



1 CUSTOMERS REFERRED TO THE SELLER BY ALL SUCH RESIDENTS,  
 2 EFFECTIVE WHEN IT BECOMES LAW; TO PERMANENTLY IMPOSE THE STATE  
 3 AND LOCAL SALES TAX ON MOVIES AND OTHER AMUSEMENTS IN LIEU OF  
 4 THE PRIVILEGE TAXES CURRENTLY IMPOSED ON THESE ACTIVITIES  
 5 EFFECTIVE OCTOBER 1, 2009; AND TO PERMANENTLY INCREASE THE EXCISE  
 6 TAX RATE ON SPIRITUOUS LIQUOR BY ONE AND ONE-HALF PERCENTAGE  
 7 POINTS EFFECTIVE AUGUST 1, 2009.

8 The General Assembly of North Carolina enacts:

9  
 10 **PART I. INTRODUCTION AND TITLE OF ACT**

11  
 12 **INTRODUCTION**

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

18  
 19 **TITLE OF ACT**

20 **SECTION 1.2.** This act shall be known as the "Current Operations and Capital  
 21 Improvements Appropriations Act of 2009."  
 22

23 **PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND**

24  
 25 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

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

31 <b>Current Operations – General Fund</b>	32 <b>2009-2010</b>	33 <b>2010-2011</b>
34 <b>EDUCATION</b>		
35 Community Colleges System Office	36 \$ 981,477,165	37 \$ 986,459,291
38 Department of Public Instruction	39 7,170,904,662	40 7,137,725,328
41 University of North Carolina – Board of Governors		
42 Appalachian State University	43 143,009,361	44 142,916,867
45 East Carolina University		
46 Academic Affairs	47 231,022,436	48 230,803,882
49 Health Affairs	50 54,536,392	51 54,533,392
Elizabeth City State University	36,927,873	36,895,974
Fayetteville State University	57,937,868	57,920,041
North Carolina Agricultural and Technical University	100,706,068	100,706,068
North Carolina Central University	92,668,859	92,565,166
North Carolina State University		
Academic Affairs	403,847,290	403,865,631
Agricultural Research	59,265,025	59,238,001
Agricultural Extension	45,315,457	45,305,822

1	University of North Carolina at Asheville	38,310,913	38,276,547
2	University of North Carolina at Chapel Hill		
3	Academic Affairs	291,283,117	291,272,017
4	Health Affairs	214,268,856	214,268,356
5	Area Health Education Centers	52,109,208	52,109,208
6	University of North Carolina at Charlotte	190,610,275	190,252,571
7	University of North Carolina at Greensboro	167,219,053	167,166,818
8	University of North Carolina at Pembroke	59,340,801	59,251,281
9	University of North Carolina School of the Arts	26,159,755	26,154,488
10	University of North Carolina at Wilmington	101,347,433	101,259,136
11	Western Carolina University	91,818,652	91,832,451
12	Winston-Salem State University	71,708,502	71,704,974
13	General Administration	41,963,781	41,961,395
14	University Institution Programs	(97,937,714)	(160,841,742)
15	Related Educational Programs	69,440,698	54,109,344
16	UNC Financial Aid Private Colleges	100,230,515	100,259,515
17	North Carolina School of Science & Math	18,712,479	18,711,799
18	UNC Hospitals	36,011,882	36,011,882
19	Total University of North Carolina –		
20	Board of Governors	\$ 2,697,834,835	\$ 2,618,510,884
21			
22	<b>HEALTH AND HUMAN SERVICES</b>		
23			
24	Department of Health and Human Services		
25	Central Management and Support	\$ 66,091,947	\$ 67,247,574
26	Division of Aging and Adult Services	35,809,431	37,191,563
27	Division of Blind Services/Deaf/HH	10,792,990	10,779,718
28	Division of Child Development	266,604,437	279,057,823
29	Office of Education Services	35,693,039	35,693,039
30	Division of Health Service Regulation	16,803,751	16,791,135
31	Division of Medical Assistance	2,303,697,663	2,674,425,262
32	Division of Mental Health,		
33	Dev. Disabilities and Sub. Abuse	644,974,271	653,984,342
34	NC Health Choice	60,939,237	60,939,237
35	Division of Public Health	153,340,486	158,319,800
36	Division of Social Services	212,331,402	213,071,796
37	Division of Vocation Rehabilitation	44,619,693	44,619,216
38	Total Health and Human Services	\$ 3,851,698,347	\$ 4,252,120,505
39			
40	<b>NATURAL AND ECONOMIC RESOURCES</b>		
41			
42	Department of Agriculture and Consumer Services	\$ 63,071,757	\$ 60,896,931
43			
44	Department of Commerce		
45	Commerce	75,823,352	74,972,073
46	Commerce State-Aid	19,650,400	14,354,000
47	NC Biotechnology Center	14,810,000	14,501,900
48	Rural Economic Development Center	23,907,436	23,832,436
49			
50	Department of Environment and Natural Resources	219,422,421	209,723,392
51			

1	DENR Clean Water Management Trust Fund	100,000,000	100,000,000
2			
3	Department of Labor	17,427,971	17,428,027
4			
5	<b>JUSTICE AND PUBLIC SAFETY</b>		
6			
7	Department of Correction	\$ 1,251,788,964	\$ 1,256,054,000
8			
9	Department of Crime Control and Public Safety	26,583,536	24,765,766
10			
11	Judicial Department	458,386,400	454,900,778
12	Judicial Department – Indigent Defense	112,942,013	106,568,231
13			
14	Department of Justice	88,200,008	85,285,192
15			
16	Department of Juvenile Justice and		
17	Delinquency Prevention	139,640,188	140,739,738
18			
19	<b>GENERAL GOVERNMENT</b>		
20			
21	Department of Administration	\$ 74,163,402	\$ 73,296,912
22			
23	Department of State Auditor	13,487,042	13,315,123
24			
25	Office of State Controller	22,743,324	22,341,679
26			
27	Department of Cultural Resources		
28	Cultural Resources	70,626,198	70,970,597
29	Roanoke Island Commission	1,781,296	1,754,203
30			
31	State Board of Elections	6,307,223	6,221,208
32			
33	General Assembly	51,866,107	53,622,698
34			
35	Office of the Governor		
36	Office of the Governor	6,149,909	6,067,739
37	Office of State Budget and Management	6,502,520	6,407,809
38	OSBM – Reserve for Special Appropriations	4,216,465	4,161,125
39	Housing Finance Agency	14,608,417	14,419,533
40			
41	Department of Insurance		
42	Insurance	32,180,522	32,242,706
43	Insurance – Volunteer Safety Workers' Compensation	2,000,000	1,561,846
44			
45	Office of Lieutenant Governor	944,202	931,703
46			
47	Office of Administrative Hearings	4,155,512	4,111,476
48			
49	Department of Revenue	87,499,673	86,329,226
50			
51	Department of Secretary of State	11,630,078	11,431,477

1			
2	Department of State Treasurer		
3	State Treasurer	17,561,746	17,415,516
4	State Treasurer – Retirement for Fire and		
5	Rescue Squad Workers	10,804,671	10,804,671
6			
7	<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
8			
9	Salary Adjustment Fund	\$ 0	\$ 0
10			
11	Contingency and Emergency Fund	5,000,000	5,000,000
12			
13	State Retirement System Contribution	21,000,000	312,000,000
14			
15	Judicial Retirement System Contribution	1,300,000	1,300,000
16			
17	State Health Plan	132,214,752	276,179,709
18			
19	Information Technology Fund	7,840,000	7,840,000
20			
21	Reserve for Job Development Investment Grants (JDIG)	19,000,000	19,000,000
22			
23	Reduce Debt Service Requirements	(7,500,000)	(4,000,000)
24			
25	Statewide Administrative Support Reduction	(3,000,000)	(6,600,000)
26			
27	Biomedical Research Imaging Center (BRIC)	-	-
28			
29	Debt Service		
30	General Debt Service	670,494,697	739,878,445
31	Federal Reimbursement	1,616,380	1,616,380
32			
33	Clean Water Management Trust Fund	(75,000,000)	(75,000,000)
34			
35	University Cancer Research Fund (adjusts UNC budget)	(15,500,000)	(15,500,000)
36			
37	Severance Expenditure Reserve	47,957,108	-
38			
39	<b>TOTAL CURRENT OPERATIONS –</b>		
40	<b>GENERAL FUND</b>	<b>\$ 18,558,220,699</b>	<b>\$ 19,277,960,253</b>
41			
42	<b>Capital Improvements -General Fund</b>	<b>2009-2010</b>	<b>2010-2011</b>
43			
44	Water Resources Development Projects	\$ 7,150,000	\$ 0
45			
46	<b>TOTAL CAPITAL IMPROVEMENTS –</b>		
47	<b>GENERAL FUND</b>	<b>\$ 7,150,000</b>	<b>\$ 0</b>
48			
49	<b>GENERAL FUND AVAILABILITY STATEMENT</b>		
50	<b>SECTION 2.2.(a)</b> The General Fund availability used in developing the 2009-2011		
51	biennial budget is shown below:		

	FY 2009-2010	FY 2010-2011	
1			
2			
3			
4	Unappropriated Balance Remaining From Previous Year	0	0
5	Savings Reserve Account	0	0
6	Repairs and Renovations Reserve Account	0	0
7	<b>Beginning Unreserved Fund Balance</b>	<b>0</b>	<b>0</b>
8			
9	<b>Revenues Based on Existing Tax Structure</b>	<b>16,796,300,000</b>	<b>17,384,400,000</b>
10			
11	<b>Nontax Revenues</b>		
12	Investment Income	67,300,000	93,100,000
13	Judicial Fees	200,700,000	208,300,000
14	Disproportionate Share	100,000,000	100,000,000
15	Insurance	77,700,000	81,900,000
16	Other Nontax Revenues	148,300,000	155,200,000
17	Highway Trust Fund/Use Tax Reimbursement Transfer	108,500,000	73,500,000
18	Highway Fund Transfer	17,600,000	17,600,000
19	<b>Subtotal Nontax Revenues</b>	<b>720,100,000</b>	<b>729,600,000</b>
20			
21	<b>Total General Fund Availability</b>	<b>17,516,400,000</b>	<b>18,203,767,870</b>
22			
23	<b>Adjustments to Availability: 2009 Session</b>		
24	Department of Revenue Improved Enforcement	60,000,000	90,000,000
25	Adjust Transfer from Insurance Regulatory Fund	(1,644,300)	(1,644,300)
26	Adjust Transfer from Treasurer's Office	(595,699)	(755,717)
27	Transfer from Disproportionate Share Reserve	25,000,000	0
28	Reserve for Increased/New Fees	81,172,651	86,428,171
29	Transfers from Special Funds	40,743,885	40,743,886
30	Transfers from Cash Balances from Capital and		
31	R&R Accounts	65,687,775	0
32	Transfers of Cash Balances from Special Funds	51,528,456	0
33	Transfer from Health and Wellness Trust Fund	5,000,000	5,000,000
34	Transfer from Tobacco Trust Fund	5,000,000	5,000,000
35	Transfer Sales Tax for Wildlife Resources Commission	23,150,000	22,230,000
36	Increase Upper-Income Tax Brackets	256,700,000	183,100,000
37	Combined Reporting, Corporate Income Tax	18,500,000	43,700,000
38	Sales Tax on Warranties, Installations,		
39	Repairs (Includes Maintenance)	176,200,000	244,000,000
40	Sales Tax on Local and Interstate Courier Services	25,000,000	91,100,000
41	Sales Tax on Digital/Click-Throughs	13,200,000	17,800,000
42	Sales Tax on Amusements/Movies	23,600,000	31,600,000
43	Franchise Tax on Limited Liability Companies	59,000,000	131,100,000
44	Throwback Rule, Corporate Income Tax	5,900,000	14,700,000
45	Change Bank Interest Deduction	2,600,000	8,800,000
46	Increase Liquor Tax by 1.5%	7,900,000	8,300,000
47	Increase Sales Tax Rate 1/4 cent	195,000,000	200,000,000
48	<b>Subtotal Adjustments to</b>		
49	<b>Availability: 2009 Session</b>	<b>1,138,642,768</b>	<b>1,221,202,040</b>
50			
51	<b>Revised General Fund Availability</b>	<b>18,655,042,768</b>	<b>19,424,969,910</b>

1			
2	<b>Less General Fund Appropriations</b>	<b>(18,565,370,699)</b>	<b>(19,277,960,250)</b>
3			
4	<b>Unappropriated Balance Remaining</b>	<b>89,672,069</b>	<b>57,241,787</b>
5			
6	Transfer Unappropriated Balance to Savings Reserve	(89,767,870)	(57,337,722)
7	<b>Balance Remaining After Transfer to Savings Reserve</b>	<b>0</b>	<b>0</b>
8			

9           **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State  
10 Controller shall not transfer funds to the Repairs and Renovations Reserve Account on June 30,  
11 2009. This subsection becomes effective June 30, 2009.

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

15           **SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the  
16 sum to be transferred under that subdivision for the 2009-2010 fiscal year is one hundred six  
17 million dollars (\$106,000,000) and for the 2010-2011 fiscal year is seventy-one million dollars  
18 (\$71,000,000).

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

23           **SECTION 2.2.(f)** The appropriation made in this act to the Clean Water  
24 Management Trust Fund for the 2009-2010 fiscal year is twenty-five million dollars  
25 (\$25,000,000) and for the 2010-2011 fiscal year is twenty-five million dollars (\$25,000,000).  
26 The provisions of G.S. 113A-253.1 do not apply for the 2009-2011 fiscal biennium.

27           **SECTION 2.2.(g)** Notwithstanding any other provision of law to the contrary,  
28 effective July 1, 2009, the following amounts shall be transferred to the State Controller to be  
29 deposited in Nontax Budget Code 18878 (Intrastate Transfers) or the appropriate budget code  
30 as determined by the State Controller. These funds shall be used to support the General Fund  
31 appropriations as specified in this act for the 2009-2011 fiscal biennium.

			<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
<b>Budget Code</b>	<b>Fund Code</b>	<b>Description</b>	<b>Amount</b>	<b>Amount</b>
36	64424	DHHS – Office of Education Services	175,321	0
37	67425	Trust Telecommunication	8,500,000	0
38	23515 2510	DPI IT Projects – Legacy Updates	3,000,000	0
39	63501 6801	DPI Trust Special-Teaching Fellows	5,500,000	0
40	63501 6112	Computer Loan Revolving Fund	120,677	0
41	63501 6117	Business and Education Technology Alliance	26,336	0
42	24600 2553	Grape Growers Council	1,146,811	900,000
43	24600 2821	Credit Union Supervision	2,487,848	1,628,853
44	24600 2851	Cemetery Commission	455,770	252,990
45	54600	Commerce Enterprise	48,361,480	37,766,466
46	64605	Utilities Commission/Public Staff	13,661,307	0
47	64612	NC Rural Electrification Authority	235,345	0
48	24308 2815	VRS Geodetic Survey & DOT	8,048	0
49	24317 2339	ADM Fines & Penalties	365,899	0
50	24600 2241	REA Administration	195,577	195,577
51		Wildlife Resources Commission Operating Expenses	23,150,000	22,230,000

1	Various Capital Accounts as specified in Section 27.11	65,587,775	0
2	Nurse Educators of Tomorrow Scholarship Loan	1,000,000	0
3	<b>SECTION 2.2.(h)</b> Notwithstanding G.S. 143C-9-3, of the funds credited to the		
4	Tobacco Trust, the sum of five million dollars (\$5,000,000) shall be transferred from the		
5	Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund),		
6	to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to		
7	support General Fund appropriations for the 2009-2010 and 2010-2011 fiscal years. These		
8	funds shall be transferred on or after April 30, 2010.		
9	<b>SECTION 2.2.(i)</b> Notwithstanding G.S. 143C-9-3, of the funds credited to the		
10	Health Trust Account, the sum of five million dollars (\$5,000,000) that would otherwise be		
11	deposited in the Fund Reserve shall be transferred from the Department of State Treasurer,		
12	Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited		
13	in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for		
14	the 2009-2010 and 2010-2011 fiscal years. These funds shall be transferred on or after April		
15	30, 2010.		
16	<b>SECTION 2.2.(j)</b> On July 1, 2009, the State Controller shall transfer seven million		
17	thirty-one thousand nine hundred twenty-three dollars (\$7,031,923) from the Disaster Reserve		
18	Fund to Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund		
19	appropriations for the 2009-2010 fiscal year.		
20	<b>SECTION 2.2.(k)</b> Notwithstanding any provision of law to the contrary, funds		
21	remaining in the Unappropriated Balance Remaining in each year of the 2009-2011 fiscal		
22	biennium shall be transferred to the Savings Reserve Account.		

