30.8.(b) Section 27.9(f)(1) of S.L. 2008-107, as amended by Section 2.7(d) of S.L. 2008-218 and Section 1(b) of S.L. 2009-209, reads as rewritten:

"(1) A maximum aggregate principal amount of ~~ninety-nine million fifty-four thousand five hundred eighty-four dollars (\$99,054,584)~~ ninety-six million five hundred fifty-four thousand five hundred eighty-four dollars (\$96,554,584) to finance the capital facility costs of the Green Square Project, Department of Environment and Natural Resources. The projected allocation may be increased to reflect the availability of other funds, including contingency funds, income earned on the investment of bond and note proceeds, and the proceeds of any grants."

SECTION 30.8.(c) Section 27.9(f) of S.L. 2008-107, as amended by Section 2.7(d) of S.L. 2008-118 and Section 1(b) of S.L. 2009-209, is amended by adding a new subdivision to read:

"(3a) A maximum aggregate principal amount of two million five hundred thousand dollars (\$2,500,000) to finance the capital facility costs of Phase I of the State Highway Patrol Training Facility."

SECTION 30.8.(d) Section 27.9(f)(4) of S.L. 2008-107, as amended by Section 2.7(d) of S.L. 2008-118 and Section 1(b) of S.L. 2009-209, reads as rewritten:

"(4) An amount the Director of the Budget determines is not required for projects listed in subdivisions (1), (2), ~~and (3)~~(3), and (3a) of this subsection to finance a portion of those capital projects that have been approved by the General Assembly for financing with the proceeds of special indebtedness as hereinafter described."

SECTION 30.8.(e) Part XXVII of S.L. 2008-107 is amended by adding a new section to read:

"PHASE I OF STATE HIGHWAY PATROL TRAINING FACILITY

"SECTION 27.9. In addition to the proceeds of special indebtedness authorized by Section 27.8(a)(29) of this act to finance the capital facility costs of completing Phase I of the State Highway Patrol Training Facility, the proceeds of bonds and notes issued pursuant to Section 27.9(f)(3a) of S.L. 2008-107, as enacted by this act, shall be used for that purpose."

SECTION 30.8.(f) Subdivision (13) of Section 27.8(a) of S.L. 2008-107 reads as rewritten:

"(13) In the maximum aggregate principal amount of ~~forty-two million six hundred seventy thousand dollars (\$42,670,000)~~ thirty-four million one hundred seventy thousand dollars (\$34,170,000) to finance the capital facility costs of completing an academic classroom and office building at the University of North Carolina at Greensboro. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009."

1 **SECTION 30.8.(g)** Section 27.8(a)(15) of S.L. 2008-107, as amended by Section 2(a)
2 of S.L. 2009-209, reads as rewritten:

3 "(15) In the maximum aggregate principal amount of ~~twenty-five million dollars~~
4 ~~(\$25,000,000)~~ten million four hundred fifty-seven thousand dollars
5 (\$10,457,000) to finance the capital improvement costs of acquiring State land
6 throughout The University of North Carolina System. No more than a maximum
7 aggregate amount of ten million dollars (\$10,000,000) of special indebtedness
8 may be issued or incurred under this subdivision prior to July 1, 2011."

9 **SECTION 30.8.(h)** This section is effective when it becomes law.

1 **House Only**

2 **STATUTORILY DEFINE "SCOPE"**

3 **SECTION 30.9.** G.S. 143C-1-1(d) is amended by adding a new subdivision to read:

4 **"§ 143C-1-1. Purpose and definitions.**

5 (d) Definitions. – The following definitions apply in this Chapter:

6 ...

7 (16a) Increase the scope. – With respect to a capital improvement project, either
8 increasing the square footage of a capital improvement project by more than ten
9 percent (10%) of the amount authorized or programming new functions into the
10 project."

1 **House Only**

2 **AMEND DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING**
3 **CONSTRUCTION**

4 **SECTION 30.10.** Section 27.8 of S.L. 2009-451 reads as rewritten:

5 "SECTION 27.8. Notwithstanding Item 61, Page M-11, of the Joint Conference Committee
6 Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the General Fund
7 shall service the debt for the Green Square Complex parking ~~deck during the 2009-2011 fiscal~~
8 ~~biennium.~~deck."

1 **House Only**

2 **PROHIBIT GENERAL FUND EXPENDITURES FOR THE NORTH CAROLINA**
3 **INTERNATIONAL TERMINAL**

4 **SECTION 30.11.** Notwithstanding G.S. 136-253 and any other provision of law, funds
5 from the General Fund shall not be used to fund the North Carolina International Terminal of the
6 North Carolina State Ports Authority. This section does not apply to the use of agency receipts.

Senate and House Differ

Senate Version

IRC UPDATE

SECTION 31.1.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009,~~ May 1, 2010, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 31.1.(b) G.S. 105-134.6(d) reads as rewritten:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...

(7) An addition is required to taxable years 2003, 2004, 2005, and 2006 for the amount of any 2008 or 2009 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code. This addition does not apply to a net operating loss deduction of an eligible small business as defined under section 172(b)(1)(H) of the Code.

(8) For taxable years 2011 through 2013, a taxpayer who made an addition under subdivision (7) of this subsection may deduct one-third of the taxpayer's net operating loss absorbed on the taxpayer's 2003, 2004, 2005, and 2006 federal returns under section 172(b)(1)(H) or section 810(b)(4) of the Code."

SECTION 31.1.(c) This section is effective when it becomes law.

1 **House Version**

2 **IRC UPDATE**

3 **SECTION 31.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

4 **"§ 105-228.90. Scope and definitions.**

5 ...

6 (b) Definitions. – The following definitions apply in this Article:

7 ...

8 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009~~, May 1, 2010,
9 including any provisions enacted as of that date which become effective either
10 before or after that date."

11 **SECTION 31.1.(b)** G.S. 105-134.6(d) reads as rewritten:

12 **"§ 105-134.6. Adjustments to taxable income.**

13 ...

14 (d) Other Adjustments. – The following adjustments to taxable income shall be made in
15 calculating North Carolina taxable income:

16 ...