### PART III. CURRENT OPERATIONS/HIGHWAY FUND

#### CURRENT OPERATIONS AND EXPANSION/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 made for the fiscal biennium ending June 30, 2011, according to the following schedule:

31	<b>Current Operations – Highway Fund</b>	<b>2009-2010</b>	<b>2010-2011</b>
32	Department of Transportation		
33	Administration	\$ 73,429,805	\$ 74,516,556
34			
35	Division of Highways		
36	Administration	32,938,983	32,993,177
37	Construction	29,960,000	71,567,092
38	Maintenance	943,083,553	938,935,439
39	Planning and Research	4,055,402	4,055,402
40	OSHA Program	355,389	355,389
41			
42	Ferry Operations	26,609,942	26,609,942
43			
44	State Aid		
45	Municipalities	87,813,876	87,840,220
46	Public Trans	74,647,962	75,493,962
47	Airports	17,349,592	17,291,543
48	Railroads	17,101,153	17,101,153
49			
50	Governor's Highway Safety	351,779	352,325
51	Division of Motor Vehicles	101,371,994	100,847,270



1	Other State Agencies, Reserves, Transfers	290,020,570	278,560,531
2			
3	<b>Total</b>	<b>\$ 1,699,090,000</b>	<b>\$ 1,726,520,000</b>

**HIGHWAY FUND AVAILABILITY STATEMENT**

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

9	<b>Highway Fund Availability Statement</b>	<b>2009-2010</b>	<b>2010-2011</b>
10			
11	Unappropriated Balance from Previous Year	\$ 0	\$ 0
12	Beginning Credit Balance	0	0
13	Estimated Revenue	1,699,090,000	1,726,520,000
14			
15	<b>Total Highway Fund Availability</b>	<b>\$ 1,699,090,000</b>	<b>\$ 1,726,520,000</b>
16			
17	Unappropriated Balance	\$ 0	\$ 0

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

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

27	<b>Current Operations – Highway Trust Fund</b>	<b>2009-2010</b>	<b>2010-2011</b>
28	Intrastate	\$ 359,883,973	\$ 389,146,011
29	Urban Loops	113,674,786	126,402,179
30	Aid to Municipalities	40,650,403	43,615,503
31	Secondary Roads	57,653,289	61,638,133
32	Program Administration	41,634,720	43,930,560
33	Turnpike Authority	64,000,000	99,000,000
34	Transfer to Gen Fund	108,561,829	72,894,864
35	Debt Service	82,731,000	79,992,750
36			
37	<b>GRAND TOTAL CURRENT OPERATIONS</b>		
38	<b>AND EXPANSION</b>	<b>\$ 868,790,000</b>	<b>\$ 916,620,000</b>

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

41 **SECTION 4.2.** The Highway Trust Fund availability used in developing the  
42 2009-2011 biennial budget is shown below:

44	<b>Total Highway Trust Fund Availability</b>	<b>\$ 868,790,000</b>	<b>\$ 916,620,000</b>
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**PART V. OTHER APPROPRIATIONS****CIVIL FORFEITURE FUNDS**

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

	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
1		
2	School Technology Fund	\$ 36,183,251
3	State Public School Fund	120,362,790
4	Total Appropriation	\$156,546,041
5		\$138,362,790

6           **SECTION 5.1.(b)** All University of North Carolina campuses shall remit all  
7 parking fines held in escrow in the amount of eighteen million one hundred eighty-three  
8 thousand two hundred fifty-one dollars (\$18,183,251) to the Civil Penalty and Forfeiture Fund  
9 for appropriation.

#### 10 11 **EDUCATION LOTTERY**

12           **SECTION 5.2.(a)** Notwithstanding G.S. 18C-164, the revenue used to support  
13 appropriations made in this act is transferred from the State Lottery Fund in the amount of three  
14 hundred sixty-eight million seventy thousand two hundred eight dollars (\$368,070,208) for the  
15 2009-2010 fiscal year.

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

18	Teachers in Early Grades	99,399,395
19	Prekindergarten Program	84,635,709
20	Public School Building Capital Fund	147,228,083
21	Scholarships for Needy Students	<u>36,807,021</u>
22	Total Appropriation	\$368,070,208

23  
24           **SECTION 5.2.(c)** Notwithstanding G.S. 18C-164, the North Carolina State Lottery  
25 Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2009-2010  
26 fiscal year or the 2010-2011 fiscal year.

#### 27 28 **INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATION**

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

	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
31		
32		
33	Interest Income	\$100,000
34		\$100,000
35	IT Fund Balance June 30	\$3,359,419
36		\$1,486,786
37	Appropriation from General Fund	\$7,840,100
38		\$7,840,100
39	<b>Total Funds Available</b>	<b>\$11,299,519</b>
40		<b>\$9,426,886</b>

41  
42           **SECTION 5.3.(b)** Appropriations are made from the Information Technology  
43 Fund for the 2009-2011 fiscal biennium as follows:

	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
44		
45	<b>Office of Information Technology Services</b>	
46		
47	Information Technology Operations	\$4,934,197
48		\$4,954,040
49	Information Technology Projects	\$4,878,536
50		\$4,381,966
51	<b>Total</b>	<b>\$9,812,733</b>
		<b>\$9,336,006</b>

**APPROPRIATION OF CASH BALANCES**

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

- (1) For all budget codes listed in the Base Budget and Performance Management Information sections of "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2009-2010 fiscal year and the 2010-2011 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.
- (2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," cash balances and receipts are appropriated for each year of the 2009-2011 fiscal biennium up to the level of actual expenditures for the 2007-2008 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the 2007-2008 fiscal year.
- (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2009-2010 fiscal year and the 2010-2011 fiscal year and shall be used only to pay debt service requirements.
- (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

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

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

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

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

**OTHER RECEIPTS FROM PENDING GRANT AWARDS**

**SECTION 5.6.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget and after consultation with the Joint Legislative Committee on Governmental Operations, spend funds received from grants awarded subsequent to the enactment of this act. The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to expending any funds received from grant awards. Funds received from such grants are hereby appropriated and shall be incorporated into the certified budget of the recipient State agency.

**PART VI. GENERAL PROVISIONS****EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

**BUDGET CODE CONSOLIDATIONS**

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

**BUDGET REALIGNMENT**

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

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

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

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

**REPORT ON POSITIONS FILLED THROUGH FAVORITISM**

**SECTION 6.4A.(a)** The State Personnel Commission shall study State government positions, whether or not covered by the State Personnel Act, to determine if any position was established for a particular employee or was obtained by the employee through political

1 favoritism or familial relationships. In conducting such investigation it may examine all  
2 personnel records.

3 **SECTION 6.4A.(b)** The State Personnel Commission shall report its findings to  
4 the Joint Legislative Commission on Governmental Operations no later than March 1, 2010.

5  
6 **ALLOW STATE GOVERNMENT EMPLOYEES AND PUBLIC SCHOOL**  
7 **PERSONNEL TO TAKE VOLUNTARY FURLOUGHS TO EFFECT NECESSARY**  
8 **ECONOMIES IN STATE EXPENDITURE TO REDUCE THE NEED FOR**  
9 **REDUCTIONS IN FORCE AND MANDATORY FURLOUGHS DURING THE**  
10 **CURRENT AND ANY FUTURE ECONOMIC CRISIS**

11 **SECTION 6.6.(a)** Article 2 of Chapter 126 of the General Statutes is amended by  
12 adding a new section to read:

13 **"§ 126-8.6. Voluntary furloughs.**

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

- 15 (1) Essential position. – Any position deemed by the head of a public agency to  
16 be necessary to perform the critical functions of that agency to protect the  
17 health or safety of the agency's employees, students, clients, or patients or to  
18 protect the general public.  
19 (2) Nonessential position. – Any position in a public agency not designated as  
20 an essential position by the head of the public agency.  
21 (3) Public agency. – A State agency, department, or institution in the executive  
22 branch of State government; The University of North Carolina; the North  
23 Carolina Community College System; and a local school administrative unit.  
24 (4) Public employee. – An employee employed by a public agency.  
25 (5) Voluntary furlough. – A temporary voluntary period of leave from  
26 employment without pay up to a maximum of 30 days per fiscal year for  
27 nonessential positions and a maximum of 10 days per fiscal year for  
28 essential positions.

29 (b) The Governor may effect necessary economies in State expenditures by authorizing  
30 voluntary furloughs of public employees. Prior to authorizing voluntary furloughs of public  
31 employees, the Governor shall determine that a voluntary furlough program is reasonable and  
32 necessary to meet the important public purpose of balancing the budget. The Governor shall  
33 consult with each public agency head to determine whether to implement a voluntary furlough  
34 for the entire public agency or within one or more designated units of the public agency.

35 (c) Notwithstanding any other provision of law, a public employee on a voluntary  
36 furlough who is:

- 37 (1) A member of any of the State-supported retirement plans administered by  
38 the Retirement Systems Division of the Department of State Treasurer, or an  
39 Optional Retirement Program (ORP) administered under G.S. 135-5.1 or  
40 G.S. 135-5.4, shall be considered in active service during any period of  
41 furlough and shall be entitled to all of the same benefits to which the  
42 employee was entitled on the workday immediately preceding the furlough.  
43 The member shall suffer no diminution of retirement average final  
44 compensation based on being on voluntary furlough, and the retirement  
45 average final compensation shall be calculated based on the undiminished  
46 compensation. During a voluntary furlough period, the employer shall pay  
47 both employee and employer contributions to the Retirement Systems  
48 Division or ORP on behalf of the voluntarily furloughed employee as though  
49 the employee were in active service.  
50 (2) A member of the State Health Plan for Teachers and State Employees shall  
51 be considered eligible for coverage under the Plan on the same basis as on

1                   the workday immediately preceding the furlough. The public employer shall  
2                   pay contributions on behalf of the voluntarily furloughed public employee as  
3                   though the employee were in active service.

4           The provisions of this subsection apply to all voluntary furloughs whether in a public  
5           agency, the legislative or judicial branches of State government, or in a local school  
6           administrative unit.

7           (d) Public employees in essential positions are eligible to participate in the voluntary  
8           furlough program only if specifically authorized by the head of the public agency.

9           (e) Public agencies with employees not subject to the State Personnel Act shall adopt  
10           emergency rules substantially equivalent to the rules of the State Personnel Commission. To the  
11           extent possible, public agencies shall ensure that all voluntarily furloughed employees are  
12           subject to the same rules. The Office of State Personnel shall provide technical assistance to  
13           public agency heads to expedite implementation of a voluntary furlough program."

14           **SECTION 6.6.(b)** G.S. 7A-343 is amended by adding a new subdivision to read:

15           "(11) Upon a determination by the Chief Justice that the voluntary furlough of  
16           judicial employees is necessary to effect economies in State expenditures,  
17           the Director shall implement a voluntary furlough program for employees of  
18           the Judicial Department. Judicial employees who are on a voluntary furlough  
19           pursuant to this subdivision shall be entitled to the benefits provided to  
20           public employees by G.S. 126-8.6(c). For purposes of this subdivision, the  
21           term 'voluntary furlough' has the same meaning as set forth in  
22           G.S. 126-8.6(a)(5)."

23           **SECTION 6.6.(c)** G.S. 115C-47 is amended by adding a new subdivision to read:

24           "(51a) To Allow Voluntary Furloughs. – Local boards of education are authorized  
25           to provide for the voluntary furlough of employees upon their determination  
26           that the voluntary furlough of public school personnel is necessary to effect  
27           economies in expenditures. Public school personnel who are on a voluntary  
28           furlough pursuant to this subdivision shall be entitled to the benefits  
29           provided to public employees by G.S. 126-8.6(c). For purposes of this  
30           subdivision, the term 'voluntary furlough' has the same meaning as set forth  
31           in G.S. 126-8.6(a)(5)."

32           **SECTION 6.6.(d)** G.S. 120-32 is amended by adding a new subdivision to read:

33           "(14) Provide for the voluntary furlough of legislative employees, if it determines  
34           that the furloughs are necessary to effect economies in State expenditures.  
35           Legislative employees who are on a voluntary furlough pursuant to this  
36           subdivision shall be entitled to the benefits provided to public employees by  
37           G.S. 126-8.6(c). For purposes of this subdivision, the term 'voluntary  
38           furlough' has the same meaning as set forth in G.S. 126-8.6(a)(5)."

39           **SECTION 6.6.(e)** The Office of State Personnel, in consultation with the Office of  
40           State Budget and Management, shall adopt emergency rules for the implementation of this  
41           section in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d),  
42           those emergency rules may remain in effect until June 30, 2011.

43           **SECTION 6.6.(f)** This section is effective when it becomes law.

#### 44           **USE OF SAVINGS RESERVE ACCOUNT TO BALANCE BUDGET**

45           **SECTION 6.6A.** G.S. 143C-4-2(b) prohibits the Director of the Budget from using  
46           funds in the Savings Reserve Account unless the use has been approved by an act of the  
47           General Assembly. The General Assembly hereby authorizes the Director of the Budget to use  
48           funds that were credited to the Savings Reserve Account on or before June 30, 2009, to the  
49           extent necessary to balance the State budget for the 2008-2009 fiscal year, and funds are hereby  
50           appropriated from the Savings Reserve Account for this purpose.  
51

1  
2 **CONSULTATION REQUIRED BEFORE CREATION OF NEW FUND TYPES OR**  
3 **SPECIAL FUNDS**

4 **SECTION 6.6B.** Notwithstanding G.S. 143C-1-3 or any other provision of law to  
5 the contrary, the Office of State Budget and Management and the Office of the State Controller  
6 shall consult with the Joint Legislative Commission on Governmental Operations prior to the  
7 establishment of a new budget or fund code or special fund as defined in G.S. 143C-1-3.

8  
9 **AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDS**  
10 **APPROPRIATED**

11 **SECTION 6.6C.(a)** Findings and Purpose. – The General Assembly finds that  
12 State government must serve as a facilitator in assisting local governments, communities,  
13 families, workers and other individuals, and businesses in accessing 2009 federal recovery and  
14 reinvestment funds. The purpose of this section is to fulfill the General Assembly's  
15 constitutional duty to appropriate all funds, including federal funding from the American  
16 Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5, and to direct the use of those  
17 funds in a manner that responsibly provides for the economic well-being of the State.

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

24 **SECTION 6.6C.(c)** Use of ARRA Funds. – Notwithstanding G.S. 143C-5-2 and  
25 G.S. 143C-6-4, or any other provision of law to the contrary, State agencies may, with approval  
26 of the Director of the Budget and in consultation with the North Carolina Office of Economic  
27 Recovery and Investment, spend State funds as defined in G.S. 143C-1-1(25) and, in  
28 accordance with subsection (b) of this section, funds received from federal receipts and federal  
29 grants resulting from enactment of the ARRA and awarded during the 2008-2009 State fiscal  
30 year. State agencies may not allocate or otherwise obligate any ARRA funds prior to enactment  
31 of this act, except that a State agency, as defined in G.S. 143C-1-1(24), may allocate or  
32 otherwise obligate federal funds under this section if the federal government has issued rules or  
33 formal guidance stipulating that a state's lack of allocation or obligation would otherwise  
34 jeopardize its receipt of federal ARRA funds. Under these limited circumstances, the State may  
35 allocate or obligate those funds for the 2008-2009 fiscal year only.

36 **SECTION 6.6C.(d)** Guidance. – The Office of State Budget and Management  
37 shall work with the recipient State agencies to budget federal receipts awarded according to the  
38 annual program needs and within the parameters of the respective granting entities and to  
39 incorporate federal funds into the certified budgets of the recipient State agency. State agencies  
40 shall not use federal ARRA funds for recurring purposes unless provided for in this act.  
41 However, depending on the nature of the award, additional State personnel may be employed  
42 on a temporary or time-limited basis.

43 **SECTION 6.6C.(e)** The State Office of Economic Investment and Recovery may  
44 use up to one million dollars (\$1,000,000) during fiscal year 2009-2010 for operating expenses.

45 **SECTION 6.6C.(f)** Effective Date. – This section is effective when it becomes  
46 law.

47  
48 **UNIVERSITY CANCER RESEARCH FUND AMENDMENTS**

49 **SECTION 6.6D.** G.S. 116-29.1 reads as rewritten:

50 **"§ 116-29.1. University Cancer Research Fund.**

1 (a) Fund. – The University Cancer Research Fund is established as a special revenue  
2 fund in the Office of the President of The University of North Carolina. Allocations from the  
3 fund shall be made in the discretion of the Cancer Research Fund Committee and shall be used  
4 only for the purpose of cancer research under UNC Hospitals, the Lineberger Comprehensive  
5 Cancer Center, or both.

6 (b) The General Assembly finds that it is imperative that the State provide ~~a minimum~~  
7 ~~of fifty million dollars (\$50,000,000) ongoing funding~~ each calendar year to the University  
8 Cancer Research Fund; therefore, effective July 1 of each calendar year:

9 (1) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust  
10 Account, the sum of eight million dollars (\$8,000,000) is transferred from  
11 the Tobacco Trust Account to the University Cancer Research Fund and  
12 appropriated for this purpose.

13 (2) The funds remitted to the University Cancer Research Fund by the Secretary  
14 of Revenue from the tax on tobacco products other than cigarettes pursuant  
15 to G.S. 105-113.41 is appropriated for this purpose.

16 ~~(3) An amount equal to the difference between (i) fifty million dollars~~  
17 ~~(\$50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1)~~  
18 ~~and (2) of this subsection is appropriated from the General Fund for this~~  
19 ~~purpose.~~

20 (c) Cancer Research Fund Committee. – The Cancer Research Fund Committee shall  
21 consist of five ex officio members and two appointed members. The five ex officio members  
22 shall consist of the following: (i) one member shall be the President of The University of North  
23 Carolina, (ii) one member shall be the Director of the Lineberger Comprehensive Cancer  
24 Center, (iii) one member shall be the Dean of the School of Medicine at The University of  
25 North Carolina, (iv) one member shall be the Dean of the School of Pharmacy at The  
26 University of North Carolina, and (v) one member shall be the Dean of the School of Public  
27 Health at The University of North Carolina. The remaining two members shall be appointed by  
28 a majority vote of the standing members of the Committee and shall be selected from persons  
29 holding a leadership position in a nationally prominent cancer program.

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

33 (d) Chair. – The chair shall be the President of The University of North Carolina.

34 (e) Quorum. – A majority of the members shall constitute a quorum for the transaction  
35 of business.

36 (f) Meetings. – The Committee shall meet at least once in each quarter and may hold  
37 special meetings at any time and place at the call of the chair or upon the written request of at  
38 least a majority of its members."  
39

## 40 CONTINUATION REVIEW OF CERTAIN FUNDS, PROGRAMS, AND DIVISIONS

41 **SECTION 6.6E.(a)** It is the intent of the General Assembly to establish a process  
42 to periodically and systematically review the funds, agencies, divisions, and programs financed  
43 by State government. This process shall be known as the Continuation Review Program. The  
44 Continuation Review Program is intended to assist the General Assembly in determining  
45 whether to continue, reduce, or eliminate funding for the State's funds, agencies, divisions, and  
46 programs subject to continuation review.

47 **SECTION 6.6E.(b)** The Appropriations Committees of the House of  
48 Representatives and the Senate may review the funds, programs, and divisions listed in this  
49 section and shall determine whether to continue, reduce, or eliminate funding for the funds,  
50 programs, and divisions, subject to the Continuation Review Program. The Fiscal Research  
51 Division may issue instructions to the State departments and agencies subject to continuation



1 review regarding the expected content and format of the reports required by this section. No  
2 later than December 1, 2009, the following agencies shall report to the Fiscal Research  
3 Division:

- 4 (1) Consumer Protection Program – Department of Justice.
- 5 (2) Driver's Education Program – Department of Transportation.
- 6 (3) Prisoner's Education Program – Community College System.
- 7 (4) Parking Office – Department of Administration.
- 8 (5) Young Offenders Forest Conservation Program (BRIDGE) – Department of  
9 Environment and Natural Resources.