17 (7) The taxpayer shall add to taxable income the amounts listed in this subdivision.
18 An addition is not required under this subdivision for a net operating loss
19 deduction of an eligible small business as defined under section 172(b)(1)(H) of
20 the Code. The amounts are:

21 a. For taxable years 2003, 2004, and 2005, the amount of any 2008 net
22 operating loss deduction claimed on a federal return under section
23 172(b)(1)(H) or section 810(b)(4) of the Code.

24 b. For taxable years 2004, 2005, and 2006, the amount of any 2009 net
25 operating loss deduction claimed on a federal return under section
26 172(b)(1)(H) or section 810(b)(4) of the Code.

27 (8) For taxable years 2011 through 2013, a taxpayer who made an addition under
28 subdivision (7) of this subsection may deduct one-third of the taxpayer's net
29 operating loss absorbed on the taxpayer's 2003, 2004, 2005, and 2006 federal
30 returns under section 172(b)(1)(H) or section 810(b)(4) of the Code."

31 **SECTION 31.1.(c)** This section is effective when it becomes law. Notwithstanding
32 subsection (a) of this section, any amendments to the Internal Revenue Code enacted after May 1,
33 2009, that increase North Carolina taxable income for the 2009 taxable year become effective for
34 taxable years beginning on or after January 1, 2010.

Senate Only

CAP TAX RATE ON INCOME FROM FAMILY-OWNED AND OTHER SMALL BUSINESS

SECTION 31.2.(a) G.S. 105-134.2 reads as rewritten:

"§ 105-134.2. Individual income tax imposed.

(a) Tax Rate. – A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid ~~annually and shall annually.~~ Except as otherwise provided in this section, the tax shall be computed at the following percentages of the 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	<u>NA</u>	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

1 from all business activity in a taxable year does not exceed eight hundred fifty thousand dollars
2 (\$850,000). For purposes of this subsection, the term business income does not include income that
3 is considered passive income under the Code."

4 **SECTION 31.2.(b)** This section becomes effective for taxable years beginning on or
5 after January 1, 2010.

1 **Senate Only**

2 **LOWER SALES TAX COMPLIANCE BURDEN ON SMALL RETAILERS**

3 **SECTION 31.3.(a)** G.S. 105-164.16(b1) reads as rewritten:

4 "(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars
5 (\$100.00) but less than ~~ten thousand dollars (\$10,000)~~ fifteen thousand dollars (\$15,000) a month in
6 State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A
7 monthly return is due by the 20th day of the month following the calendar month covered by the
8 return."

9 **SECTION 31.3.(b)** G.S. 105-164.16(b2) reads as rewritten:

10 "(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~ten thousand dollars~~
11 ~~(\$10,000)~~ fifteen thousand dollars (\$15,000) a month in State and local sales and use taxes must
12 make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a
13 monthly return is due. The prepayment must equal at least sixty-five percent (65%) of any of the
14 following:

- 15 (1) The amount of tax due for the current month.
16 (2) The amount of tax due for the same month in the preceding year.
17 (3) The average monthly amount of tax due in the preceding calendar year."

18 **SECTION 31.3.(c)** G.S. 105-164.16(b1), as rewritten by subsection (a) of this section,
19 reads as rewritten:

20 "(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars
21 (\$100.00) but less than ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a
22 month in State and local sales and use taxes must file a return and pay the taxes due on a monthly
23 basis. A monthly return is due by the 20th day of the month following the calendar month covered
24 by the return."

25 **SECTION 31.3.(d)** G.S. 105-164.16(b2), as rewritten by subsection (b) of this section,
26 reads as rewritten:

27 "(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~fifteen thousand dollars~~
28 ~~(\$15,000)~~ twenty thousand dollars (\$20,000) a month in State and local sales and use taxes must
29 make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a
30 monthly return is due. The prepayment must equal at least sixty-five percent (65%) of any of the
31 following:

- 32 (1) The amount of tax due for the current month.
33 (2) The amount of tax due for the same month in the preceding year.
34 (3) The average monthly amount of tax due in the preceding calendar year."

35 **SECTION 31.3.(e)** When the Secretary of Revenue conducts a review of a taxpayer's
36 sales and use tax payment schedule requirements under G.S. 105-164.16(b3), the Secretary must
37 identify the taxpayers who are no longer required to make a monthly prepayment of the next
38 month's sales and use tax liability because of the reduction of the sales tax payment threshold under
39 this section and must notify those taxpayers of the change in the taxpayer's payment requirement.

40 **SECTION 31.3.(f)** Subsections (a) and (b) of this section become effective October 1,
41 2010. Subsections (c) and (d) of this section become effective July 1, 2011. The remainder of this
42 section is effective when it becomes law.

Senate Only

RELIEVE ANNUAL REPORT COMPLIANCE BURDEN ON SMALL BUSINESS

SECTION 31.4.(a) G.S. 55-16-22(c) reads as rewritten:

"(c) Due Date. – An annual report eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the ~~third~~ fourth month following the close of the corporation's fiscal year."

SECTION 31.4.(b) G.S. 57C-2-23 reads as rewritten:

"§ 57C-2-23. Annual report for Secretary of State.

(a) Requirement and Content. – Each domestic limited liability company other than a professional limited liability company governed by G.S. 57C-2-01(c) and each foreign limited liability company authorized to transact business in this State, ~~shall deliver to the Secretary of State for filing an annual report, in State must file an annual report with the Secretary of State on a form prescribed by the Secretary of State, that sets forth all of the following; and in the manner required by the Secretary. The annual report must specify the year to which the report applies and must set out the information listed in this subsection. The information must be current as of the date the company completes the report. If the information in the company's most recent annual report has not changed, the company may certify on its annual report that the information has not changed in lieu of restating the information.~~

The following information must be included on an annual report of a limited liability company:

- (1) The name of the limited liability or foreign limited liability company and the state or country under whose law it is formed.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names and business addresses of its managers or, if the limited liability company has never had members, its organizers.
- (5) A brief description of the nature of its business.