10 **SECTION 6.6E.(c)** The continuation review reports required in this section shall  
11 include the following information:

- 12 (1) A description of the fund, agency, division, or program mission, goals, and  
13 objectives.
- 14 (2) The statutory objectives for the fund, agency, division, or program and the  
15 problem or need addressed.
- 16 (3) The extent to which the fund, agency, division, or program's objectives have  
17 been achieved.
- 18 (4) The fund, agency, division, or program's functions or programs performed  
19 without specific statutory authority.
- 20 (5) The performance measures for each fund, agency, division, or program and  
21 the process by which the performance measures determine efficiency and  
22 effectiveness.
- 23 (6) Recommendations for statutory, budgetary, or administrative changes  
24 needed to improve efficiency and effectiveness of services delivered to the  
25 public.
- 26 (7) The consequences of discontinuing funding.
- 27 (8) Recommendations for improving services or reducing costs or duplication.
- 28 (9) The identification of policy issues that should be brought to the attention of  
29 the General Assembly.
- 30 (10) Other information necessary to fully support the General Assembly's  
31 Continuation Review Program along with any information included in  
32 instructions from the Fiscal Research Division.

33 **SECTION 6.6E.(d)** State departments and agencies identified in subsection (b) of  
34 this section shall submit a final report to the General Assembly by March 1, 2010.

### 35 36 **ESTABLISH SEVERANCE EXPENDITURE RESERVE**

37 **SECTION 6.6F.(a)** There is established in the Office of State Budget and  
38 Management a General Fund reserve budget code for the purpose of funding severance-related  
39 obligations to State employees subject to the State Personnel Act, and employees exempt from  
40 the State Personnel Act, who are separated from service due to a reduction-in-force action.  
41 Severance-related expenditures from this reserve shall include obligations to fund:

- 42 (1) A State employee's severance salary continuation with an age adjustment  
43 factor as authorized by G.S. 126-8.5 including employer-related  
44 contributions for social security, and
- 45 (2) Noncontributory health premiums for up to 12 months as authorized by G.S.  
46 135-45.2(a)(8) for employees of employing units as defined by G.S. 135-  
47 45.1(12).

48 **SECTION 6.6F.(b)** The Director of the Budget shall allocate funds appropriated in  
49 Section 2.1 of this act to the Severance Expenditure Reserve to public agencies to fund  
50 severance-related obligations incurred by the agencies as a result of reduction-in-force actions  
51 that cause State-supported public employees to be terminated from public employment. Funds

1 appropriated to the Severance Expenditure Reserve shall be expended in their entirety before  
2 funds appropriated to a public agency for State-supported personal services expenditures may  
3 be used to fund any severance-related obligations. For the purposes of this subsection, the term  
4 'public employee' means an employee of a State agency, department, or institution; The  
5 University of North Carolina; the North Carolina Community College System Office; or a local  
6 school administrative unit.  
7

## 8 **INFORMATION TECHNOLOGY OPERATIONS**

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

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

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

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

- 27 (1) Ensure that sufficient funds are budgeted to support their agreed shares of  
28 enterprise agreements throughout the life of the contract.
- 29 (2) Transfer the agreed-upon funds to the Office of Information Technology  
30 Services in sufficient time for the Office of Information Technology  
31 Services to meet contract requirements.

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

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

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

1 The 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  
4 report of any authorizations granted under this subsection to the Joint Legislative Oversight  
5 Committee on Information Technology and to the Fiscal Research Division.

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

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

## 16 **GEOGRAPHIC INFORMATION CONSOLIDATION**

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

21 **SECTION 6.8.(b)** Implementation Plan. – The recommendations outlined in the  
22 2008 legislative report prepared by the State Chief Information Officer, the Geographic  
23 Information Coordinating Council, and the Office of State Budget and Management, made  
24 pursuant to Section 6.13 of S.L. 2008-107, entitled "State Geographic Information  
25 Consolidation Implementation Plan," shall be implemented in four distinct work streams, as  
26 follows:

- 27 (1) Transferring the Center for Geographic Information and Analysis to the  
28 Office of the State Chief Information Officer and establishing appropriated  
29 funding for staff activities supporting the Geographic Information  
30 Coordinating Council, statewide standards, and the coordination of data  
31 acquisition.
- 32 (2) Reestablishing the professional services component and refocusing that  
33 effort toward current needs of the community while reducing those overhead  
34 costs.
- 35 (3) Revitalizing the NC OneMap project by leveraging new technology in the  
36 market to reduce costs while increasing utility of the service.

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

- 43 (1) The North Carolina Geographic Information Coordinating Council.
- 44 (2) The Center for Geographic Information and Analysis.

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

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

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

7           **SECTION 6.8.(f)** Information Technology Fund. – The Information Technology  
8 Fund shall be used for the purpose of acquiring and managing, at the lowest cost, data layers  
9 useful to multiple State and local organizations, according to the priorities set by the North  
10 Carolina Geographic Information Coordinating Council. The Information Technology Fund  
11 may receive private grants and may include State, federal, local, and matching funds. Any  
12 funding received for GIS may be used only for that purpose.

13           **SECTION 6.8.(g)** Information Technology Fund. – Of the funds appropriated in  
14 this act to the Information Technology Fund, the sum of six hundred four thousand five  
15 hundred dollars (\$604,500) for the 2009-2010 fiscal year and the sum of six hundred four  
16 thousand five hundred dollars (\$604,500) for the 2010-2011 fiscal year shall be used to  
17 effectuate the transfer of the Center for Geographic Information and Analysis, including the  
18 cost of moving personnel positions, as provided by this act.

## 19 **BEACON DATA INTEGRATION**

20           **SECTION 6.9.(a)** The Office of the State Controller, in cooperation with the State  
21 Chief Information Officer, shall continue the implementation of the BEACON Strategic Plan  
22 for Data Integration, issued in April 2008. The plan shall be implemented under the governance  
23 of the BEACON Project Steering Committee and in conjunction with leadership in appropriate  
24 State agencies and with the support and cooperation of the Office of State Budget and  
25 Management.

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

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

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

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

44           By October 1, 2009, the Office of State Controller, in coordination with the State  
45 Chief Information Officer, shall also report on future costs for implementing the BEACON  
46 Data Integration Program, including outside vendor costs. This report shall include a detailed  
47 explanation of potential costs and the efforts participating agencies are making to reduce these  
48 costs. This report shall be presented to the Joint Legislative Oversight Committee on  
49 Information Technology and written reports shall be provided to the House of Representatives  
50 and Senate Appropriations Committees and to the Fiscal Research Division.  
51

**CRIMINAL JUSTICE DATA INTEGRATION PILOT PROGRAM**

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

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

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

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

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

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

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

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

**UNIVERSITY OF NORTH CAROLINA GENERAL ADMINISTRATION BULK PRICING/PURCHASING OF INFORMATION TECHNOLOGY**

**SECTION 6.11.(a)** The General Administration of The University of North Carolina, with assistance from the Office of Information Technology Services, to the extent practicable, shall consolidate information technology infrastructure purchasing which includes, but is not limited to, personal computer and printer purchases for all 16 State universities, the North Carolina School of Science and Mathematics, and General Administration, by ensuring access to a bulk and shared pricing process that will realize savings through efficiencies. General Administration may choose to utilize the Office of Information Technology Services' or existing bulk contracts of The University of North Carolina. Information technology infrastructure expenditure shall not be authorized by the General Administration of The University of North Carolina without complying with this section.

1           **SECTION 6.11.(b)** By April 1, 2010, the General Administration of The  
2 University of North Carolina shall submit a written report to the Joint Legislative Oversight  
3 Committee on Information Technology and to the Fiscal Research Division on the results of the  
4 University's bulk pricing and purchasing initiative. The report shall explain the following  
5 related to the initiative:

- 6           (1) The procedures established for implementation.
- 7           (2) Any savings realized as a result of the initiative.
- 8           (3) Any issues associated with implementation of this initiative.

9  
10 **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON INFORMATION**  
11 **TECHNOLOGY/ REVIEW AND REPORT ON CURRENT LAW**

12           **SECTION 6.12.** By April 1, 2010, the Joint Legislative Oversight Committee on  
13 Information Technology shall review State information technology-related legislation and  
14 develop recommendations for amendment of current laws and shall submit its written report of  
15 recommendations for legislative action to the Appropriations Committees of the Senate and the  
16 House of Representatives. The Joint Legislative Oversight Committee on Information  
17 Technology shall provide interested parties with the opportunity to identify and define pertinent  
18 information technology issues by offering testimony on (i) issues associated with current  
19 legislation, (ii) the impact of information technology laws on specific entities; and, (iii)  
20 recommendations for improving information technology organization and operations within the  
21 State.

22  
23 **PROGRAM EVALUATION DIVISION STUDY NETWORK INTEGRATION**  
24 **FEASIBILITY AND COORDINATION PLAN**

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

31           **SECTION 6.13.(b)** The Program Evaluation Division (PED) shall conduct a study  
32 to determine the feasibility of coordinating the operation of the North Carolina Research and  
33 Education Network and the State network infrastructure. The feasibility study shall define the  
34 capabilities and limitations of the Office of Information Technology Services and MCNC and  
35 document services currently provided by the Office of Information Technology Services and  
36 MCNC. Further, the feasibility study shall identify:

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

43 The PED shall complete the feasibility study and present it to the Joint Legislative Oversight  
44 Committee on Information Technology by October 31, 2009.

45           **SECTION 6.13.(c)** Following completion of the feasibility study by the PED, if the  
46 efficiencies and savings identified in the study are valid, accurate, and substantial enough to  
47 justify increased coordination, then the Office of Information Technology Services and MCNC  
48 shall develop a plan to coordinate their operations. The coordination plan shall include at least  
49 the following:

- 50           (1) Definition of requirements to achieve statewide integration.

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

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

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

20 **SECTION 6.13.(e)** G.S. 147-33.92(b) reads as rewritten:

21 "(b) The State Chief Information Officer shall establish ~~switched~~ broadband  
22 telecommunications services and permit, in addition to State agencies, cities, counties, and  
23 other local government entities, the following organizations and entities to share on a  
24 not-for-profit basis:

- 25 (1) Nonprofit educational institutions.
- 26 (2) ~~MCNC~~ Local education agencies.
- 27 (3) ~~Research affiliates of MCNC for use only in connection with research~~  
28 ~~activities sponsored or funded, in whole or in part, by MCNC, if such~~  
29 ~~research activities relate to health care or education in North Carolina.~~
- 30 (4) Agencies of the United States government operating in North Carolina for  
31 use only in connection with activities that relate to health care or education  
32 in North Carolina.
- 33 (5) Hospitals, clinics, and other health care facilities for use only in connection  
34 with activities that relate to health care or education in North Carolina.

35 Provided, however, that sharing of the ~~switched~~ broadband telecommunications services by  
36 State agencies with entities or organizations in the categories set forth in this subsection shall  
37 not cause the State, the Office of Information Technology Services, or the MCNC to be  
38 classified as a public utility as that term is defined in G.S. 62-3(23) a.6. Nor shall the State, the  
39 Office of Information Technology Services, or the MCNC engage in any activities that may  
40 cause those entities to be classified as a common carrier as that term is defined in the  
41 Communications Act of 1934, 47 U.S.C. § 153(10). Provided further, authority to share the  
42 ~~switched~~ broadband telecommunications services with the non-State agencies set forth in  
43 subdivisions (1) through (5) of this subsection shall terminate one year from the effective date  
44 of a tariff that makes the broadband services available to any customer."

#### 45 **UPGRADE STATE PORTAL**

46 **SECTION 6.14.(a)** The Office of State Budget and Management, in coordination  
47 with the Office of the State Chief Information Officer, shall develop a detailed plan to upgrade  
48 the State portal. The upgrade plan shall include consideration of the need to (i) improve State  
49 services for citizens and businesses; (ii) offer online services; (iii) provide crucial,  
50

1 up-to-the-minute emergency information; and (iv) provide a multipurpose, interactive Web  
2 portal.

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

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

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

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

## 25 26 **IMPLEMENT GENERAL SERVICES ADMINISTRATION SCHEDULES FOR STATE** 27 **INFORMATION TECHNOLOGY PURCHASES**

28 **SECTION 6.14A.(a)** G.S. 147-33.95(b) is amended by adding a new subdivision  
29 to read:

30 "(2a) Establish procedures to permit State agencies and local government agencies  
31 to use the General Services Administration (GSA) Cooperative Purchasing  
32 Program to purchase information technology (i) awarded under General  
33 Services Administration Supply Schedule 70 Information Technology and  
34 (ii) from contracts under the GSA's Consolidated Schedule containing  
35 information technology special item numbers."

36 **SECTION 6.14A.(b)** By October 1, 2009, the Office of Information Technology  
37 Services shall report to the Joint Legislative Oversight Committee on Information Technology  
38 and Fiscal Research Division on its plan for implementing GSA Schedules for information  
39 technology procurement.

## 40 41 **USE OF ELECTRONIC FORMS AND DIGITAL SIGNATURES**

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

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



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

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

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

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

13  
14 **POSITION TRANSFER REPORTS/OFFICE OF INFORMATION TECHNOLOGY**  
15 **SERVICES/OFFICE OF STATE CONTROLLER/OFFICE OF STATE BUDGET**  
16 **AND MANAGEMENT**

17           **SECTION 6.17.(a)** By November 1, 2009, the Office of State Budget and  
18 Management (OSBM), in coordination with the Office of Information Technology Services,  
19 shall submit a written report to the Appropriation Committees of the Senate and the House of  
20 Representatives, to the Joint Legislative Oversight Committee on Information Technology, and  
21 to the Fiscal Research Division regarding the transfer of information technology (IT) positions  
22 associated with IT consolidation. The report shall include the following:

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

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

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

- 1 (4) Any new positions created within the Office of the State Controller to  
2 support BEACON HR/Payroll, the reason each position was created, and the  
3 associated cost.  
4

## 5 INFORMATION TECHNOLOGY CONTRACTED PERSONNEL

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

- 8 (1) No contract for information technology personal services, or providing  
9 personnel to perform information technology functions, may be established  
10 or renewed for any term longer than 12 months unless otherwise specifically  
11 required by a contract in effect on June 30, 2009.
- 12 (2) Before any State agency, department, or institution may renew a contract  
13 position for information technology personnel the State agency must report  
14 to the Office of State Budget and Management (OSBM), to the Office of  
15 State Personnel (OSP), to the Office of Information Technology Services  
16 (ITS), and to the Fiscal Research Division (FRD) on the justification for the  
17 contract. The report shall explain:
- 18 a. The proposed duration of the contract position. If the contract term is  
19 for more than 12 months, why recruitment for an in-house State  
20 employee position is not feasible.
- 21 b. Whether the contract position requires unique skills for which the  
22 State has a short-term need.
- 23 c. Whether the contract position is required by a specific information  
24 technology project and if the position will be terminated upon  
25 completion of the project.
- 26 d. The specific work products and completion time lines for the contract  
27 position.
- 28 (3) Contract positions subject to this subsection shall be reviewed and approved  
29 by the Statewide Information Technology Procurement Office and shall be  
30 entered in the project portfolio management tool.
- 31 (4) Once approved, contract positions will be reviewed by the Office of State  
32 Personnel to determine what the market rate is for the type of contractor  
33 required, as well as to determine the comparable cost for a State employee.  
34 Agencies may not exceed the market rate determined by OSP.
- 35 (5) After OSP provides cost data, funding for the position is subject to the  
36 approval of OSBM.
- 37 (6) Whenever a State agency, department, or institution determines that only a  
38 contractor can fill a position and the position is required to perform an  
39 ongoing function within the agency, the head of the State agency must  
40 develop and implement a plan to hire or train a qualified State employee to  
41 fill that position within 12 months. Within 60 days of hiring the contractor,  
42 this plan shall be forwarded to the Office of State Budget and Management,  
43 to the Office of State Personnel, to the Office of Information Technology  
44 Services, to the Joint Legislative Oversight Committee on Information  
45 Technology, and to the Fiscal Research Division of the Legislative Services  
46 Office.
- 47 (7) Any contract position requiring information technology skills is subject to  
48 this provision. OSBM may immediately terminate the funding for any  
49 information technology position that is filled without following defined  
50 procedures.

- 1 (8) All information technology personnel contracts shall be competitive and  
2 shall be subject to competition each time they expire. Exceptions must be  
3 approved by ITS, OSP, and OSBM and can only be approved once for a  
4 particular individual. Approved exceptions must be immediately reported to  
5 the Joint Legislative Oversight Committee on Information Technology and  
6 to the Fiscal Research Division of the Legislative Services Office.

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

- 14 (1) For each contracted information technology position:  
15 a. The title of the position, a brief synopsis of the essential functions of  
16 the position, and how long the position has existed.  
17 b. The name of the individual filling the position and the vendor  
18 company, if any, that regularly employs that individual.  
19 c. The type, start date, and the termination date of the contract.  
20 d. The length of time that the individual filling the contracted position  
21 has been employed as a contractor.  
22 e. The contracted position salary or hourly rate, the number of hours per  
23 year, and the total annualized cost of the contracted position.  
24 f. The salary and benefits cost for a State employee performing the  
25 same function.  
26 g. The purchase order number for the position.  
27 (2) The total annual cost for information technology contractors and the total  
28 annual salary and benefits cost for filling the contract positions with State  
29 employees.  
30 (3) A determination of whether the information technology functions performed  
31 by contractors can be performed by State employees, which shall be  
32 validated by the Statewide Information Technology Procurement Office.  
33 (4) All information required by this subsection related to information  
34 technology contractors regardless of the contracting source.  
35

## 36 STATE INFORMATION TECHNOLOGY INFRASTRUCTURE CONSOLIDATION

37 **SECTION 6.19.(a)** The Office of State Budget and Management (OSBM), in  
38 conjunction with the State Chief Information Officer (State CIO), shall continue to consolidate  
39 State government's information technology infrastructure where a statewide approach would be  
40 more economical, reduce security risks, or minimize potential disruption to services. In  
41 carrying out the consolidation, the Office of Information Technology Services shall utilize the  
42 authority set out in G.S. 147-33.83.

43 **SECTION 6.19.(b)** Information technology infrastructure includes personal  
44 computers, hosting and network environments, the help desk, and information technology  
45 security of personal computers, servers, and networks.

46 **SECTION 6.19.(c)** As part of the consolidation effort, OSBM shall identify (i)  
47 contractor positions that have been filled for 12 months or more, beginning March 1, 2009, (ii)  
48 the hourly cost of each position, and (iii) any cost savings or other benefits that could be  
49 achieved by using State employees to carry out the same duties and responsibilities.

1           **SECTION 6.19.(d)** In setting consolidation priorities, OSBM and the State CIO  
2 shall target IT infrastructure issues that pose significant risk to agency operations or data, or  
3 that provide opportunities for immediate cost savings to the State.

4           **SECTION 6.19.(e)** The consolidation of information technology infrastructure  
5 conducted by OSBM and the State CIO shall not include The University of North Carolina and  
6 its constituent institutions, the Administrative Office of the Courts, and the General Assembly.

7           **SECTION 6.19.(f)** Beginning December 1, 2009, and regularly thereafter, the  
8 Office of State Budget and Management, in conjunction with the State CIO, shall provide  
9 written reports to the Joint Legislative Oversight Committee on Information Technology and  
10 the Fiscal Research Division relating to State information technology infrastructure  
11 consolidation.  
12

13           **PILOT PROGRAM TO ALLOW PUBLIC-PRIVATE PARTNERSHIPS TO MEET**  
14           **DEPARTMENT OF REVENUE TECHNOLOGY NEEDS TO IMPLEMENT TIMS**

15           **SECTION 6.20.(a)** To speed the implementation of the Tax Information  
16 Management System (TIMS) during the 2009-2011 fiscal biennium, the Secretary of the  
17 Department of Revenue may enter into public-private arrangements where (i) the funding of  
18 projects under the arrangement comes from revenue generated by the project and (ii) the project  
19 is related to the implementation of TIMS. Work under a public-private arrangement may be  
20 contracted by requests for proposals, modifications to existing contracts, and purchases of  
21 existing contract vehicles.

22           The Secretary of Revenue shall establish a measurement process to determine the  
23 increased revenue attributable to the public-private arrangements. The measurement process  
24 shall include:

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

31           Funds generated by increased revenue shall go to the General Fund to be  
32 appropriated for the purchases related to the implementation of TIMS, including payment for  
33 services from non-State entities and toward internal State costs related to the implementation of  
34 TIMS. The total of any funds appropriated during the 2009-2011 biennium for implementation  
35 of TIMS shall not exceed the sum of forty-one million dollars (\$41,000,000).

36           **SECTION 6.20.(b)** Beginning October 1, 2009, and quarterly thereafter, the  
37 Department of Revenue shall submit reports to the Chairs of the House of Representatives and  
38 Senate Committees on Appropriation, to the Joint Legislative Oversight Committee on  
39 Information Technology, and to the Fiscal Research Division of the Legislative Services  
40 Office. The report shall include (i) details of each public-private contract, (ii) the benefits from  
41 each contract, and (iii) a comprehensive forecast of the benefits of using public-private  
42 agreements to implement TIMS, including cost savings and the acceleration of the project  
43 timeline.

44           **SECTION 6.20.(c)** There is established within the Department of Revenue the  
45 Oversight Committee for Implementation of the Tax Information Management System  
46 (Oversight Committee). The Oversight Committee shall review and approve all contracts to be  
47 executed under this section. The members of the Committee shall include the following:

- 48           (1) The State Controller.
- 49           (2) The Secretary of the Department of Revenue.
- 50           (3) Three persons appointed by the Governor.

1 (4) Two members of the general public having expertise in information  
2 technology appointed by the General Assembly upon the recommendation of  
3 the Speaker of the House of Representatives.

4 (5) Two members of the general public having expertise in information  
5 technology appointed by the General Assembly upon the recommendation of  
6 the President Pro Tempore of the Senate.

7 The State Controller shall serve as chair of the Committee. The Committee shall set  
8 its meeting schedule and adopt its rules of operation by majority vote. A majority of the  
9 members constitutes a quorum. Vacancies shall be filled by the appointing authority.  
10 Administrative support staff shall be provided by the Department of Revenue. Members of the  
11 Committee shall receive reimbursements for subsistence and travel expenses as provided by  
12 Chapter 138 of the General Statutes. The Committee shall terminate on June 30, 2011.

## 13 14 **IMPLEMENT BUDGET DEVELOPMENT SYSTEM**

15 **SECTION 6.21.** Notwithstanding any provision of this act to the contrary, a  
16 reduction in the Statewide Reserve for IT Initiatives, Enterprise Project Management Office, in  
17 the amount of one million five hundred thousand dollars (\$1,500,000) for the 2009-2010 fiscal  
18 year shall be used by the Fiscal Research Division and the Office of State Budget and  
19 Management to purchase and implement a budget development system. By January 1, 2010, the  
20 Fiscal Research Division and the Office of State Budget and Management shall report to the  
21 Joint Legislative Commission on Governmental Operations on the status of implementation.

## 22 23 **PART VII. PUBLIC SCHOOLS**

### 24 25 **CHILDREN WITH DISABILITIES**

26 **SECTION 7.1.** The State Board of Education shall allocate funds for children with  
27 disabilities on the basis of three thousand five hundred dollars and seventy-seven cents  
28 (\$3,500.77) per child for a maximum of 168,947 children for the 2009-2010 school year. Each  
29 local school administrative unit shall receive funds for the lesser of (i) all children who are  
30 identified as children with disabilities, or (ii) twelve and five-tenths percent (12.5%) of the  
31 2009-2010 allocated average daily membership in the local school administrative unit.

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

### 35 36 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

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

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

### 48 49 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

50 **SECTION 7.3.(a)** Use of Funds for Supplemental Funding. – All funds received  
51 pursuant to this section shall be used only: (i) to provide instructional positions, instructional

1 support positions, teacher assistant positions, clerical positions, school computer technicians,  
2 instructional supplies and equipment, staff development, and textbooks and (ii) for salary  
3 supplements for instructional personnel and instructional support personnel. Local boards of  
4 education are encouraged to use at least twenty-five percent (25%) of the funds received  
5 pursuant to this section to improve the academic performance of children who are performing  
6 at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children  
7 who are performing at Level I or II in grades 4 and 7.

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

- 9 (1) "Anticipated county property tax revenue availability" means the  
10 county-adjusted property tax base multiplied by the effective State average  
11 tax rate.
- 12 (2) "Anticipated total county revenue availability" means the sum of the:  
13 a. Anticipated county property tax revenue availability,  
14 b. Local sales and use taxes received by the county that are levied under  
15 Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of  
16 Chapter 105 of the General Statutes,  
17 c. Sales tax hold harmless reimbursement received by the county under  
18 G.S. 105-521, and  
19 d. Fines and forfeitures deposited in the county school fund for the most  
20 recent year for which data are available.
- 21 (3) "Anticipated total county revenue availability per student" means the  
22 anticipated total county revenue availability for the county divided by the  
23 average daily membership of the county.
- 24 (4) "Anticipated State average revenue availability per student" means the sum  
25 of all anticipated total county revenue availability divided by the average  
26 daily membership for the State.
- 27 (5) "Average daily membership" means average daily membership as defined in  
28 the North Carolina Public Schools Allotment Policy Manual, adopted by the  
29 State Board of Education. If a county contains only part of a local school  
30 administrative unit, the average daily membership of that county includes all  
31 students who reside within the county and attend that local school  
32 administrative unit.
- 33 (6) "County-adjusted property tax base" shall be computed as follows:  
34 a. Subtract the present-use value of agricultural land, horticultural land,  
35 and forestland in the county, as defined in G.S. 105-277.2, from the  
36 total assessed real property valuation of the county,  
37 b. Adjust the resulting amount by multiplying by a weighted average of  
38 the three most recent annual sales assessment ratio studies,  
39 c. Add to the resulting amount the:  
40 1. Present-use value of agricultural land, horticultural land, and  
41 forestland, as defined in G.S. 105-277.2,  
42 2. Value of property of public service companies, determined in  
43 accordance with Article 23 of Chapter 105 of the General  
44 Statutes, and  
45 3. Personal property value for the county.
- 46 (7) "County-adjusted property tax base per square mile" means the  
47 county-adjusted property tax base divided by the number of square miles of  
48 land area in the county.
- 49 (8) "County wealth as a percentage of State average wealth" shall be computed  
50 as follows:

- 1 a. Compute the percentage that the county per capita income is of the  
2 State per capita income and weight the resulting percentage by a  
3 factor of five-tenths,  
4 b. Compute the percentage that the anticipated total county revenue  
5 availability per student is of the anticipated State average revenue  
6 availability per student and weight the resulting percentage by a  
7 factor of four-tenths,  
8 c. Compute the percentage that the county-adjusted property tax base  
9 per square mile is of the State-adjusted property tax base per square  
10 mile and weight the resulting percentage by a factor of one-tenth,  
11 d. Add the three weighted percentages to derive the county wealth as a  
12 percentage of the State average wealth.
- 13 (9) "Effective county tax rate" means the actual county tax rate multiplied by a  
14 weighted average of the three most recent annual sales assessment ratio  
15 studies.
- 16 (10) "Effective State average tax rate" means the average of effective county tax  
17 rates for all counties.
- 18 (11) "Local current expense funds" means the most recent county current expense  
19 appropriations to public schools, as reported by local boards of education in  
20 the audit report filed with the Secretary of the Local Government  
21 Commission pursuant to G.S. 115C-447.
- 22 (12) "Per capita income" means the average for the most recent three years for  
23 which data are available of the per capita income according to the most  
24 recent report of the United States Department of Commerce, Bureau of  
25 Economic Analysis, including any reported modifications for prior years as  
26 outlined in the most recent report.
- 27 (13) "Sales assessment ratio studies" means sales assessment ratio studies  
28 performed by the Department of Revenue under G.S. 105-289(h).
- 29 (14) "State average current expense appropriations per student" means the most  
30 recent State total of county current expense appropriations to public schools,  
31 as reported by local boards of education in the audit report filed with the  
32 Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- 33 (15) "State average adjusted property tax base per square mile" means the sum of  
34 the county-adjusted property tax bases for all counties divided by the  
35 number of square miles of land area in the State.
- 36 (16) "Supplant" means to decrease local per student current expense  
37 appropriations from one fiscal year to the next fiscal year.
- 38 (17) "Weighted average of the three most recent annual sales assessment ratio  
39 studies" means the weighted average of the three most recent annual sales  
40 assessment ratio studies in the most recent years for which county current  
41 expense appropriations and adjusted property tax valuations are available. If  
42 real property in a county has been revalued one year prior to the most recent  
43 sales assessment ratio study, a weighted average of the two most recent sales  
44 assessment ratios shall be used. If property has been revalued the year of the  
45 most recent sales assessment ratio study, the sales assessment ratio for the  
46 year of revaluation shall be used.

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

1           **SECTION 7.3.(d)** Allocation of Funds. – Except as provided in subsection (f) of  
2 this section, the amount received per average daily membership for a county shall be the  
3 difference between the State average current expense appropriations per student and the current  
4 expense appropriations per student that the county could provide given the county's wealth and  
5 an average effort to fund public schools. (To derive the current expense appropriations per  
6 student that the county could be able to provide given the county's wealth and an average effort  
7 to fund public schools, multiply the county's wealth as a percentage of State average wealth by  
8 the State average current expense appropriations per student.) The funds for the local school  
9 administrative units located in whole or in part in the county shall be allocated to each local  
10 school administrative unit located in whole or in part in the county based on the average daily  
11 membership of the county's students in the school units. If the funds appropriated for  
12 supplemental funding are not adequate to fund the formula fully, each local school  
13 administrative unit shall receive a pro rata share of the funds appropriated for supplemental  
14 funding.

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

21           **SECTION 7.3.(f)** Minimum Effort Required. – Counties that had effective tax  
22 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that  
23 had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall  
24 receive reduced funding under this section. This reduction in funding shall be determined by  
25 subtracting the amount that the county would have received pursuant to Section 17.1(g) of  
26 Chapter 507 of the 1995 Session Laws from the amount that the county would have received if  
27 qualified for full funding and multiplying the difference by ten percent (10%). This method of  
28 calculating reduced funding shall apply one time only. This method of calculating reduced  
29 funding shall not apply in cases in which the effective tax rate fell below the statewide average  
30 effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the  
31 minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507  
32 of the 1995 Session Laws. If the county documents that it has increased the per student  
33 appropriation to the school current expense fund in the current fiscal year, the State Board of  
34 Education shall include this additional per pupil appropriation when calculating minimum  
35 effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

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

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



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

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

#### 13 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

- 23           (1) Round all fractions of positions to the next whole position.
- 24           (2) Provide five and one-half additional regular classroom teachers in counties  
25           in which the average daily membership per square mile is greater than four,  
26           and seven additional regular classroom teachers in counties in which the  
27           average daily membership per square mile is four or fewer.
- 28           (3) Provide additional program enhancement teachers adequate to offer the  
29           standard course of study.
- 30           (4) Change the duty-free period allocation to one teacher assistant per 400  
31           average daily membership.
- 32           (5) Provide a base for the consolidated funds allotment of at least six hundred  
33           seventy-two thousand three hundred forty-three dollars (\$672,343),  
34           excluding textbooks, for the 2009-2010 fiscal year and a base of six hundred  
35           seventy-two thousand three hundred forty-three dollars (\$672,343) for the  
36           2010-2011 fiscal year.
- 37           (6) Allot vocational education funds for grade 6 as well as for grades 7-12. If  
38           funds appropriated for each fiscal year for small school system supplemental  
39           funding are not adequate to fully fund the program, the State Board of  
40           Education shall reduce the amount allocated to each county school  
41           administrative unit on a pro rata basis. This formula is solely a basis for  
42           distribution of supplemental funding for certain county school administrative  
43           units and is not intended to reflect any measure of the adequacy of the  
44           educational program or funding for public schools. The formula also is not  
45           intended to reflect any commitment by the General Assembly to appropriate  
46           any additional supplemental funds for such county administrative units.

47           **SECTION 7.4.(b)** Nonsupplant Requirement. – A county in which a local school  
48 administrative unit receives funds under this section shall use the funds to supplement local  
49 current expense funds and shall not supplant local current expense funds. For the 2009-2011  
50 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
51

1 county found to have used these funds to supplant local per student current expense funds. The  
2 State Board of Education shall make a finding that a county has used these funds to supplant  
3 local current expense funds in the prior year, or the year for which the most recent data are  
4 available, if:

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

12 **SECTION 7.4.(c) Phase-Out Provisions.** – If a local school administrative unit  
13 becomes ineligible for funding under this formula because of (i) an increase in the population  
14 of the county in which the local school administrative unit is located or (ii) an increase in the  
15 county-adjusted property tax base per student of the county in which the local school  
16 administrative unit is located, funding for that unit shall be continued for seven years after the  
17 unit becomes ineligible.

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

- 19 (1) "Average daily membership" means within two percent (2%) of the average  
20 daily membership as defined in the North Carolina Public Schools Allotment  
21 Policy Manual adopted by the State Board of Education.
- 22 (2) "County-adjusted property tax base per student" means the total assessed  
23 property valuation for each county, adjusted using a weighted average of the  
24 three most recent annual sales assessment ratio studies, divided by the total  
25 number of students in average daily membership who reside within the  
26 county.
- 27 (3) "Local current expense funds" means the most recent county current expense  
28 appropriations to public schools, as reported by local boards of education in  
29 the audit report filed with the Secretary of the Local Government  
30 Commission pursuant to G.S. 115C-447.
- 31 (4) "Sales assessment ratio studies" means sales assessment ratio studies  
32 performed by the Department of Revenue under G.S. 105-289(h).
- 33 (5) "State-adjusted property tax base per student" means the sum of all  
34 county-adjusted property tax bases divided by the total number of students in  
35 average daily membership who reside within the State.
- 36 (6) "Supplant" means to decrease local per student current expense  
37 appropriations from one fiscal year to the next fiscal year.
- 38 (7) "Weighted average of the three most recent annual sales assessment ratio  
39 studies" means the weighted average of the three most recent annual sales  
40 assessment ratio studies in the most recent years for which county current  
41 expense appropriations and adjusted property tax valuations are available. If  
42 real property in a county has been revalued one year prior to the most recent  
43 sales assessment ratio study, a weighted average of the two most recent sales  
44 assessment ratios shall be used. If property has been revalued during the year  
45 of the most recent sales assessment ratio study, the sales assessment ratio for  
46 the year of revaluation shall be used.

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

50 **SECTION 7.4.(f) Use of Funds.** – Local boards of education are encouraged to use  
51 at least twenty percent (20%) of the funds they receive pursuant to this section to improve the

1 academic performance of children who are performing at Level I or II on either reading or  
2 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II  
3 on the writing tests in grades 4 and 7.

#### 4 5 **REPLACEMENT SCHOOL BUSES/FUNDS**

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

- 8 (1) The local board of education shall use the funds only to make the first,  
9 second, third, or fourth year's payment on a financing contract entered into  
10 pursuant to G.S. 115C-528.
- 11 (2) The term of a financing contract entered into under this section shall not  
12 exceed four years.
- 13 (3) The local board of education shall purchase the buses only from vendors  
14 selected by the State Board of Education and on terms approved by the State  
15 Board of Education.
- 16 (4) The Department of Administration, Division of Purchase and Contract, in  
17 cooperation with the State Board of Education, shall solicit bids for the  
18 direct purchase of school buses and activity buses and shall establish a  
19 statewide term contract for use by the State Board of Education. Local  
20 boards of education and other agencies shall be eligible to purchase from the  
21 statewide term contract. The State Board of Education shall also solicit bids  
22 for the financing of school buses.
- 23 (5) A bus financed pursuant to this section shall meet all federal motor vehicle  
24 safety regulations for school buses.
- 25 (6) Any other condition the State Board of Education considers appropriate.

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

#### 29 30 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

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

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

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

#### 45 46 **LEA FLEXIBILITY**

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

- 1 (1) May authorize modifications to class size requirements in addition to those
- 2 set out in Section 7.23 of this act;
- 3 (2) Shall authorize the transfer of textbook funds to other allotments to manage
- 4 funding cuts; and
- 5 (3) Shall not permit the transfer of funds from school-based positions to the
- 6 central office.

7 **SECTION 7.8.(b)** This section applies only to the 2009-2011 fiscal biennium.