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection. The Secretary of State shall make available the form required to file an annual report.~~

~~(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the limited liability company or the foreign limited liability company.~~

(c) Notice and Due Date. – The Secretary of State must notify limited liability companies of the annual report filing requirement. ~~The first annual report shall be delivered to the Secretary of State of a limited liability company is due by April 15th of each year; the year following the calendar year in which the company files its articles of organization with the Secretary of State. Each subsequent annual report is due on April 15.~~

(d) Incomplete Report. – If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

1 (e) Amendments. – Amendments to any previously filed annual report may be filed with the
2 Secretary of State at any time for the purpose of correcting, updating, or augmenting the
3 information contained in the annual report."

4 **SECTION 31.4.(c)** This section is effective when it becomes law. A limited liability
5 company whose articles of organization were filed on or after January 1, 2010, but before April 15,
6 2010, is not required to file an annual report until April 15, 2011. A limited liability company that
7 was formed during this period and that has filed an annual report that is not required is considered
8 to have filed the annual report due April 15, 2011. A limited liability company that was formed
9 before January 1, 2009, and has filed an annual report in each year after the calendar year in which
10 its articles of organization were filed is considered to have met its annual report filing requirements.

1 **Senate Only**

2 **EXTEND SUNSET ON EXPIRING TAX INCENTIVE INCOME TAX CREDITS AND**
3 **SALES TAX REFUNDS ONE YEAR**

4 **SECTION 31.5.(a)** G.S. 105-129.75 reads as rewritten:

5 **"§ 105-129.75. Sunset.**

6 This Article expires ~~January 1, 2011~~, January 1, 2012, for rehabilitation projects for which an
7 application for an eligibility certification is submitted on or after that date."

8 **SECTION 31.5.(b)** G.S. 105-163.015 reads as rewritten:

9 **"§ 105-163.015. Sunset.**

10 This Part is repealed effective for investments made on or after ~~January 1, 2011~~.January 1,
11 2012."

12 **SECTION 31.5.(c)** G.S. 105-164.14(a1) reads as rewritten:

13 "(a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund of
14 the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of
15 two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid"
16 is the amount paid less the refund allowed under subsection (a) of this section. A request for a
17 refund must be in writing and must include any information and documentation the Secretary
18 requires. A request for a refund is due within six months after the end of the calendar year for which
19 the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in
20 subsection (a) of this section. This subsection is repealed for purchases made on or after ~~January 1,~~
21 2011.January 1, 2012."

22 **SECTION 31.5.(d)** G.S. 105-164.14(l) reads as rewritten:

23 "(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or a
24 motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on
25 aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a
26 motorsports event in another state from a location in this State, or to travel to this State from a
27 motorsports event in another state. For the purposes of this subsection, a "motorsports event"
28 includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a
29 refund must be in writing and must include any information and documentation the Secretary
30 requires. A request for a refund is due within six months after the end of the State's fiscal year.
31 Refunds applied for after the due date are barred. This subsection is repealed for purchases made on
32 or after ~~January 1, 2011~~.January 1, 2012."

33 **SECTION 31.5.(e)** This section is effective when it becomes law.

1 **Senate Only**

2 **MODERNIZE SALES TAX ON ACCOMMODATIONS**

3 **SECTION 31.6.(a)** G.S. 105-164.4(a)(3) reads as rewritten:

4 **"§ 105-164.4. Tax imposed on retailers.**

5 (a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's
6 net taxable sales or gross receipts, as appropriate. The general rate of tax is five and three-quarters
7 percent (5.75%).

8 ...

9 (3) ~~Operators of hotels, motels, tourist homes, tourist camps, and similar type
10 businesses and persons who rent private residences and cottages to transients are
11 considered retailers under this Article. A tax at the general rate of tax is levied on
12 the gross receipts derived by these retailers from the rental of any rooms,
13 lodgings, or accommodations furnished to transients for a consideration. This tax
14 does not apply to any private residence or cottage that is rented for less than 15
15 days in a calendar year or to any room, lodging, or accommodation supplied to
16 the same person for a period of 90 or more continuous days.~~

17 ~~As used in this subdivision, the term "persons who rent to transients" means
18 (i) owners of private residences and cottages who rent to transients and (ii) rental
19 agents, including "real estate brokers" as defined in G.S. 93A-2, who rent private
20 residences and cottages to transients on behalf of the owners. If a rental agent is
21 liable for the tax imposed by this subdivision, the owner is not liable. A tax at the
22 general rate applies to the sales price of the rental of an accommodation to a
23 transient and to other gross receipts derived from the rental of an accommodation
24 to a transient. The sales price of the rental of an accommodation to a transient is
25 determined as if the rental were a service. An "accommodation" is a hotel room,
26 a motel room, a residence, a cottage, or a similar space for occupancy by an
27 individual. The tax does not apply to a residence or a cottage that is rented for
28 less than 15 days in a calendar year or to an accommodation provided to the same
29 person for a period of 90 or more continuous days.~~

30 ~~A person who provides an accommodation to a transient is considered a
31 retailer under this Article. A person who, by written contract, agrees to be the
32 rental agent for the provider of an accommodation is considered a retailer under
33 this Article and is liable for the tax imposed by this subdivision. The liability of a
34 rental agent for the tax imposed by this subdivision relieves the provider of the
35 accommodation from liability. A rental agent includes a real estate broker, as
36 defined in G.S. 93A-2.~~

37 ~~A person who, by written contract, is not the rental agent of the provider of
38 an accommodation but is authorized by the provider to facilitate the rental of the
39 accommodation and to charge a transient for the rental is considered a retailer
40 under this Article for the purpose of determining the sales price of the
41 accommodation. Accordingly, charges designated as facilitation fees or similar
42 fees are considered charges necessary to complete the rental of the
43 accommodation and are included in the sales price. A person who enters into a
44 contract with the provider of an accommodation to a transient to facilitate the
45 rental of an accommodation must report the sales price to the provider of the
46 accommodation and must send the provider the tax due on the sales price. A
47 facilitator that does not send a provider the tax due on the sales price of an
48 accommodation is liable for the amount of tax the provider fails to send. A
49 facilitator is not liable for tax sent to a provider but not remitted by the provider~~

1 to the Secretary. Tax payments received by a provider from a facilitator are held
2 in trust by the provider for remittance to the Secretary. A provider that receives a
3 tax payment from a facilitator must remit the amount received to the Secretary. A
4 provider is not liable for tax due but not received from a facilitator. The
5 requirements imposed by this subdivision on a provider and a facilitator are
6 considered terms of the contract between the provider and the facilitator."