## 8 9 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

10 **SECTION 7.9.(a)** Beginning with the 2010-2011 fiscal year, the State Board of  
11 Education shall implement an allotment formula for e-learning developed pursuant to Section  
12 7.16(d) of S.L. 2006-66.

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

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

19 **SECTION 7.9.(b)** In order to ensure funds are available to operate NCVPS for the  
20 2009-2010 fiscal year, the State Board of Education shall only use funding sources in the  
21 following order:

- 22 (1) The General Fund appropriation for NCVPS; and
- 23 (2) Up to three million dollars (\$3,000,000) of funds appropriated for school  
24 technology.

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

26 **SECTION 7.9.(d)** The State Board of Education shall report to the Joint  
27 Legislative Education Oversight Committee and the Fiscal Research Division by December 15,  
28 2009, on its implementation of this section.

29 If the State Board of Education fails to report a new allotment formula for NCVPS  
30 to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by  
31 December 15, 2009, the State Treasurer, the Office of State Budget and Management, and the  
32 Office of State Controller shall prevent the expenditure of funds related to the operation of the  
33 State Board of Education.

## 34 35 **ABCS OF PUBLIC EDUCATION**

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

39 **SECTION 7.11.(b)** The Joint Legislative Education Oversight Committee shall  
40 study the ABC Bonus Program. In the course of the study, the Committee shall consider (i) the  
41 current mechanism for determining which schools' employees are entitled to bonuses, (ii) the  
42 relationship of bonuses awarded to the improvement of student performance and outcomes and  
43 reduction in dropout rates, and (iii) any equities and inequities in the current program. The  
44 Committee shall report the results of this study to the General Assembly by March 31, 2010.

## 45 46 **SCHOOL CONNECTIVITY INITIATIVE**

47 **SECTION 7.12.(a)** Up to two hundred fifty thousand dollars (\$250,000) may be  
48 transferred annually to the Office of the Governor for NC Virtual (NCV) within the Education  
49 Cabinet. These funds may be used for services to coordinate e-learning activities across all  
50 State educational agencies.

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

1 "SECTION 7.6.(a) Up to ~~six~~three hundred thousand dollars (~~\$600,000~~)(\$300,000) may be  
2 transferred annually through June 30, 2013, to the Friday Institute at North Carolina State  
3 University to evaluate the effectiveness of using technology and its impact on 21<sup>st</sup> Century  
4 Teaching and Learning outcomes approved by the State Board of Education. The Friday  
5 Institute shall report annually to the State Board of Education on the evaluation ~~results,~~  
6 ~~including recommendations for continued implementation of the school connectivity initiative~~  
7 ~~that improves teaching and learning results.~~"  
8

## 9 DROPOUT PREVENTION GRANTS

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

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

- 16 (1) Grants shall be issued in varying amounts up to a maximum of one hundred  
17 fifty thousand dollars (\$150,000).
- 18 (2) These grants shall be provided to innovative programs and initiatives that  
19 target students at risk of dropping out of school and that demonstrate the  
20 potential to (i) be developed into effective, sustainable, and coordinated  
21 dropout prevention and reentry programs in middle schools and high schools  
22 and (ii) serve as effective models for other programs.
- 23 (3) Grants shall be distributed geographically throughout the State and  
24 throughout the eight educational districts as defined in G.S. 115C-65. No  
25 more than three grants shall be awarded in any one county under this section  
26 in a single fiscal year.
- 27 (4) Grants may be made to local school administrative units, schools, local  
28 agencies, or nonprofit organizations.
- 29 (5) Grants shall be to programs and initiatives that hold all students to high  
30 academic and personal standards.
- 31 (6) Grant applications shall state (i) how grant funds will be used, (ii) what, if  
32 any, other resources will be used in conjunction with the grant funds, (iii)  
33 how the program or initiative will be coordinated to enhance the  
34 effectiveness of existing programs, initiatives, or services in the community,  
35 and (iv) a process for evaluating the success of the program or initiative.
- 36 (7) Programs and initiatives that receive grants under this section shall be based  
37 on best practices for helping at-risk students achieve successful academic  
38 progress, preventing students from dropping out of school, or for increasing  
39 the high school completion rate for those students who already have dropped  
40 out of school.
- 41 (8) Priority for grants shall be given to proposals that demonstrate input from  
42 the local community and coordination with other available programs or  
43 resources.
- 44 (9) Grantees shall assure their compliance with applicable laws and rules  
45 regulating conflicts of interest.
- 46 (10) Priority for grants shall be given to programs that would serve students in  
47 local schools that have a four-year cohort graduation rate of less than  
48 sixty-five percent (65%). The Committee shall establish a grant rating cutoff  
49 score at such a level as to allow for consideration of all viable grants in this  
50 priority category. The Committee may require grantees to provide  
51 supplemental information in response to any prior reviewer comments.

1 (11) The demonstrated need for a grant, level of collaboration, ability to increase  
2 attendance, persistence, academic success, ability to increase parental  
3 involvement, and graduation shall be given more weight than the quality of  
4 the written grant.

5 (12) Grants shall be made no later than November 1, 2009.

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

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

- 12 (1) How grant funds were used, including the services provided for teen  
13 pregnancy prevention and for pregnant and parenting teens;
- 14 (2) The success of the program or initiative, as indicated by the evaluation  
15 process stated in its grant application;
- 16 (3) The extent to which the program or initiative has improved students'  
17 attendance, test scores, persistence, and graduation rates;
- 18 (4) How the program or initiative was coordinated to enhance the effectiveness  
19 of existing programs, initiatives, or services in the community;
- 20 (5) What, if any, other resources were used in conjunction with the grant funds;
- 21 (6) The sustainability of the program;
- 22 (7) The number, gender, ethnicity, and grade level of students being served as  
23 well as whether the students left school due to pregnancy or parenting  
24 responsibilities;
- 25 (8) The potential for the program to serve as a model for achieving successful  
26 academic progress for at-risk students; and
- 27 (9) Other indicators of the impact of the grant on dropout prevention.

28 The recipients of the dropout prevention grants awarded under this section shall  
29 report to the Committee on Dropout Prevention by January 31, 2011, and by September 30,  
30 2011. The reports shall provide information to assist the Committee in conducting its  
31 evaluation. The reports shall include a statement that the recipients used grant funds for the  
32 purposes appropriated by the General Assembly and complied with applicable laws,  
33 regulations, and terms and conditions of the grant documents. The Committee shall make an  
34 interim report of the results of its evaluation of the grants awarded under this section by March  
35 31, 2011, to the Joint Legislative Commission on Dropout Prevention and High School  
36 Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall  
37 make a final report of the results of its evaluation of the grants awarded under subsection (c) of  
38 this section by November 15, 2011, to the Joint Legislative Commission on Dropout Prevention  
39 and High School Graduation and to the Joint Legislative Education Oversight Committee.

40 **SECTION 7.13.(d)** Of the funds appropriated in this act for Dropout Prevention,  
41 the sum of:

- 42 (1) One hundred thousand dollars (\$100,000) for the 2009-2010 and 2010-2011  
43 fiscal years may be used to issue a request for proposals from qualified  
44 vendors on a competitive basis to contract as a consultant to assist with the  
45 evaluation. The factors to be considered in awarding the contract shall be  
46 identified in the request for proposals; and
- 47 (2) Up to fifty thousand dollars (\$50,000) for the 2009-2010 and 2010-2011  
48 fiscal years may be used by the Department of Public Instruction for its  
49 administrative assistance to the Committee and to provide technical  
50 assistance under this section.

- 1 (3) The remainder shall be used by the Committee on Dropout Prevention to  
2 award grants, as well as successive grants to previous grant recipients, in  
3 accordance with subsection (b) of this section.

4 **SECTION 7.13.(e)** Grant funds shall be expended within one calendar year after  
5 the date a grant was issued.

#### 6 **BUSINESS EDUCATION TECHNOLOGY ALLIANCE**

7 **SECTION 7.15.(a)** G.S. 115C-102.15 is repealed.

8 **SECTION 7.15.(b)** On July 1, 2009, the State Controller shall transfer twenty-six  
9 thousand three hundred thirty-five dollars (\$26,335) from the Business Education Technology  
10 Alliance Fund to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund  
11 appropriations for the 2009-2010 fiscal year.  
12

#### 13 **ASSESSMENT AND ACCOUNTABILITY**

14 **SECTION 7.18.(a)** Funds appropriated in this act for assessment and  
15 accountability shall be used to develop new end-of-course and end-of-grade tests, identify  
16 national assessments, or both, as determined by the State Board of Education. The  
17 development of any new tests replacing end-of-course and end-of-grade tests shall be aligned  
18 with the new essential standards and included in the State Board of Education's new  
19 accountability restructuring plan.  
20

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

27 The State Board of Education shall report the results of the pilot to the Joint  
28 Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of  
29 State Budget and Management by December 1, 2010.  
30

#### 31 **DEVELOPMENT OF A PREK-20 DATA SYSTEM**

32 **SECTION 7.19.(a)** The Department of Public Instruction, the North Carolina  
33 Community College System, and The University of North Carolina shall collaboratively  
34 develop and systematically determine the technical specifications and data standards for a  
35 PreK-20 data system to centralize student data collected about students enrolled in  
36 prekindergarten programs through doctoral programs. The PreK-20 data system shall build  
37 upon the current capacity, programs, and initiatives of the Department of Public Instruction, the  
38 North Carolina Community College System, and The University of North Carolina.

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

43 The General Assembly urges private colleges and universities to advise and assist  
44 the Department of Public Instruction, the North Carolina Community College System, and The  
45 University of North Carolina on the implementation of this section.

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

- 47 (1) The types and forms of data to be included in a PreK-20 data system,  
48 including longitudinal data and the use of a unique student identifier;  
49 (2) The capacity of a shared PreK-20 data system;  
50 (3) The degree and extent of cooperation between a shared PreK-20 data system  
51 and the current data collection systems of the Department of Public

1 Instruction, the North Carolina Community College System, and The  
2 University of North Carolina;

3 (4) The minimum capacity and technical specifications needed for each data  
4 system to feed into a shared PreK-20 data system; and

5 (5) The ability for data in a shared PreK-20 data system to be understood and  
6 used by interested stakeholders, including federal and other State agencies.

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

10 **SECTION 7.19.(d)** Standards and specifications shall be submitted to the  
11 Education Cabinet no later than January 1, 2010. The Education Cabinet shall review these  
12 standards and submit its recommendations regarding them to the Joint Legislative Education  
13 Oversight Committee, the Fiscal Research Division, and the Office of State Budget and  
14 Management by March 1, 2010.

## 15 16 REMOVE BARRIERS TO LATERAL ENTRY INTO TEACHING

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

18 (1) Review the lateral entry program and identify and remove from it barriers to  
19 the lateral entry of skilled individuals from the private sector into the  
20 teaching profession;

21 (2) Reduce the coursework requirements for lateral entry by consolidating the  
22 required competencies into fewer courses and fewer semester hours of  
23 coursework; and

24 (3) Provide additional opportunities for individuals to complete coursework  
25 online and at community colleges.

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

## 29 30 NO PAY DECREASE FOR TEACHERS WHO BECOME ASSISTANT PRINCIPALS

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

33 "**§ 115C-285. Salary.**

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

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

40 ...

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

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

## 46 47 INCREASE CLASS SIZE

48 **SECTION 7.23.** Notwithstanding any other provision of law, the allotment ratios,  
49 the maximum class size, and the maximum average class size limits for grades 4-12 in the  
50 public schools shall be two students higher beginning with the 2009-2010 school year than they  
51 were for the 2008-2009 school year.



1 Notwithstanding any other provision of law, the allotment ratios, the maximum  
2 class size, and the maximum average class size limits for grades 4-12 in the public schools shall  
3 be three students higher beginning with the 2010-2011 school year than they were for the  
4 2008-2009 school year.

5  
6 **DEPOSIT PUBLIC SCHOOL BUILDING CAPITAL FUNDS INTO STATE PUBLIC**  
7 **SCHOOL FUND**

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

14  
15 **NBPTS APPLICATION COSTS**

16 **SECTION 7.30.** G.S. 115C-296.2 reads as rewritten:

17 **"§ 115C-296.2. National Board for Professional Teaching Standards Certification.**

18 (a) State Policy. – It is the goal of the State to provide opportunities and incentives for  
19 good teachers to become excellent teachers and to retain them in the teaching profession; to  
20 attain this goal, the State shall support the efforts of teachers to achieve national certification by  
21 providing approved paid leave time for teachers participating in the process, ~~paying the~~  
22 ~~participation fee, lending teachers the participation fee,~~ and paying a significant salary  
23 differential to teachers who attain national certification from the National Board for  
24 Professional Teaching Standards (NBPTS).

25 The National Board for Professional Teaching Standards (NBPTS) was established in 1987  
26 as an independent, nonprofit organization to establish high standards for teachers' knowledge  
27 and performance and for development and operation of a national voluntary system to assess  
28 and certify teachers who meet those standards. Participation in the program gives teachers the  
29 time and the opportunity to analyze in a systematic way their professional development as  
30 teachers, successful teaching strategies, and the substantive areas in which they teach.  
31 Participation also gives teachers an opportunity to demonstrate superior ability and to be  
32 compensated as superior teachers. To receive NBPTS certification, a teacher must successfully  
33 (i) complete a process of developing a portfolio of student work and videotapes of teaching and  
34 learning activities and (ii) participate in NBPTS assessment center simulation exercises,  
35 including performance-based activities and a content knowledge examination.

36 (b) Definitions. – As used in this subsection:

37 (1) A "North Carolina public school" is a school operated by a local board of  
38 education, the Department of Health and Human Services, the Department of  
39 Correction, the Department of Juvenile Justice and Delinquency Prevention  
40 or The University of North Carolina; a school affiliated with The University  
41 of North Carolina; or a charter school approved by the State Board of  
42 Education.

43 (2) A "teacher" is a person who:

44 a. Either:

45 1. Is certified to teach in North Carolina; or

46 2. Holds a certificate or license issued by the State Board of  
47 Education that meets the professional license requirement for  
48 NBPTS certification;

49 b. Is a State-paid employee of a North Carolina public school;

50 c. Is paid on the teacher salary schedule; and

51 d. Fulfills one of the following:

- 1 1. Spends at least seventy percent (70%) of his or her work time  
2 in classroom instruction, if the employee is employed as a  
3 teacher. Most of the teacher's remaining time shall be spent in  
4 one or more of the following: mentoring teachers, doing  
5 demonstration lessons for teachers, writing curricula,  
6 developing and leading staff development programs for  
7 teachers;
- 8 2. Spends at least seventy percent (70%) of his or her work time  
9 in work within the employee's area of certification or  
10 licensure, if the employee is employed in an area of NBPTS  
11 certification other than direct classroom instruction; or
- 12 3. Serves as a full-time mentor under subsection (e1) of this  
13 section.

14 (c) ~~Payment of the NBPTS Participation Fee; Paid Leave. – The State shall pay the~~  
15 ~~NBPTS participation fee~~ end teachers the participation fee and shall provide up to three days of  
16 approved paid leave to all teachers participating in the NBPTS program who:

- 17 (1) Have completed three full years of teaching in a North Carolina public  
18 school; and
- 19 (2) Have (i) not previously received State funds for participating in any  
20 certification area in the NBPTS program, (ii) repaid any State funds  
21 previously received for the NBPTS certification process, or (iii) received a  
22 waiver of repayment from the State Board of Education.

23 Teachers participating in the program shall take paid leave only with the approval of their  
24 supervisors.

25 ~~(d) Repayment by a Teacher Who Does Not Complete the Process. – A teacher for~~  
26 ~~whom the State pays the participation fee who does not complete the process shall repay the~~  
27 ~~certification fee to the State.~~

28 ~~Repayment is not required if a teacher does not complete the process due to the death or~~  
29 ~~disability of the teacher. Upon the application of the teacher, the State Board of Education may~~  
30 ~~waive the repayment requirement if the State Board finds that the teacher was unable to~~  
31 ~~complete the process due to the illness of the teacher, the death or catastrophic illness of a~~  
32 ~~member of the teacher's immediate family, parental leave to care for a newborn or newly~~  
33 ~~adopted child, or other extraordinary circumstances.~~

34 (d1) Repayment of the Application Fee. – A teacher shall repay the application fee to the  
35 State Education Assistance Authority within three years.

36 ~~(e) Repayment by a Teacher Who Does Not Teach for a Year After Completing the~~  
37 ~~Process. – A teacher for whom the State pays the participation fee who does not teach for a~~  
38 ~~year in a North Carolina public school after completing the process shall repay the certification~~  
39 ~~fee to the State.~~

40 ~~Repayment is not required if a teacher does not teach in a North Carolina public school for~~  
41 ~~at least one year after completing the process due to the death or disability of the teacher. Upon~~  
42 ~~the application of the teacher, the State Board of Education may extend the time before which a~~  
43 ~~teacher must either teach for a year or repay the participation fee if the State Board finds that~~  
44 ~~the teacher is unable to teach the next year due to the illness of the teacher, the death or~~  
45 ~~catastrophic illness of a member of the teacher's immediate family, parental leave to care for a~~  
46 ~~newborn or newly adopted child, or other extraordinary circumstances.~~

47 (e1) Assignment of Teachers With NBPTS Certification to Serve as Full-Time Mentors.  
48 – A local board of education may assign teachers with NBPTS certification to serve as full-time  
49 mentors as follows:

- 50 (1) The maximum number of teachers with NBPTS certification that a local  
51 board of education may assign to serve as full-time mentors is the greater of

1 (i) five or (ii) five percent (5%) of the number of teachers with NBPTS  
2 certification it has employed during the school year immediately preceding  
3 the assignment of teachers as full-time mentors.

4 (2) A teacher must teach in a classroom for at least two years after receiving  
5 NBPTS certification to be eligible for assignment as a full-time mentor.

6 (3) A teacher must have completed the mentor training required by the teacher's  
7 local school administrative unit to be eligible for assignment as a full-time  
8 mentor.

9 (4) A teacher may serve as a full-time mentor for up to three consecutive years.

10 (5) After service as a full-time mentor, a teacher must teach in a classroom for at  
11 least three years to be eligible for reassignment as a full-time mentor.

12 (6) A teacher serving as a full-time mentor shall be school-based, work at one or  
13 more schools, and mentor each year at least 15 newly hired teachers who are  
14 in their first through third year of teaching.