7 **SECTION 31.6.(b)** G.S. 105-164.4B is amended by adding a new subsection to read:

8 "(e) Accommodations. – The rental of a transient accommodation is sourced to the location
9 of the accommodation."

10 **SECTION 31.6.(c)** G.S. 153A-155(c) reads as rewritten:

11 "(c) Collection. – ~~Every operator of a business subject to a room occupancy tax shall, on and~~
12 ~~after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the~~
13 ~~charge for furnishing a taxable accommodation. A person who is required to remit to the~~
14 Department of Revenue the State sales tax on accommodations imposed by G.S. 105-164.4(a)(3) is
15 required to remit a room occupancy tax to the taxing county on and after the effective date of the
16 levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the
17 State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent
18 or a person who facilitates the rental of an accommodation has the same responsibility and liability
19 under the room occupancy tax as the rental agent or facilitator has under the State sales tax on
20 accommodations.

21 If a taxable accommodation is furnished as part of a package, the bundled transaction provisions
22 in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those
23 provisions do not address the type of package offered, the ~~operator-person~~ offering the package may
24 determine an allocated price for each item in the package based on a reasonable allocation of
25 revenue that is supported by the ~~operator's~~ person's business records kept in the ordinary course of
26 business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

27 ~~The tax shall be stated and charged separately from the sales records and shall be paid by the~~
28 ~~purchaser to the operator of the business. The provider of an accommodation must separately state~~
29 ~~the room occupancy tax. Room occupancy taxes paid to a provider of an accommodation are paid to~~
30 ~~the provider as trustee for and on account of the taxing county. The tax shall be added to the sales~~
31 ~~price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

32 The taxing county shall ~~design, print, design~~ and furnish to all appropriate businesses and
33 persons in the county the necessary forms for filing returns and instructions to ensure the full
34 collection of the tax. ~~An operator of a business. A provider of accommodations~~ who collects a room
35 occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the
36 discount the State allows the ~~operator-provider~~ for State sales and use tax."

37 **SECTION 31.6.(d)** G.S. 153A-155(g) reads as rewritten:

38 "(g) Applicability. – Subsection (c) of this section applies to all counties that levy an
39 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection
40 (c) supersedes that provision. The remainder of this ~~This~~ section applies only to Alleghany, Anson,
41 Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan,
42 Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville,
43 Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover
44 County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond,
45 Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance,
46 Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to
47 Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the Ocracoke
48 Township Taxing District."

49 **SECTION 31.6.(e)** G.S. 160A-215(c) reads as rewritten:

1 "(c) ~~Collection. – Every operator of a business subject to a room occupancy tax shall, on and~~
2 ~~after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the~~
3 ~~charge for furnishing a taxable accommodation. A person who is required to remit to the~~
4 ~~Department of Revenue the State sales tax on accommodations imposed by G.S. 105-164.4(a)(3) is~~
5 ~~required to remit a room occupancy tax to the taxing city on and after the effective date of the levy~~
6 ~~of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State~~
7 ~~sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a~~
8 ~~person who facilitates the rental of an accommodation has the same responsibility and liability~~
9 ~~under the room occupancy tax as the rental agent or facilitator has under the State sales tax on~~
10 ~~accommodations.~~

11 If a taxable accommodation is furnished as part of a package, the bundled transaction provisions
12 in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those
13 provisions do not address the type of package offered, the ~~operator~~ person offering the package may
14 determine an allocated price for each item in the package based on a reasonable allocation of
15 revenue that is supported by the ~~operator's~~ person's business records kept in the ordinary course of
16 business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

17 ~~The tax shall be stated and charged separately from the sales records and shall be paid by the~~
18 ~~purchaser to the operator of the business. The provider of an accommodation must separately state~~
19 ~~the room occupancy tax. Room occupancy taxes paid to a provider of an accommodation are paid to~~
20 ~~the provider as trustee for and on account of the taxing city. The tax shall be added to the sales price~~
21 ~~and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

22 The taxing city shall ~~design, print, design~~ and furnish to all appropriate businesses and persons
23 in the city the necessary forms for filing returns and instructions to ensure the full collection of the
24 tax. An operator of a business who collects a room occupancy tax may deduct from the amount
25 remitted to the taxing city a discount equal to the discount the State allows the ~~operator~~ provider for
26 State sales and use tax."

27 **SECTION 31.6.(f)** G.S. 160A-215(g) reads as rewritten:

28 "(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy
29 tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c)
30 supersedes that provision. The remainder of this ~~This~~ section applies only to Beech Mountain
31 District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro,
32 Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton,
33 Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury,
34 Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain,
35 Benson, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cramerton,
36 Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mooresville,
37 Murfreesboro, North Topsail Beach, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Troutman,
38 Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the
39 municipalities in Avery and Brunswick Counties."

40 **SECTION 31.6.(g)** This section becomes effective January 1, 2011, and applies to
41 gross receipts derived from accommodations provided on or after that date.

1 **Senate Only**

2 **MODERNIZE ADMISSIONS TAX AND RESTORE AMENITIES EXCLUSION**

3 **SECTION 31.7.(a)** G.S. 105-37.1 reads as rewritten:

4 "**§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other entertainments.~~Live**
5 **entertainment and ticket resales.**

6 (a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged in~~
7 ~~any of the following:~~

8 (1) ~~Giving, offering, or managing a dance or an athletic contest for which an~~
9 ~~admission fee in excess of fifty cents (50¢) is charged.~~The gross admissions
10 receipts of a person who is engaged in providing admission to live entertainment
11 of any kind. Gross admissions receipts under this subdivision do not include
12 charges for amenities. If charges for amenities are not separately stated on the
13 face of an admission ticket, then the charge for admission is considered to be
14 equal to the admission charge for a ticket to the same event that does not include
15 amenities and is for a seat located directly in front of or closest to a seat that
16 includes amenities.