15 (f) Rules. – The State Education Assistance Authority shall adopt rules and guidelines  
16 regarding the loan and repayment of the NBPTS application fee. The State Board shall adopt  
17 policies and guidelines to implement the remainder of this section."

## 18 SCHOOL TECHNOLOGY PLANS

19 **SECTION 7.31.** Part 3A of Article 8 of Chapter 115C of the General Statutes reads  
20 as rewritten:

21 "Part 3A. School Technology.

### 22 "§ 115C-102.5. Commission on School Technology created; membership.

23 (a) There is created the Commission on School Technology. The Commission shall be  
24 located administratively in the Department of Public ~~Instruction-Instruction,~~ but shall exercise  
25 all its prescribed statutory powers independently of the Department of Public Instruction.

26 The purpose of the Commission shall be to advise the State Board of Education on the  
27 development of a State School Technology Plan that (i) ensures the effective use of technology  
28 is built into the North Carolina Public School System for the purpose of preparing a globally  
29 competitive workforce and citizenry for the 21st century and (ii) ensures equity and access to  
30 school technology for all segments of the public school population in North Carolina.

31 The Commission shall meet at least twice each fiscal year and shall provide input and  
32 feedback on the State School Technology Plan prior to approval.

33 (b) The Commission shall consist of the following ~~19~~ members:

34 (1) The State Superintendent of Public Instruction or a designee;

35 (2) One representative of The University of North Carolina, appointed by the  
36 President of The University of North Carolina;

37 (3) One representative of the North Carolina Community College System,  
38 appointed by the President of the North Carolina Community College  
39 System;

40 (4) ~~A person with management responsibility concerning information~~  
41 ~~technology related State Government functions, designated by the Secretary~~  
42 ~~of Commerce;~~

43 (5) ~~Four~~ Two members appointed by the Governor;

44 (6) ~~Six~~ Two members appointed by the President Pro Tempore of the Senate  
45 ~~two of whom shall be members of the Senate. One of these six members~~  
46 ~~shall be appointed by the President Pro Tempore of the Senate to serve as~~  
47 ~~cochair, Senate;~~

48 (7) ~~Six~~ Two members appointed by the Speaker of the House of Representatives  
49 ~~two of whom shall be members of the House of Representatives. One of~~  
50

1 ~~these six members shall be appointed by the Speaker of the House of~~  
2 ~~Representatives to serve as cochair; and~~Representatives; and

3 ~~(8) The Secretary of Health and Human Services or a designee.~~

4 ~~(9) The State Chief Information Officer, or a designee.~~

5 In appointing members pursuant to subdivisions (5), (6), and (7) of this subsection, the  
6 appointing persons shall select individuals with technical or applied knowledge or experience  
7 in learning and instructional management technologies or individuals with expertise in  
8 curriculum or instruction who have successfully used learning and instructional management  
9 technologies.

10 No producers, vendors, or consultants to producers or vendors of learning or instructional  
11 management technologies shall serve on the Commission.

12 Members shall serve for two-year terms. Vacancies in terms of members shall be filled by  
13 the appointing officer. Persons appointed to fill vacancies shall qualify in the same manner as  
14 persons appointed for full terms.

15 (c) ~~Repealed by Session Laws 1997-443, s. 8.26(a).~~

16 (d) Members of the Commission who are also members of the General Assembly shall  
17 be paid subsistence and travel expenses at the rate set forth in G.S. 120-3.1. Members of the  
18 Commission who are officials or employees of the State shall receive travel allowances at the  
19 rate set forth in G.S. 138-6. All other members of the Commission shall be paid the per diem  
20 and allowances set forth in G.S. 138-5.

21 (d1) The Chair of the State Board of Education shall select the Commission member or  
22 members who shall serve as chair or cochairs of the Commission.

23 (e) ~~The Department of Public Instruction, the Department of Community Colleges, and~~  
24 ~~the Office of Information Technology Services~~Instruction shall provide requested professional  
25 and clerical staff to the Commission. ~~The Commission may also employ professional and~~  
26 ~~clerical staff and may hire outside consultants to assist it in its work. The Commission shall use~~  
27 ~~an outside consultant to perform a requirements analysis for learning and instructional~~  
28 ~~management technologies on a statewide basis that is based on information gathered from each~~  
29 ~~local school administrative unit and that considers the needs of teachers, students, and~~  
30 ~~administrators.~~

31 **"§ 115C-102.6. Duty to ~~prepare a requirements analysis and propose a State school~~**  
32 **~~technology plan.~~**

33 ~~The Commission shall prepare a requirements analysis and~~State Board of Education shall  
34 propose a State school technology plan for improving student performance in the public  
35 schools through the use of learning and instructional management technologies. that ensures the  
36 effective use of technology is built into the North Carolina Public School System for the  
37 purpose of preparing a globally competitive workforce and citizenry for the 21st century. The  
38 Commission on School Technology will advise the State Board of Education on the State  
39 School Technology Plan and its components.

40 ~~In developing this plan, the Commission shall:~~

41 (1) ~~Assess factors related to the current use of learning and instructional~~  
42 ~~management technologies in the schools, including what is currently being~~  
43 ~~used, how the current use of technology relates to the standard course of~~  
44 ~~study, how the effectiveness of learning and instructional management~~  
45 ~~technologies is being evaluated, how schools are paying for learning and~~  
46 ~~instructional management technologies, and what training school employees~~  
47 ~~have received in the use of learning and instructional management~~  
48 ~~technology and networks.~~

49 (2) ~~Identify the instructional goals that can be met through the use of learning~~  
50 ~~and instructional management technologies. The goals may include teaching~~  
51 ~~the standard course of study, reaching students with a broad range of~~

abilities, and ensuring that all students have access to a complete curriculum regardless of the geographical location or the financial resources of the school.

(3) ~~Examine the types of learning and instructional management technologies available to meet the identified instructional goals, including computers, audiovisual aids, science laboratory equipment, vocational education equipment, and distance learning networks. The Commission shall consider the compatibility and accessibility of different types of learning and instructional management technologies, including compatibility with the planned statewide broadband ISDN network, and whether they may be easily communicated from one site to another. The Commission shall also consider linkages between learning and instructional management technologies and existing State and local administrative systems.~~

(4) ~~Develop a basic level of learning and instructional management technology for every school in the State. The basic level may include:~~

a. ~~A computer lab with student stations or a specified number of student computer stations in each classroom for the use of instructional software such as computer assisted instruction, integrated learning systems, instructional management systems, and applications software such as word processing, database, spreadsheet, and desktop publishing.~~

b. ~~A computer workstation in every classroom for teachers to use in preparation and delivery of instruction and for administrative record keeping.~~

e. ~~A television monitor and video cassette recorder in every classroom to take advantage of open air broadcast programs, satellite programs, and instructional video tapes available from the library/media center.~~

d. ~~Computer workstations at each elementary and secondary school, housed in the library/media center, for individual students to use for basic skills instructional software.~~

e. ~~A telecommunications line, modem, and software in each school's library/media center that will allow students and teachers access to external databases and resources for research purposes.~~

f. ~~The availability of telephones for teachers.~~

g. ~~Initial training for the principal and teachers from each school in the use of the new technology.~~

(5) ~~Consider staffing required to operate the learning and instructional management technologies and options for maintaining the equipment.~~

(6) ~~Consider the types of staff development necessary to maximize the benefits of learning and instructional management technologies and determine the appropriate ways to provide the necessary staff development.~~

(7) ~~Develop a cost analysis of any plans and proposals that it develops.~~

**§ 115C-102.6A. Elements of the State school technology plan.**

(a) ~~The State school technology plan shall be a long-term comprehensive State implementation plan for using funds from the State School Technology Fund and other sources to improve student performance in the public schools through the use of learning and instructional management technologies. The purpose of the plan shall be to provide a cost-effective foundation of flexible and long-lasting technology and infrastructure to promote substantial gains in student achievement.~~

(b) ~~In developing the plan the Commission shall consider and plan for the relationship of the North Carolina Information Highway to the plan. In particular the plan shall establish~~

1 ~~priorities for the acquisition of school technologies including how the Information Highway fits~~  
2 ~~into those priorities.~~

- 3 (c) Components of the State school technology plan shall include at least the following:
- 4 (1) Common technical standards and uniform practices and procedures that  
5 provide statewide economies of scale in procurements, training, support,  
6 planning, and operations.
  - 7 (2) Conceptual technical architecture that includes:
    - 8 a. Principles – Statements of direction, goals, and concepts to guide the  
9 development of technical architecture;
    - 10 b. Standards for interoperability – Detailed specifications to ensure  
11 hardware, software, databases, and other products that may have  
12 been developed independently or purchased from different vendors  
13 or manufacturers will work together, to the extent that  
14 interoperability facilitates meeting instructional or administrative  
15 goals; and
    - 16 c. Implementation strategies – Approaches or guidelines for developing  
17 and installing the components of the technical infrastructure.
  - 18 (3) A quality assurance policy for all school technology projects, training  
19 programs, systems documentation, and maintenance plans.
  - 20 (4) Policies and procedures for the fair and competitive procurement of school  
21 technology that provide local school administrative units with a  
22 vendor-neutral operating environment in which different school technology  
23 hardware, software, and networks operate together easily and reliably, to the  
24 extent feasible consistent with meeting instructional or administrative goals.  
25 The operating environment includes all hardware and software components  
26 and configurations necessary to accomplish the integrated functions for  
27 school technology such as (i) types and sizes of computer platforms,  
28 telecommunications equipment, and associated communications protocols;  
29 (ii) operating systems for the computer processors; (iii) applications and  
30 other operating and support software; and (iv) other equipment, items, and  
31 software, such as printers, terminals, data and image storage devices, and  
32 other input, output, and storage devices.
  - 33 (5) A comprehensive policy for inventory control.
  - 34 (6) Parameters for continuous, ongoing training for all personnel involved in the  
35 use of school technology. Training shall focus on the integration of  
36 technology and instruction and on the use of particular applications.
  - 37 (7) Recommendations to the State Board of Education of requirements for  
38 preservice teacher training on the integration of teaching and school  
39 technology.
  - 40 (8) Proposals for leadership training on the use of school technology to improve  
41 instruction and as a management tool.
  - 42 (9) Development of expertise at the State and regional levels on school  
43 technology.
  - 44 (10) Flexibility to enable local school administrative units and individual schools  
45 to meet individual school unit and building needs.
  - 46 (11) Flexibility to meet the needs of all students, allow support to students with a  
47 wide range of abilities, and ensure access to challenging curricula and  
48 instruction for children at risk of school failure.
  - 49 (12) Use of technologies to support challenging ~~State~~ State, federal, and local  
50 educational performance goals.

- 1 (13) Effective and integrated use of technologies compatible with (i) the standard  
2 course of study, (ii) the State assessment program, and (iii) related student  
3 data management.
- 4 (14) Use of technologies as a communication, instructional, and management tool  
5 and for problem-solving, exploration, and advanced skills.
- 6 (15) Proposals for addressing equipment needs for ~~vocational education, Tech~~  
7 ~~Prep, and science instruction.~~State curricula areas.
- 8 (16) Specifications for minimum components of local school system technology  
9 plans.
- 10 (17) A baseline template for:
- 11 a. Technology and service application infrastructure, including  
12 broadband connectivity, personnel recommendations, and other  
13 resources needed to operate effectively from the classroom desktop  
14 to local, regional, and State networks, and
- 15 b. An evaluation component that provides for local school  
16 administrative unit accountability for maintaining quality  
17 upgradeable systems.

18 **"§ 115C-102.6B. Approval of State school technology plan.**

19 (a) ~~The Commission shall present the State school technology plan it develops to the~~  
20 ~~Joint Legislative Commission on Governmental Operations and the Joint Legislative Education~~  
21 ~~Oversight Committee for their comments prior to January 1, 1995. At least every two years~~  
22 ~~thereafter, the Commission shall develop any necessary modifications to the State school~~  
23 ~~technology plan and present them to the Joint Legislative Commission on Governmental~~  
24 ~~Operations and the Joint Legislative Education Oversight Committee.~~ The State Board of  
25 Education shall review, revise as needed, and approve the State School Technology Plan at a  
26 minimum every two years in the odd-numbered year, beginning in 2011. The plan shall be  
27 updated more often, as required, as in cases where significant changes occur related to Board  
28 goals, curriculum standards, and available technology.

29 (b) ~~After presenting the plan or any proposed modifications to the plan to the Joint~~  
30 ~~Legislative Commission on Governmental Operations and the Joint Legislative Education~~  
31 ~~Oversight Committee, the Commission~~ The Board shall submit the plan ~~or any proposed~~  
32 ~~modifications to (i) to~~ the State Chief Information Officer for approval of the technical  
33 components of the plan set out in G.S. 115C-102.6A(1) through (4), and (ii) ~~the State Board of~~  
34 ~~Education for information purposes only. The State Board shall adopt a plan that includes the~~  
35 ~~components of a plan set out in G.S. 115C-103.6A(1) through (16).~~

36 ~~At (4). At least one-fourth of the members of any technical committee that reviews the plan~~  
37 ~~for the State Chief Information Officer shall be people actively involved in primary or~~  
38 ~~secondary education.~~

39 The Board shall report annually by February 1 of each year to the Joint Legislative  
40 Education Oversight Committee on the status of the State School Technology Plan.

41 (c) ~~If no changes are made to the plan or the proposed modifications to the plan after~~  
42 ~~the submission to the State Chief Information Officer and the State Board of Education, the~~  
43 ~~plan or the proposed modifications shall take effect upon approval by the State Chief~~  
44 ~~Information Officer and the State Board of Education.~~

45 **"§ 115C-102.6C. Approval of local school system technology plans.**

46 (a) Each local board of education shall develop a local school system technology plan  
47 that is aligned with and meets the requirements of the State school technology plan. In  
48 developing a local school system technology plan, a local board of education is encouraged to  
49 incorporate this plan into its strategic planning and to bring together stakeholders from various  
50 areas of the local school administrative unit, including curriculum leaders, teachers,  
51 administrators, representatives from technology services and instructional technology, and

1 finance, as well as other departments of the unit as required. In addition, the local board is  
2 encouraged to coordinate its planning with other agencies of State and local government,  
3 including other local school administrative units.

4 ~~The Office of Information Technology Services shall assist the local boards of education in~~  
5 ~~developing the parts of the plan related to its technological aspects, to the extent that resources~~  
6 ~~are available to do so.~~ The Department of Public Instruction shall assist the local boards of  
7 education in developing the instructional and technological aspects of the plan.

8 Each local board of education shall submit the local plan it develops to ~~the Office of~~  
9 ~~Information Technology Services~~ the Department of Public Instruction for its evaluation of the  
10 parts of the ~~plan related to its technological aspects and to the Department of Public Instruction~~  
11 ~~for its evaluation of the technological and instructional aspects of the plan.~~ The State Board of  
12 Education, after consideration of the evaluations of the ~~Office of Information Technology~~  
13 ~~Services and the Department of Public Instruction,~~ shall approve all local plans that comply  
14 with the requirements of the State school technology plan.

15 (b) After a local school system technology plan is approved by the State Board of  
16 Education, all State funds spent by the local board of education for any aspect of school  
17 technology shall be used to implement the local school system technology plan.

18 (c) ~~After a local school system technology plan is approved by the State Board of~~  
19 ~~Education, the local board of education may use funds in the State School Technology Fund~~  
20 dollars that are allocated to the local school administrative unit to implement the ~~plan~~ plan shall  
21 not be expended until the plan has been approved by the State Board of Education.

22 **"§ 115C-102.6D. Establishment of the State School Technology Fund; allocation and use**  
23 **of funds.**

24 (a) There is established under the control and direction of the State Board of Education  
25 the State School Technology Fund. This fund shall be a nonreverting special revenue fund  
26 consisting of any monies appropriated to it by the General Assembly and any monies credited  
27 to it under G.S. 20-81.12 from the sale of School Technology special license plates.

28 (b) Funds in the State School Technology Fund shall be allocated to local school  
29 administrative units as directed by the General Assembly. Funds allocated to each local school  
30 administrative unit shall be credited with interest by the State Treasurer pursuant to  
31 G.S. 147-69.2 and G.S. 147-69.3.

32 (c) ~~Each local school administrative unit with a local school system technology plan~~  
33 ~~approved by the State Board of Education may use funds allocated to it to implement its local~~  
34 ~~plan or as otherwise specified by the General Assembly.~~

35 (d) No local school administrative unit may access technology-related funds until the  
36 State Board of Education has approved its school technology plan.

37 **"§ 115C-102.7. Monitoring and evaluation of State and local school system technology**  
38 **plans; reports.**

39 (a) ~~The Commission~~ Department of Public Instruction shall monitor and evaluate the  
40 development and implementation of the State and local school system technology plans. The  
41 evaluation shall consider the effects of technology on student learning, the effects of  
42 technology on students' workforce readiness, the effects of technology on teacher productivity,  
43 and the cost-effectiveness of the technology.

44 (a1) Repealed by Session Laws 1997-18, s. 15(k).

45 (b) ~~The Commission shall provide notice of meetings, copies of minutes, and periodic~~  
46 ~~briefings to the Office of Information Technology Services.~~

47 (c) The Department of Public Instruction shall randomly check local school system  
48 technology plans to ensure that local school administrative units are implementing their plans  
49 as approved. The Department shall report to the State Board of Education ~~and the State Chief~~  
50 ~~Information Officer~~ on which local school administrative units are not complying with their  
51 plans. The report shall include the reasons these local school administrative units are out of



1 compliance and a recommended plan of action to support each of these local school  
2 administrative units in carrying out their plans."  
3

#### 4 **IDEA FUNDS**

5 **SECTION 7.32.(a)** To the extent that federal law and the conditions of federal  
6 grants permit, the General Assembly urges local school administrative units to redirect IDEA  
7 funds received under the American Recovery and Reinvestment Act of 2009 to other at-risk  
8 students.

9 **SECTION 7.32.(b)** Local school administrative units receiving IDEA funds under  
10 the American Recovery and Reinvestment Act of 2009 shall report to the Joint Legislative  
11 Education Oversight Committee on the detailed expenditure of funds by March 15, 2010, and  
12 by March 15, 2011.  
13

#### 14 **ACCESS TO NCVPS**

15 **SECTION 7.33.** The State Board shall report to the Joint Legislative Education  
16 Oversight Committee and the Fiscal Research Division prior to October 15, 2009, on (i) its  
17 policy regarding access for nonpublic school children to the North Carolina Virtual Public  
18 School (NCVPS) Program and (ii) funding sources it authorizes, including tuition, for  
19 nonpublic school students in the program.  
20

#### 21 **EDUCATION STABILIZATION FUNDS**

22 **SECTION 7.34.** Local school administrative units may use funds received from the  
23 State Fiscal Stabilization Fund authorized in Title XIV of the American Recovery and  
24 Reinvestment Act of 2009 to offset budget cuts in the primary budget formulae for the State of  
25 North Carolina. The following allotment categories, presented in no particular order, constitute  
26 the primary budget formulae:

- 27 (1) Classroom Teachers;
- 28 (2) Instructional Support Personnel – Certified;
- 29 (3) Instructional Support Personnel – Noncertified;
- 30 (4) Noninstructional Support Personnel;
- 31 (5) Children with Disabilities;
- 32 (6) Teacher Assistants;
- 33 (7) Transportation of Pupils;
- 34 (8) At-Risk Student Services/Alternative Schools;
- 35 (9) Career Technical Education – Months of Employment;
- 36 (10) Career Technical Education – Program Support Funds;
- 37 (11) Classroom Materials/Instructional Supplies/Equipment;
- 38 (12) Mentor Positions;
- 39 (13) Academically or Intellectually Gifted;
- 40 (14) Limited English Proficiency;
- 41 (15) School Technology Fund;
- 42 (16) Staff Development;
- 43 (17) Textbooks;
- 44 (18) School Building Administration;
- 45 (19) Central Office Administration; and
- 46 (20) Driver Training.  
47

#### 48 **SALARY OF TEACHERS WITH GRADUATE DEGREES**

49 **SECTION 7.35.** G.S. 115C-302.1 is amended by adding a new section to read:

50 "(b1) Placement on a Salary Schedule for Teachers with Graduate Degrees. – The State  
51 Board of Education shall not authorize payment on the master's degree salary schedule for a

1 teacher who holds a master's degree or other advanced degree that does not lead to professional  
2 educator certification unless the master's or higher degree is in an education or subject area  
3 directly related to the teacher's existing area of certification and the teacher's current teaching  
4 responsibilities."

## 6 **ABOLISH COMPUTER LOAN REVOLVING FUND**

7 **SECTION 7.36.(a)** Article 32B of Chapter 115C of the General Statutes is  
8 repealed.

9 **SECTION 7.36.(b)** On July 1, 2009, the State Controller shall transfer one hundred  
10 twenty thousand six hundred seventy-seven dollars (\$120,677) from the Computer Loan  
11 Revolving Fund to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund  
12 appropriations for the 2009-2010 fiscal year.

## 14 **LOANS FROM STATE LITERARY FUND PROHIBITED**

15 **SECTION 7.37.(a)** G.S. 115C-458 reads as rewritten:

### 16 **"§ 115C-458. ~~Loans by State Board from State Literary Fund.~~**

17 The State Literary Fund includes all funds derived from the sources enumerated in Sec. 6,  
18 Article IX, of the Constitution, and all funds that may be hereafter so derived, together with any  
19 interest that may accrue thereon. This Fund shall be separate and distinct from other funds of  
20 the State.

21 ~~The State Board of Education, under such rules and regulations as it may deem advisable,~~  
22 ~~not inconsistent with the provisions of this Article, may make loans from the State Literary~~  
23 ~~Fund to the counties for the use of local boards of education under such rules and regulations as~~  
24 ~~it may adopt and according to law for the purpose of aiding in the erection and equipment of~~  
25 ~~school plants, maintenance buildings and transportation garages. No warrant for the~~  
26 ~~expenditure of money for such purposes shall be issued except upon the order of the~~  
27 ~~Superintendent of Public Instruction with the approval of the State Board of Education.~~

28 The State Literary Fund shall be faithfully appropriated and used exclusively for  
29 establishing and maintaining a uniform system of free public schools."

30 **SECTION 7.37.(b)** The title of Article 32 of Chapter 115C of the General Statutes  
31 reads as rewritten:

32 "Article 32.

33 ~~Loans from State Literary Fund."~~

34 **SECTION 7.37.(c)** G.S. 115C-460 through G.S. 115C-467 are repealed.

35 **SECTION 7.37.(d)** Subsection (c) of this section does not apply to outstanding  
36 loans from the State Literary Fund.

37 **SECTION 7.37.(e)** There is appropriated from the State Literary Fund to the  
38 Department of Public Instruction the sum of four hundred eleven thousand fifty-eight dollars  
39 (\$411,058) for the 2009-2010 fiscal year for school technology.

## 41 **PART VIII. COMMUNITY COLLEGES**

### 43 **COMMUNITY COLLEGE FACULTY SALARY PLAN**

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

45 (1) It is the intent of the General Assembly to encourage community colleges to  
46 make faculty salaries a priority and to reward colleges that have taken steps  
47 to achieve the national average community college faculty salary, therefore:

- 48 a. If the average faculty salary at a community college is one hundred  
49 percent (100%) or more of the national average community college  
50 faculty salary, the college may transfer up to eight percent (8%) of  
51 the State funds allocated to it for faculty salaries.

- 1           b.     If the average faculty salary at a community college is at least  
2           ninetly-five percent (95%) but less than one hundred percent (100%)  
3           of the national average community college faculty salary, the college  
4           may transfer up to six percent (6%) of the State funds allocated to it  
5           for faculty salaries.
- 6           c.     If the average faculty salary at a community college is at least ninety  
7           percent (90%) but less than ninety-five percent (95%) of the national  
8           average community college faculty salary, the college may transfer  
9           up to five percent (5%) of the State funds allocated to it for faculty  
10          salaries.
- 11          d.     If the average faculty salary at a community college is at least  
12          eighty-five percent (85%) but less than ninety percent (90%) of the  
13          national average community college faculty salary, the college may  
14          transfer up to three percent (3%) of the State funds allocated to it for  
15          faculty salaries.
- 16          e.     If the average faculty salary at a community college is eighty-five  
17          percent (85%) or less of the national average community college  
18          faculty salary, the college may transfer up to two percent (2%) of the  
19          State funds allocated to it for faculty salaries.

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

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

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

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

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

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

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

45  
46          **USE OF BASIC SKILLS FUNDS**

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

**FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS****SECTION 8.4.** G.S. 115D-40.1(c) reads as rewritten:

"(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in 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 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 this section may be used to support the costs of administering the Community College Grant Program."

**MODIFY MULTICAMPUS AND OFF CAMPUS CENTER REPORT DATE****SECTION 8.8.** G.S. 115D-5(o) reads as rewritten:

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

**REPEAL REPORT ON THE USE OF COMM COLL FACILITIES BY PRIVATE BUSINESSES****SECTION 8.9.** G.S. 115D-5(q) is repealed.**CONTINUING EDUCATION FEES**

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

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

**CONSOLIDATE NURSING AND ALLIED HEALTH ALLOTMENTS**

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

**CUSTOMIZED TRAINING PROGRAM**

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

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

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

3       ...

4       (1a)   The types of services sought by the company, whether for new, expanding,  
5       or existing industry."

## 7   **COMMUNITY COLLEGES URGED TO PARTICIPATE IN FEDERAL STUDENT** 8   **LOAN PROGRAMS**

9       **SECTION 8.15.**   The General Assembly urges all community colleges to  
10 participate in federal student loan programs.

## 11   **NORTH CAROLINA MILITARY BUSINESS CENTER**

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

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

## 45   **REVISE COLLEGE FUNDING FORMULA CATEGORIES**

46       **SECTION 8.17.(a)**   The State Board of Community Colleges shall revise the  
47 college funding formula categories to accurately reflect where the colleges are spending their  
48 money. The revised formulas shall ensure that adequate funds are available for campus  
49  
50

1 security, including the hiring of personnel, contracted professional services, surveillance  
2 cameras, call boxes, alert systems, and other equipment-related expenditures.

3 **SECTION 8.17.(b)** The State Board of Community Colleges shall adopt  
4 emergency rules in accordance with G.S. 150B-21.1A for the 2009-2011 fiscal biennium to  
5 grant community colleges the flexibility to transfer funds as necessary to minimize the impact  
6 of budget reductions on the educational program.

#### 7 8 **FIRE TRAINING COORDINATORS**

9 **SECTION 8.18.** All community college fire training coordinators shall be under  
10 the direct supervision of the Community Colleges System Office. There shall be one fire  
11 training coordinator in the eastern part of the State, one in the central part of the State, and one  
12 in the western part of the State.

#### 13 14 **CONTINUATION REVIEW OF THE PRISONER EDUCATION PROGRAM**

15 **SECTION 8.19.** The continuation review of the community college prisoner  
16 education program that is required by Section 6.6E of this act shall be prepared jointly by the  
17 Department of Correction and the Community Colleges System Office. The report shall  
18 include:

- 19 (1) Information on the total cost of the program;
- 20 (2) An analysis of the appropriate source of funding, including an analysis of  
21 prisoners' ability to pay;
- 22 (3) A review of which programs are most vital to the prisoner population and a  
23 priority order for restoration of the programs;
- 24 (4) An analysis of the cost per FTE to provide these programs to the prison  
25 population compared to the cost for the general population, including the  
26 FTE costs for curriculum, continuing education, and basic skills courses; and
- 27 (5) An analysis of the feasibility of limiting access to the education program to  
28 those prisoners who will be released within a certain time frame and to  
29 programs that lower recidivism rates.

#### 30 31 **STUDY OF EFFICIENT AND EFFECTIVE COMMUNITY COLLEGE** 32 **ADMINISTRATION**

33 **SECTION 8.20.** The Joint Legislative Program Evaluation Oversight Committee  
34 shall include in the 2010-2011 Work Plan for the Program Evaluation Division of the General  
35 Assembly a study of the most efficient and effective way to administer the local community  
36 colleges system. In the course of the study, the Program Evaluation Division shall consider the  
37 advisability of consolidating community college administration and strategies for ensuring  
38 access for students. The Program Evaluation Division shall submit the study to the Joint  
39 Legislative Program Evaluation Oversight Committee, the Joint Legislative Education  
40 Oversight Committee, and the Fiscal Research Division at a date to be determined by the Joint  
41 Legislative Program Evaluation Oversight Committee.

#### 42 43 **NO STATE FUNDS FOR INTERCOLLEGIATE ATHLETICS**

44 **SECTION 8.21.** State funds, including student receipts and student aid funds, shall  
45 not be used to create, support, maintain, or operate an intercollegiate athletics program at a  
46 community college.

#### 47 48 **FUNDING FOR HIGH SCHOOL STUDENTS ENROLLED IN COMMUNITY** 49 **COLLEGES, COLLEGES, AND UNIVERSITIES**

50 **SECTION 8.22.** The Department of Public Instruction, the Community Colleges  
51 System Office, and the Board of Governors of The University of North Carolina shall study

1 issues related to funding for high school students enrolled in community college, college, and  
2 university courses. The study shall include an analysis of the cost of serving these students by  
3 grade level and an analysis of how the State can most efficiently and effectively pay for those  
4 expenditures. The Department of Public Instruction, the Community Colleges System Office,  
5 and the Board of Governors shall report the results of the study to the Joint Legislative  
6 Commission on Governmental Operations and the Fiscal Research Division by January 15,  
7 2010.

## 9 **FUNDING FOR NEW MULTICAMPUS COLLEGES**

10 **SECTION 8.23.** The State Board of Community Colleges shall study the cost of  
11 funding all of the multicampus colleges in the North Carolina Community College System and  
12 shall develop a mechanism for ensuring that newly established multicampus colleges are  
13 funded at the same level as existing multicampus colleges. The Board shall further explore  
14 recommendations for including new multicampus colleges in the continuation budget. The  
15 State Board of Community Colleges shall report the results of its study to the Joint Legislative  
16 Education Oversight Committee by February 15, 2010.

## 18 **MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES**

19 **SECTION 8.24.** The management flexibility reduction for the North Carolina  
20 Community College System shall be allocated by the State Board of Community Colleges in a  
21 manner that accounts for the unique needs of each college and provides for the equitable  
22 distribution of funds to the institutions consistent with G.S. 115D-5(a). Before taking  
23 reductions to instructional budgets, the community colleges shall consider reducing budgets for  
24 senior and middle management personnel and for programs that have both low-enrollment and  
25 low-postgraduate success. Colleges shall minimize the impact on student support services and  
26 on the retraining of dislocated workers. The community colleges shall also review their  
27 institutional funds to determine whether there are monies available in those funds that can be  
28 used to assist with operating costs before taking reductions in instructional budgets.

## 30 **PART IX. UNIVERSITIES**

### 32 **USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

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

50 The General Assembly encourages the State Education Assistance Authority to try  
51 not to reduce the Escheat Fund principal below the sum of two hundred million dollars

1 (\$200,000,000) in complying with this section, but also acknowledges that current economic  
2 factors may not make that feasible. All limitations on asset allocation of Escheat Funds  
3 invested by the State Treasurer shall be calculated at the time of investment.

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

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

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

30  
31 **THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND**  
32 **REDUCE/MAXIMUM GRANT AWARDS FOR 2009-2010 FISCAL YEAR AND**  
33 **REPEAL EARN SCHOLARS FUND IN 2010-2011 FISCAL YEAR.**

34 **SECTION 9.2.(a)** Of the funds appropriated by this act from the General Fund to  
35 the State Education Assistance Authority the sum of sixteen million two hundred twenty-five  
36 thousand dollars (\$16,225,000) for the 2009-2010 fiscal year shall be allocated to the Education  
37 Access Rewards North Carolina Scholars Fund (EARN).

38 **SECTION 9.2.(b)** There is appropriated from the Escheat Fund to the State  
39 Education Assistance Authority the sum of thirty-seven million four hundred eighty-nine  
40 thousand dollars (\$37,489,000) for the 2009-2010 fiscal year to be allocated to EARN.

41 **SECTION 9.2.(c)** The funds appropriated in subsections (a) and (b) of this section  
42 shall be used only to fund EARN grants for the 2009-2010 academic year.

43 **SECTION 9.2.(d)** Notwithstanding G.S. 116-209.26(d), the maximum grant for  
44 which a student is eligible for an EARN Scholarship shall be two thousand dollars (\$2,000) for  
45 the 2009-2010 academic year. The State Education Assistance Authority shall pay the full  
46 amount of the grants awarded pursuant to this section in the 2009-2010 fall academic semester.

47 **SECTION 9.2.(e)** Effective July 1, 2010, G.S. 116-209.26 is repealed.

48 **SECTION 9.2.(f)** The campus financial aid offices at each eligible postsecondary  
49 institution as defined in G.S. 116-209.26 are encouraged to work with EARN recipients to  
50 secure replacement financial aid for the 2010-2011 academic year and appropriate subsequent  
51 academic years.



**TRANSFERS OF CASH BALANCES TO THE GENERAL FUND**

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

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

**UNC CENTER FOR ALCOHOL STUDIES**

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

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

It is the intent of the General Assembly to annually appropriate from the funds deposited in the General Fund under this subsection the sum of five hundred thirty-seven thousand four hundred fifty-five dollars (\$537,455) to the Board of Governors of The University of North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies Endowment at The the University of North Carolina at Chapel Hill, but not to exceed this ~~cumulative total of ten million dollars (\$10,000,000).~~ Hill."

**SECTION 9.5.(b)** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina the sum of five hundred thirty-seven thousand four hundred fifty-five dollars (\$537,455) for the 2009-2010 fiscal year and the sum of five hundred thirty-seven thousand four hundred fifty-five dollars (\$537,455) for the 2010-2011 fiscal year shall be used for the operating expenses of the Bowles Center for Alcohol Studies at the University of North Carolina at Chapel Hill.

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

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

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

1 institution of The University of North Carolina a sum to be determined by the General  
2 Assembly as a tuition grant. The tuition grant shall be for four consecutive academic years and  
3 shall cover the tuition cost at the constituent institution in which the student is enrolled. The  
4 tuition grant shall be distributed to the student as provided by this section. The grant provided  
5 by this section is only available to a student enrolled at the North Carolina School of Science  
6 and Mathematics for the 2008-2009 academic year or earlier."

7 **SECTION 9.6.(b)** Effective July 1, 2014, G.S. 116-238.1, as amended by this  
8 section, is repealed.

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

11 **SECTION 9.7.(a)** Funds appropriated by this act for the 2009-2010 fiscal year and  
12 for the 2010-2011 fiscal year to the Board of Governors of The University of North Carolina  
13 and allocated to the North Carolina Historically Minority Colleges and Universities Consortium  
14 (HMCUC) for "Closing the Achievement Gap" shall be used for the sole purpose of supporting  
15 the operations and program activities of the HMCUC. These funds shall be used by the  
16 HMCUC members for the public purposes of developing and implementing after-school  
17 programs designed to close the academic achievement gap and improving the academic  
18 performance of youth at risk of academic failure and school dropout; provided, however, that  
19 the HMCUC may use up to one hundred thousand dollars (\$100,000) each fiscal year to cover  
20 the cost of administering the grants. The HMCUC also may allocate funds to a  
21 community-based and faith-based organization that is located in close proximity to the  
22 HMCUC member institution for the public purposes stated in this section.

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

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

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

39 **"§ 116-21.2. Legislative tuition grants to aid students and licensure students attending**  
40 **private institutions of higher education.**

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

1 (a1) Grants for Licensure Students. – The legislative tuition grant provided by this  
2 section shall also be granted to each full-time licensure student who is enrolled in a program  
3 intended to result in a license in teaching or nursing at an approved institution. The legislative  
4 tuition grant provided by this section shall be awarded on a pro rata basis to any part-time  
5 licensure student who is enrolled to take at least ~~six~~nine hours of undergraduate academic  
6 credit per semester in a program intended to result in a license in teaching or nursing at an  
7 approved institution. The legislative tuition grant and prorated legislative tuition grant  
8 authorized under this subsection shall be paid for undergraduate courses only. If a course is  
9 required for licensure, but is designated as both an undergraduate and graduate course, for  
10 purposes of this subsection, the course shall be considered an undergraduate course.