17 (2) ~~Giving, offering, or managing a form of amusement or entertainment that is not~~
18 ~~taxed by another provision of this Article and for which an admission fee is~~
19 ~~charged.~~The gross admissions receipts of a person who is engaged in the business
20 of reselling on the Internet under G.S. 14-344.1 an admission ticket that is
21 taxable under subdivision (1) of this subsection. If the price of an admission
22 ticket is printed on the face of the ticket, gross receipts under this subdivision
23 exclude the face price. If the price of an admission ticket is not printed on the
24 face of the ticket, the tax under this subdivision applies to the difference between
25 the amount the reseller paid for the ticket and the amount the reseller charges for
26 the ticket.

27 (3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show, that~~
28 ~~is not taxed by another provision of this Article.~~

29 (b) Rate and Payment. – The rate of the privilege tax imposed by this section is three percent
30 ~~(3%) of the gross receipts from the activities described in subsection (a) of this section.~~(3%). The
31 tax is due when a return is due. A return is due by the 10th day after the end of each month and
32 covers the gross receipts received during the previous month.

33 (c) Advance Report. – A person who owns or controls a ~~performance, show, or exhibition~~
34 live entertainment performance subject to the tax imposed by this section and who plans to bring the
35 performance to this State from outside the State must file a statement with the Secretary that lists
36 the dates, times, and places of the ~~performance, show, or exhibition.~~performance. The statement
37 must be filed no less than five days before the first ~~performance, show, or exhibition~~performance in
38 this State.

39 (d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1)
40 ~~or (a)(2) of this section; however, the tax may not exceed twenty-five dollars (\$25.00).~~ Cities may
41 levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may
42 not exceed twenty-five dollars (\$25.00) for each day or part of a day the ~~performance, show, or~~
43 ~~exhibition~~ live entertainment is given performed at each location. Cities may not levy a license tax
44 on a person taxed under subdivision (a)(2) of this section.

45 Counties may not levy a license tax on a person taxed under ~~subdivision (a)(1) or (a)(2) of this~~
46 ~~section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same~~
47 ~~extent as a city."~~

48 **SECTION 31.7.(b)** G.S. 14-344.1(e) is repealed.

1 **SECTION 31.7.(c)** If any provision of this act is declared by a court to violate the
2 Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be
3 invalid, then G.S. 14-344.1 is repealed.

4 **SECTION 31.7.(d)** G.S. 105-264(c) reads as rewritten:

5 "(c) Revised Interpretations. – This section does not prevent the Secretary from changing an
6 ~~interpretation-interpretation~~, and it does not prevent a change in an interpretation from applying on
7 and after the effective date of the change. An interpretation that revises a prior interpretation by
8 expanding the scope of a tax or otherwise increasing the amount of tax due may not become
9 effective sooner than the following:

10 (1) For a tax that is payable on a monthly or quarterly basis, the first day of a month
11 that is at least 90 days after the date the revised interpretation is issued.

12 (2) For a tax that is payable on an annual basis, the first day of a tax year that begins
13 after the date the revised interpretation is issued."

14 **SECTION 31.7.(e)** G.S. 105-37.1(a)(2), as amended by subsection (a) of this section,
15 becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The
16 remainder of subsection (a) of this section and subsection (b) of this section become effective
17 August 1, 2010. G.S. 105-37.1(a)(1), as amended by subsection (a) of this section, applies to
18 charges for admission received on or after August 1, 2010. The remainder of this section is
19 effective when it becomes law.

1 **Senate Only**

2 **IMPROVE TAX AND DEBT COLLECTION PROCESS**

3 **SECTION 31.8.(a)** G.S. 147-86.20(1) reads as rewritten:

4 **"§ 147-86.20. Definitions.**

5 The following definitions apply in this Article:

- 6 (1) Account ~~Receivable-receivable~~. – An asset of the State reflecting a debt that is
7 owed to the State and has not been received by the State agency servicing the
8 debt. The term includes claims, damages, fees, fines, forfeitures, loans,
9 overpayments, taxes, and tuition as well as penalties, interest, and other costs
10 authorized by law. The term does not include court costs or fees assessed in
11 actions before the General Court of Justice or counsel fees and other expenses of
12 representing indigents under Article 36 of Chapter 7A of the General Statutes.

13"

14 **SECTION 31.8.(b)** G.S. 147-86.22 reads as rewritten:

15 **"§ 147-86.22. Statewide accounts receivable program.**

16 (a) Program. – The State Controller shall implement a statewide accounts receivable
17 program. As part of this program, the State Controller shall do all of the following:

- 18 (1) Monitor the State's accounts receivable collection efforts.
19 (2) Coordinate information, systems, and procedures between State agencies to
20 maximize the collection of past-due accounts receivable.
21 (3) Adopt policies and procedures for the management and collection of accounts
22 receivable by State agencies.
23 (4) Establish procedures for writing off accounts ~~receivable and for determining~~
24 ~~when to end efforts to collect accounts receivable after they have been written~~
25 ~~off.~~receivable.

26 (b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and
27 G.S. 147-86.21, this subsection applies to debts owed a community college, a local school
28 administrative unit, an area mental health, developmental disabilities, and substance abuse
29 authority, and the Administrative Office of the Courts, and to debts payable to or through the office
30 of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as
31 defined in G.S. 147-86.20.

32 The State Controller shall establish policies that allow accounts receivable to be payable under
33 certain conditions by electronic payment. These policies shall be established with the concurrence
34 of the State Treasurer. In addition, any policies that apply to debts payable to or through the office
35 of a clerk of superior court or a magistrate shall be established with the concurrence of the
36 Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish
37 policies otherwise authorized by law that apply to these debts as long as those policies are not
38 inconsistent with the Controller's policies.

39 A condition of payment by electronic payment is receipt by the appropriate State agency of the
40 full amount of the account receivable owed to the State agency. A debtor who pays by electronic
41 payment may be required to pay any fee or charge associated with the use of electronic payment.
42 Fees associated with processing electronic payments may be paid out of the General Fund and
43 Highway Fund if the payment of the fee by the State is economically beneficial to the State and the
44 payment of the fee by the State has been approved by the State Controller and State Treasurer.

45 The State Controller and State Treasurer shall consult with the Joint Legislative Commission on
46 Governmental Operations before establishing policies that allow accounts receivable to be payable
47 by electronic payment and before authorizing fees associated with electronic payment to be paid out
48 of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative

Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by electronic payment and is not honored by the issuer of the card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable.

(c) Collection Techniques. – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of ~~an individual's~~ a tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

~~No later than January 1, 1999, the~~The State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services."

SECTION 31.8.(c) G.S. 147-86.25 reads as rewritten:

"§ 147-86.25. Setoff debt collection.

The State Controller shall implement a statewide setoff debt collection program to provide for collection of ~~accounts receivable that have been written off. The statewide program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall provide for written off~~the following accounts receivable ~~to be set off by~~ setoff against payments the State owes to debtors, other than payments of ~~individual income~~ tax refunds and ~~payroll~~ payroll:

(1) Accounts receivable submitted to the Department of Revenue by a claimant agency under the Setoff Debt Collection Act, Chapter 105A of the General Statutes.

(2) An overdue tax debt, as defined in G.S. 105-243.1.

~~A program shall provide that, before final setoff can occur, the State agency servicing the debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff through an administrative hearing and judicial review. A proposed setoff by a State agency that is a "claimant agency" under Chapter 105A of the General Statutes shall be conducted in accordance with the procedures the State agency must follow under that Chapter. A proposed setoff by a State agency that is not a "claimant agency" under Chapter 105A of the General Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes."~~

SECTION 31.8.(d) G.S. 105A-2 reads as rewritten:

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

...

(3) Debtor. – ~~An individual~~ A person who owes a debt.

...

(8) Refund. – ~~An individual's North Carolina income~~ A debtor's North Carolina tax refund.

(9) State agency. – Any of the following:

a. A unit of the executive, legislative, or judicial branch of State government.

b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

c. A community college."

SECTION 31.8.(e) G.S. 105A-3(c) reads as rewritten:

"(c) Identifying Information. – All claimant agencies shall whenever possible obtain the full name, social security ~~number,~~number or federal identification number, address, and any other identifying information required by the Department from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Chapter."

SECTION 31.8.(f) G.S. 105A-14(a) reads as rewritten:

"(a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency, the Department must provide the agency with an accounting of the setoffs for which payment is being made. The accounting must whenever ~~possible,~~possible include the full names of the debtors, the debtors' social security ~~numbers,~~numbers or federal identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected per setoff."

SECTION 31.8.(g) G.S. 105-259(b)(18) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...
(18) To furnish to the Office of the State Controller ~~the name, address, and account and identification numbers of a taxpayer upon request to enable~~information needed by the State Controller to implement the setoff debt collection program established under G.S. 147-86.25, verify statewide vendor files—files, or track debtors of the State.

...."

SECTION 31.8.(h) G.S. 105-242(b) reads as rewritten:

"(b) ~~Garnishment and Attachment.~~Attachment and Garnishment. – Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. ~~A~~G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.

A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. ~~G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies a taxpayer who owes a tax debt that is collectible under G.S. 105-241.22 and the amount of the debt. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the

1 taxpayer and is subject to attachment and garnishment and must inform the Secretary of its
2 determination. The Secretary must reimburse a financial institution for its costs in providing the
3 information, not to exceed the amount payable to the financial institution under G.S. 110-139 for
4 providing information for use in locating a noncustodial parent.

5 No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and
6 garnishment. The wages or salary of an employee of the United States, the State, or a political
7 subdivision of the State are subject to attachment and garnishment."

8 **SECTION 31.8.(i)** G.S. 105-242.1 reads as rewritten:

9 **"§ 105-242.1. Procedure for attachment and garnishment.**

10 (a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and
11 garnishment. Before the Department attaches and garnishes intangible property in payment of a tax,
12 the Department must send the garnishee a notice of garnishment. The notice must be sent in
13 accordance with the methods authorized in G.S. 105-241.20 ~~or by registered or certified mail or,~~
14 with the agreement of the garnishee, by electronic means. The notice must contain all of the
15 following ~~information;~~ information, unless the notice is an electronic notice subject to subsection
16 (a1) of this section:

- 17 (1) The taxpayer's ~~name, address, and social security number or federal identification~~
18 ~~number.~~ name.
19 (2) The ~~type of tax the taxpayer owes and the tax periods for which the tax is~~
20 ~~owed.~~ taxpayer's social security number or federal identification number.
21 (3) The amount of tax, interest, and penalties the taxpayer owes.
22 (4) An explanation of the liability of a garnishee for tax owed by a taxpayer.
23 (5) An explanation of the garnishee's responsibility concerning the notice.

24 (a1) Electronic Notice. – Before the Department sends an electronic notice of garnishment to
25 a garnishee, the Department and the garnishee must have an agreement that establishes the protocol
26 for transmitting the notice and provides the information required under subdivisions (4) and (5) of
27 subsection (a) of this section. An electronic notice must contain the information required under
28 subdivisions (1), (2), and (3) of subsection (a) of this section.

29 (b) ~~Action. – Within 30 days after receiving a notice of garnishment, a~~ A garnishee must
30 ~~comply with the a notice of garnishment or file a written response to the notice.~~ notice within the
31 time set in this subsection. A garnishee that is a financial institution must comply or file a response
32 within 20 days after receiving a notice of garnishment. All other garnishees must comply or file a
33 response within 30 days after receiving a notice of garnishment. A written response must explain
34 why the garnishee is not subject to garnishment and attachment. ~~Upon~~

35 Upon receipt of the a written response, the Department must contact the garnishee and schedule
36 a conference to discuss the response or inform the garnishee of the Department's position
37 concerning the response. If the Department does not agree with the garnishee on the garnishee's
38 liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the
39 garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

40 (c) ~~Release. – When the Department releases a garnishee from liability, the Department~~
41 ~~must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release~~
42 ~~applies and contain the identifying information about the taxpayer that is required under subsection~~
43 ~~(a) on a notice of garnishment.~~ A notice of garnishment sent to a financial institution is released
44 when the financial institution complies with the notice. A notice of garnishment sent to all other
45 garnishees is released when the Department sends the garnishee a notice of release. A notice of
46 release must state the name and social security number or federal identification number of the
47 taxpayer to whom the release applies.

48 (d) Financial Institution. – As used in this section, the term 'financial institution' has the
49 same meaning as in G.S. 53B-2."

50 **SECTION 31.8.(j)** G.S. 53B-4(2) reads as rewritten:

1 **"§ 53B-4. Access to financial records.**

2 Notwithstanding any other provision of law, no government authority may have access to a
3 customer's financial record held by a financial institution unless the financial record is described
4 with reasonable specificity and access is sought pursuant to any of the following:

5 ...

6 (2) Authorization under ~~G.S. 105-251~~G.S. 105-242 or G.S. 105-258."

7 **SECTION 31.8.(k)** Subsection (h) of this section becomes effective January 1, 2011.

8 The remainder of this section is effective when it becomes law.

1 **Senate Only**

2 **REDUCE FRANCHISE TAX BURDEN ON CONSTRUCTION COMPANIES**

3 **SECTION 31.9.(a)** Section 2 of S.L. 2009-422 reads as rewritten:

4 "SECTION 2. This act is effective retroactively for taxable years beginning on or after ~~January~~
5 ~~1, 2010.~~ January 1, 2007."

6 **SECTION 31.9.(b)** A taxpayer that paid franchise tax in taxable years 2007, 2008, or
7 2009 and that included billings in excess of costs in its capital base may apply to the Department of
8 Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the
9 law enacted by this section. A request for a refund must be made on or before January 1, 2011. A
10 request for refund received after that date is barred.

11 **SECTION 31.9.(c)** This section is effective when it becomes law.

1 **Senate Only**

2 **FAIR TAX PENALTIES**

3 **SECTION 31.10.(a)** G.S. 105-236(a)(4) reads as rewritten:

4 "(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due,
5 without intent to evade the tax, the Secretary shall assess a penalty equal to ten
6 percent (10%) of the tax, subject to a minimum of five dollars (\$5.00). This
7 penalty does not apply in any of the following circumstances:

8 a. When the amount of tax shown as due on an amended return is paid when
9 the return is filed.

10 b. When the Secretary proposes an assessment for tax due but not shown on
11 a return and the tax due is paid within 45 days after the later of the
12 following:

13 1. The date of the notice of proposed assessment of the ~~tax~~-tax, if the
14 taxpayer does not file a timely request for a Departmental review
15 of the proposed assessment.

16 2. The date the proposed assessment becomes collectible under
17 G.S. 105-241.22, if the taxpayer files a timely request for a
18 Departmental review of the proposed assessment.

19 c. When a taxpayer files a consolidated return under G.S. 105-130.6 at the
20 request of the Secretary and the tax due is paid within 45 days after the
21 later of the following:

22 1. The date the consolidated return is filed, if the taxpayer does not
23 file a timely request for a Departmental review of the tax.

24 2. The date the Departmental review of the tax ends as a result of the
25 occurrence of one of the actions listed in G.S. 105-241.22(3)
26 through (6), if the taxpayer files a timely request for a
27 Departmental review."

28 **SECTION 31.10.(b)** G.S. 105-236(a)(5) is amended by adding a new sub-subdivision

29 to read:

30 "(5) Negligence. –

31 ...

32 f. Consolidated return. – The amount of tax shown as due on a consolidated
33 return requested by the Secretary under G.S. 105-130.6 is not considered
34 a deficiency and is not subject to this subdivision."

35 **SECTION 31.10.(c)** This section is effective when it becomes law and applies to
36 penalties that are assessed and unpaid as of the effective date, penalties that are paid as of the
37 effective date but are based on a tax that is the subject of an administrative or judicial action that is
38 pending on the effective date, and penalties and taxes assessed on or after that date.

1 **Senate Only**

2 **CREDIT FOR CONSTRUCTING A RENEWABLE ENERGY PROPERTY FACILITY**

3 **SECTION 31.11.(a)** Article 3B of Chapter 105 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 105-129.16I. Credit for constructing a renewable energy property facility.**

6 (a) Credit. – A taxpayer that constructs and places in service in this State a commercial
7 facility for the manufacture of renewable energy property is allowed a credit equal to twenty-five
8 percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit
9 may not be taken for the taxable year in which the facility is placed in service but must be taken in
10 seven equal annual installments beginning with the taxable year in which the facility is placed in
11 service. If, in one of the years in which the installment of a credit accrues, the facility with respect
12 to which the credit was claimed is disposed of or taken out of service, the credit expires and the
13 taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the
14 portion of an installment that accrued in a previous year and was carried forward to the extent
15 permitted under G.S. 105-129.17. A taxpayer that claims any other credit allowed under this
16 Chapter with respect to construction of a facility may not take the credit allowed in this section with
17 respect to the same facility.

18 (b) Sunset. – This section is repealed effective for a renewable energy property facility
19 placed in service on or after January 1, 2014."

20 **SECTION 31.11.(b)** This section becomes effective for taxable years beginning on or
21 after January 1, 2011.

1 **House Only**

2 **INCREASE TAX BENEFITS FOR INVESTMENTS IN SMALL BUSINESSES**

3 **SECTION 31.12.(a)** G.S. 105-163.012(b) reads as rewritten:

4 "**§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

5 ...

6 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for
7 investments made in a calendar year may not exceed ~~seven million five hundred thousand dollars~~
8 ~~(\$7,500,000).~~ eight million dollars (\$8,000,000). The Secretary of Revenue shall calculate the total
9 amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the
10 total amount of tax credits claimed for investments made in a calendar year exceeds this maximum
11 amount, the Secretary shall allow a portion of the credits claimed by allocating the maximum
12 amount in tax credits in proportion to the size of the credit claimed by each taxpayer."

13 **SECTION 31.12.(b)** G.S. 105-163.015 reads as rewritten:

14 "**§ 105-163.015. Sunset.**

15 This Part is repealed effective for investments made on or after ~~January 1, 2011.~~ January 1,
16 2013."

17 **SECTION 31.12.(c)** Subsection (a) of this section is effective for investments made on
18 or after January 1, 2010. The remainder of this section is effective when it becomes law.

1 **House Only**

2 **TAX BENEFITS FOR SMALL BUSINESSES THAT PROVIDE HEALTH INSURANCE**

3 **SECTION 31.13.(a)** G.S. 105-129.16E(d) reads as rewritten:

4 "**§ 105-129.16E. Credit for small business employee health benefits.**

5 ...

6 (d) Sunset. – This section expires for taxable years beginning on or after ~~January 1, 2010.~~
7 January 1, 2014."

8 **SECTION 31.13.(b)** This section is effective when it becomes law.

1 **House Only**

2 **TAX BENEFITS FOR PUTTING PEOPLE BACK TO WORK**

3 **SECTION 31.14.(a)** Article 3B of Chapter 105 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 105-129.16J. Credit for small businesses that create jobs.**

6 (a) Definitions. – The following definitions apply in this section:

7 (1) Full-time job. – Defined in G.S. 105-129.81.

8 (2) Small business. – A taxpayer that employed no more than 25 full-time employees
9 at the beginning of the taxable year.

10 (b) Credit. – A small business that meets the eligibility requirements of this section and
11 creates a new, full-time job in this State is allowed a credit. The amount of the credit is equal to one
12 thousand dollars (\$1,000) for each new full-time job created and maintained for a period of at least
13 three years. The credit is taken in the taxable year in which the job is created.

14 (c) Calculation. – The number of new jobs a taxpayer creates or maintains during the
15 taxable year is determined by subtracting the average number of full-time employees the taxpayer
16 had in this State during the 12-month period preceding the beginning of the taxable year from the
17 average number of full-time employees the taxpayer has in this State during the taxable year.

18 (d) Eligibility Requirements. – In order to be eligible for a credit under this section, the
19 taxpayer must satisfy the following eligibility requirements:

20 (1) Environmental impact. – The taxpayer must satisfy the environmental impact
21 requirement under G.S. 105-129.83.

22 (2) Safety and health programs. – The taxpayer must satisfy the safety and health
23 programs requirement under G.S. 105-129.83.

24 (3) Overdue tax debts. – The taxpayer must not have any overdue tax debts that have
25 not been satisfied or otherwise resolved.

26 (e) Forfeiture. – A taxpayer forfeits a credit allowed under this section if the taxpayer was
27 not eligible for the credit for the calendar year in which the taxpayer created the job. In addition, a
28 taxpayer forfeits a credit if the taxpayer fails to maintain the job for at least three years. A taxpayer
29 that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus
30 interest at the rate established under G.S. 105-241.21, computed from the date the taxes would have
31 been due if the credit had not been allowed. The past taxes and interest are due 30 days after the
32 date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is
33 subject to the penalties provided in G.S. 105-236.

34 (f) Limitations. – A taxpayer may not claim a credit under this section with respect to a job
35 for which the taxpayer claims any other credit under this Chapter for job creation. The credit
36 allowed by this section may not exceed twenty-five thousand dollars (\$25,000).

37 (g) Report. – The Department must publish by May 1 of each year the total credits claimed
38 under this section, itemized by taxpayer, for the 12-month period ending the previous December 31.

39 (h) Sunset. – This section is repealed for jobs created on or after January 1, 2013."

40 **SECTION 31.14.(b)** This section is effective for taxes imposed for taxable years
41 beginning on or after January 1, 2010, and for jobs created on or after January 1, 2010.

Senate and House Differ

Senate Version

COMMITTEE REPORT

SECTION 32.2.(a) The Senate Appropriations Committee Report On The Continuation, Expansion and Capital Budgets for Senate Bill 897, dated May 16, 2010, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 32.2.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2010-2011 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in April 2010 in the documents "The North Carolina State Budget, Recommended Operating Budget with Performance Management Information 2010-2011" for the 2010-2011 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.,

SECTION 32.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

1 **House Version**

2 **COMMITTEE REPORT**

3 **SECTION 32.2.(a)** The North Carolina House of Representatives Appropriations
4 Committee Report On The Continuation, Expansion and Capital Budgets for Senate Bill 897, dated
5 June 2, 2010 which was distributed in the House of Representatives and used to explain this act,
6 shall indicate action by the General Assembly on this act and shall therefore be used to construe this
7 act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and
8 for these purposes shall be considered a part of this act and as such shall be printed as a part of the
9 Session Laws.

10 **SECTION 32.2.(b)** The budget enacted by the General Assembly is for the
11 maintenance of the various departments, institutions, and other spending agencies of the State for
12 the 2010-2011 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of
13 State funds as defined in G.S. 143C-1-1(d)(25).

14 The Director of the Budget submitted recommended adjustments to the budget to the
15 General Assembly in April 2010 in the documents "The North Carolina State Budget,
16 Recommended Operating Budget with Performance Management Information 2010-2011" for the
17 2010-2011 fiscal year for the various departments, institutions, and other spending agencies of the
18 State. The adjustments to these documents made by the General Assembly are set out in the
19 Committee Report.

20 **SECTION 32.2.(c)** The budget enacted by the General Assembly shall also be
21 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other
22 appropriate legislation.

23 In the event that there is a conflict between the line-item budget certified by the Director
24 of the Budget and the budget enacted by the General Assembly, the budget enacted by the General
25 Assembly shall prevail.