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

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

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

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

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

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

1  
2 **GRADUATE NURSE SCHOLARSHIP PROGRAM FOR FACULTY**  
3 **PRODUCTION/REVERT PART OF FUND BALANCE**

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

8  
9 **CODIFY AND INCREASE UNC UNDERGRADUATE TUITION SURCHARGE**

10 **SECTION 9.10.(a)** Article 14 of Chapter 116 of the General Statutes is amended  
11 by adding a new section to read:

12 **"§ 116-143.7. Tuition surcharge.**

13 (a) The Board of Governors of The University of North Carolina shall impose a  
14 twenty-five percent (25%) tuition surcharge on students who take more than 140 degree credit  
15 hours to complete a baccalaureate degree in a four-year program or more than one hundred ten  
16 percent (110%) of the credit hours necessary to complete a baccalaureate degree in any  
17 program officially designated by the Board of Governors as a five-year program. Courses and  
18 credit hours taken include those taken at a constituent institution or accepted for transfer. In  
19 calculating the number of degree credit hours taken:

20 (1) Included are courses that a student:

21 a. Fails.

22 b. Does not complete unless the course was officially dropped by the  
23 student pursuant to the academic policy of the appropriate constituent  
24 institution.

25 (2) Excluded are credit hours earned through:

26 a. The College Board's Advanced Placement Program, CLEP  
27 examinations, or similar programs.

28 b. Institutional advanced placement, course validation, or any similar  
29 procedure for awarding course credit.

30 c. Summer term or extension programs.

31 (b) No surcharge shall be imposed on any student who exceeds the degree credit hour  
32 limits within the equivalent of four academic years of regular term enrollment or within five  
33 academic years of regular term enrollment in a degree program officially designated by the  
34 Board of Governors as a five-year program.

35 (c) Upon application by a student, the tuition surcharge shall be waived if the student  
36 demonstrates that any of the following have substantially disrupted or interrupted the student's  
37 pursuit of a degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a  
38 short-term or long-term disability, or (iv) other extraordinary hardship. The Board of Governors  
39 shall establish the appropriate procedures to implement the waiver provided by this  
40 subsection."

41 **SECTION 9.10.(b)** G.S. 116-143.7(a), as enacted by subsection (a) of this section,  
42 reads as rewritten:

43 "(a) The Board of Governors of The University of North Carolina shall impose a  
44 ~~twenty-five percent (25%)~~ fifty percent (50%) tuition surcharge on students who take more  
45 than 140 degree credit hours to complete a baccalaureate degree in a four-year program or more  
46 than one hundred ten percent (110%) of the credit hours necessary to complete a baccalaureate  
47 degree in any program officially designated by the Board of Governors as a five-year program.  
48 Courses and credit hours taken include those taken at that constituent institution or accepted for  
49 transfer. In calculating the number of degree credit hours taken:

50 (1) Included are courses that a student:

51 a. Fails.

1           b.       Does not complete unless the course was officially dropped by the  
2                    student pursuant to the academic policy of the appropriate constituent  
3                    institution.

4           (2)       Excluded are credit hours earned through:

5                   a.       The College Board's Advanced Placement Program, CLEP  
6                    examinations, or similar programs.

7                   b.       Institutional advanced placement, course validation, or any similar  
8                    procedure for awarding course credit.

9                   c.       Summer term or extension programs."

10           **SECTION 9.10.(c)** Subsection (a) of this section is effective beginning with the  
11           2009-2010 academic year; subsection (b) of this section is effective beginning with the  
12           2010-2011 academic year.

#### 13 14 **ENROLLMENT GROWTH REPORTING**

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

16           "**§ 116-30.7. Biennial projection of enrollment growth for The University of North**  
17           **Carolina.**

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

#### 30 31 **TRANSFER THE NORTH CAROLINA CENTER FOR THE ADVANCEMENT OF** 32 **TEACHING TO THE STATE BOARD OF EDUCATION**

33           **SECTION 9.13.(a)** The North Carolina Center for the Advancement of Teaching is  
34           transferred from the Board of Governors of The University of North Carolina to the State  
35           Board of Education. The Center shall be located administratively under the State Board of  
36           Education but shall exercise its powers and duties through its own board of trustees. The board  
37           of trustees shall have full authority regarding all aspects of employment and contracts for the  
38           North Carolina Center for the Advancement of Teaching in accordance with State personnel  
39           policies and contract procedures.

40           This transfer shall include (i) ownership, possession, and control of the properties  
41           located at Cullowhee and Ocracoke, including buildings, grounds, personal property, vehicles,  
42           and equipment, and (ii) the resources, assets, liabilities, and operations maintained, possessed,  
43           or controlled by the North Carolina Center for the Advancement of Teaching prior to the  
44           transfer.

45           Upon the transfer, all duties and responsibilities of The University of North  
46           Carolina, including Western Carolina University, shall cease except as may be agreed upon by  
47           the parties; provided, however, that The University of North Carolina, Western Carolina  
48           University, and NCCAT shall work cooperatively in coordination with appropriate State  
49           agencies to effect an efficient and orderly transfer of duties and responsibilities to be completed  
50           on or before November 1, 2009.

1 The State of North Carolina shall reassign to Western Carolina University the  
 2 original parcel of real property located in Cullowhee if it is no longer used or occupied by  
 3 NCCAT.

4 **SECTION 9.13.(b)** G.S. 116-74.6 is recodified as G.S. 115C-296.5.

5 **SECTION 9.13.(c)** G.S. 115C-296.5 reads as rewritten:

6 "**§ 115C-296.5. North Carolina Center for the Advancement of Teaching**  
 7 **established; Teaching; powers and duties of trustees.**

8 (a) ~~The Board of Governors of The University of North Carolina established the North~~  
 9 ~~Carolina Center for the Advancement of Teaching pursuant to Section 74 of S.L. 1985-479.~~  
 10 ~~The Center shall be a center of The University of North Carolina Board of Governors. It shall~~  
 11 ~~be the function of the The North Carolina Center for the Advancement of Teaching (hereinafter~~  
 12 ~~called "NCCAT"), through itself or agencies with which it may contract, to contract, shall:~~

13 (1) ~~provide~~ Provide career teachers with opportunities to study advanced topics  
 14 in the sciences, arts, and humanities and to engage in informed discourse,  
 15 assisted by able mentors and outstanding leaders from all walks of life; ~~and~~  
 16 ~~otherwise to offer opportunity and~~

17 (2) Offer opportunities for teachers to engage in scholarly pursuits,  
 18 through pursuits through a center dedicated exclusively to the advancement  
 19 of teaching as an art and as a profession.

20 (b) NCCAT may also provide training and support for beginning teachers to enhance  
 21 their skills and in support of the State's effort to recruit and retain beginning teachers.

22 (c) ~~The Board of Governors of The University of North Carolina shall establish the~~  
 23 Board of Trustees of the North Carolina Center for the Advancement of Teaching ~~Board of~~  
 24 ~~Trustees and shall delegate to the Board of Trustees~~ shall hold all the powers and duties the  
 25 ~~Board of Governors considers necessary or appropriate for the effective discharge of the~~  
 26 ~~functions of NCCAT."~~

27 **SECTION 9.13.(d)** G.S. 116-74.7 is recodified as G.S. 115C-296.6.

28 **SECTION 9.13.(e)** G.S. 115C-296.6 reads as rewritten:

29 "**§ 115C-296.6. Composition of board of trustees; terms; officers.**

30 (a) The NCCAT Board of Trustees shall be composed of the following membership:

31 (1) ~~Three~~ Two ex officio members: ~~the President of The University of North~~  
 32 ~~Carolina, the Chairman of the State Board of Education and the State~~  
 33 ~~Superintendent of Public Instruction, and the Chancellor of Western~~  
 34 ~~Carolina University, or their designees;~~

35 (2) Two members appointed by the General Assembly upon the  
 36 recommendation of the President Pro Tempore of the Senate;

37 (3) Two members appointed by the General Assembly upon the  
 38 recommendation of the Speaker of the House of Representatives; and

39 (4) Eight members appointed by the ~~Board of Governors,~~ Governor, one from  
 40 each of the eight educational regions.

41 The appointing authorities shall give consideration to assuring, through Board membership, the  
 42 statewide mission of NCCAT.

43 (b) Members of the NCCAT Board of Trustees shall serve four-year terms. Members  
 44 may serve two consecutive four-year terms. The Board shall elect a new ~~chairman~~ chair every  
 45 two years from its membership. The ~~Chairman~~ chair may serve two consecutive two-year terms  
 46 as ~~chairman~~ chair.

47 (c) The chief administrative officer of NCCAT shall be an executive ~~director.~~ ~~The~~  
 48 ~~Board of Governors of The University of North Carolina shall appoint the executive director~~  
 49 ~~and set the compensation of the executive director on the recommendation of the President of~~  
 50 ~~The University of North Carolina. The President shall recommend the executive director from a~~  
 51 ~~list of not fewer than two names nominated by the NCCAT Board of Trustees.~~

1       ~~The executive director shall report to and serve at the pleasure of the President of The~~  
2 ~~University of North Carolina; provided that the President shall not terminate the employment of~~  
3 ~~the executive director without prior consultation with the NCCAT Board of Trustees.~~  
4 ~~director~~  
5 ~~who shall be appointed by the NCCAT Board of Trustees."~~

6       **SECTION 9.13.(f)** G.S. 126-5(c1) is amended by adding a new subdivision to  
7 read:

8       "(29) The Executive Director, Deputy Director, all other directors, assistant and  
9 associate directors, and center fellows of the North Carolina Center for the  
10 Advancement of Teaching."

11       **SECTION 9.13.(g)** Existing appointed members of the NCCAT Board of Trustees  
12 shall continue to serve until their current terms expire. Their successors shall be appointed as  
13 provided in G.S. 115C-296.6, as rewritten by subsections (d) and (e) of this section.

## 14 **COASTAL DEMONSTRATION WIND TURBINES**

15       **SECTION 9.14.(a)** The University of North Carolina shall continue the coastal  
16 sounds wind energy study set forth in Section 9.12 of S.L. 2008-107 and, pursuant to Section  
17 9.12, shall apply for federal grants to continue the study. Funds appropriated by Public Law  
18 111-5, the American Recovery and Reinvestment Act of 2009, for renewable energy and  
19 allocated to the State of North Carolina shall be used for the development, design, and  
20 construction of at least three demonstration wind turbines and necessary support facilities in the  
21 sounds or off the coast of North Carolina, and the Director of the Budget shall ensure any  
22 available federal funds are secured. The actual placement of the wind turbines and necessary  
23 support facilities shall be determined by the coastal sounds wind energy study. The Director of  
24 the Budget shall ensure that any available federal funding is secured by the State to construct  
25 the wind turbines. The University, in collaboration with the Director of the Budget, shall enter  
26 into a contract with a third party by October 1, 2009, to construct, establish, and operate the  
27 demonstration turbines and necessary support facilities on or before April 1, 2010.

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

33       **SECTION 9.14.(c)** The last sentence of Section 9.12 of S.L. 2008-107 reads as  
34 rewritten:

35       "The Board of Governors shall report the results of this study to the House Committee on  
36 Energy and Energy Efficiency and the Senate Committee on Agriculture/Environment/Natural  
37 Resources by ~~July 1,~~ August 1, 2009."

## 38 **AMEND AID TO PRIVATE MEDICAL SCHOOLS**

39       **SECTION 9.15.** G.S. 116-21.5 reads as rewritten:

40       "**§ 116-21.5. Private medical schools-assistance funding formula.**

41       (a) Funds shall be appropriated each year in the Current Operations Appropriations Act  
42 to the Board of Governors of The University of North Carolina for continuation of financial  
43 assistance ~~to~~ for needy North Carolina students who are enrolled in the medical schools of  
44 Duke University and Wake Forest University. The funds shall be disbursed on certifications of  
45 the respective schools of medicine that show the number of North Carolina residents as  
46 first-year, second-year, third-year, and fourth-year students in the medical school as of the  
47 appropriate fiscal year.

48       (b) Disbursement to Wake Forest University shall be made in the amount of ~~eight~~  
49 ~~thousand dollars (\$8,000) for each medical student who is a North Carolina resident, one~~  
50 ~~thousand dollars (\$1,000) of which~~ for each medical student who is a North Carolina resident  
51

1 and shall be placed by the school in a fund to be used to provide financial aid to needy North  
2 Carolina students who are enrolled in the medical school. The maximum aid given to any  
3 student from this fund in a given year shall not exceed the amount of the difference in tuition  
4 and academic fees charged by the school and those charged at the School of Medicine at the  
5 University of North Carolina at Chapel Hill.

6 (c) Disbursement to Duke University shall be made in the amount of ~~five thousand~~  
7 ~~dollars (\$5,000) for each medical student who is a North Carolina resident, five hundred dollars~~  
8 ~~(\$500.00) of which~~ for each medical student who is a North Carolina resident and shall be  
9 placed by the school in a fund to be used to provide student financial aid to financially needy  
10 North Carolina students who are enrolled in the medical school. No individual student may be  
11 awarded assistance from this fund in excess of two thousand dollars (\$2,000) each year. In  
12 addition to this basic disbursement for each year of the biennium, a disbursement of one  
13 thousand dollars (\$1,000) shall be made for each medical student who is a North Carolina  
14 resident in the first year, second year, third year, and fourth year classes to the extent that  
15 enrollment of each of those classes exceeds 30 North Carolina students.The maximum aid  
16 given to any student from this fund in a given year shall not exceed the amount of the  
17 difference in tuition and academic fees charged by the school and those charged at the School  
18 of Medicine at the University of North Carolina at Chapel Hill.

19 (d) The Board of Governors shall establish the criteria for determining the eligibility for  
20 financial aid of needy North Carolina students who are enrolled in the medical schools and  
21 shall review the grants or awards to eligible students. The Board of Governors shall adopt rules  
22 for determining which students are residents of North Carolina for the purposes of these  
23 programs. The Board of Governors shall also make any regulations as necessary to ensure that  
24 these funds are used directly for instruction in the medical programs of the schools and not for  
25 religious or other nonpublic purposes. The Board of Governors shall encourage the two schools  
26 to orient students toward primary care, consistent with the directives of G.S. 143-613(a). The  
27 two schools shall supply information necessary for the Board to comply with G.S. 143-613(d).

28 (e) If the funds appropriated in the Current Operations Appropriations Act to the Board  
29 of Governors of The University of North Carolina for continuation of financial assistance to the  
30 medical schools of Duke University and Wake Forest University are insufficient to cover the  
31 enrolled students in accordance with this section, then the Board of Governors may transfer  
32 unused funds from other programs in the Related Educational Programs budget code to cover  
33 the extra students."  
34

### 35 **DISTINGUISHED PROFESSOR ENDOWMENT TRUST FUND/PRIORITIZE USE OF** 36 **FUNDS**

37 **SECTION 9.16.** Notwithstanding Part 4A of Article 1 of Chapter 116 of the  
38 General Statutes, of the funds appropriated by this act to the Board of Governors of The  
39 University of North Carolina and allocated to the Distinguished Professors Endowment Trust  
40 Fund established in G.S. 116-41.14, the sum of eight million dollars (\$8,000,000) for the  
41 2009-2010 fiscal year and the sum of eight million dollars (\$8,000,000) for the 2010-2011  
42 fiscal year shall first be used to match the grant from the C.D. Spangler Foundation. The  
43 balance of funds remaining from each appropriation of eight million dollars (\$8,000,000), if  
44 any, after matching the grant from the C.D. Spangler Foundation, shall be used to address the  
45 backlog of professorships awaiting State matching funds.  
46

### 47 **ELIMINATE ENROLLMENT GROWTH FUNDING FOR 2010-2011 FISCAL YEAR**

48 **SECTION 9.17.** Notwithstanding any other provision of law, the General  
49 Assembly does not intend to appropriate funds for the 2010-2011 fiscal year for the purpose of  
50 funding enrollment growth at the constituent institutions of The University of North Carolina.  
51



**PHASE OUT FUTURE TEACHERS SCHOLARSHIP LOAN PROGRAM**

**SECTION 9.18.(a)** Notwithstanding any other provision of law, scholarship loans from the Future Teachers of North Carolina Scholarship Loan Fund established by G.S. 116-209.38 for the 2010-2011 academic year shall be awarded only to students who are seniors for that academic year scheduled to graduate at the end of the 2010-2011 academic year.

**SECTION 9.18.(b)** All financial obligations to any student awarded a scholarship loan from the Future Teachers of North Carolina Scholarship Loan Fund before July 1, 2011, shall be fulfilled provided the student remains eligible under the provisions of the Future Teachers of North Carolina Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Future Teachers of North Carolina Scholarship Loan Fund before July 1, 2011, and the State Education Assistance Authority remain enforceable, and the provisions of G.S. 116-209.38 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2011.

**SECTION 9.18.(c)** Effective July 1, 2011, G.S. 116-209.38 is repealed.

**UNC MANAGEMENT FLEXIBILITY REDUCTION**

**SECTION 9.19.(a)** 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, and nonacademic activities. The Board of Governors and the campuses of the constituent institutions shall also 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.

**SECTION 9.19.(b)** In administering the management flexibility reserve, the Board of Governors shall ensure that funding is available to provide:

- (1) The sum of three million dollars (\$3,000,000) each year in recurring funds for the accreditation of the dental school at East Carolina University;
- (2) The sum of one million five hundred thousand dollars (\$1,500,000) for the 2009-2010 fiscal year for the purchase of equipment for the Joint School of Nanoscience and Nanoengineering at North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro. These funds shall replace funds reverted by the Governor for the 2008-2009 fiscal year; and
- (3) The sum of one million five hundred thousand dollars (\$1,500,000) each year in recurring funds to match a federal grant for the Engineering School at North Carolina Agricultural and Technical State University.

**REPEAL IN-STATE TUITION FOR FULL SCHOLARSHIP STUDENTS**

**SECTION 9.20.** G.S. 116-143.6 is repealed.

**REDUCE NUMBER OF COURSES UNC FACULTY AND STAFF MAY TAKE TUITION-FREE**

1           **SECTION 9.21.** G.S. 116-143(d) reads as rewritten:

2           "(d) Notwithstanding the above provision relating to the abolition of free tuition, the  
3 Board of Governors of The University of North Carolina may, in its discretion, provide  
4 regulations under which a full-time faculty member of the rank of full-time instructor or above,  
5 and any full-time staff member of The University of North Carolina may during the period of  
6 normal employment enroll for not more than ~~three~~two courses per year in The University of  
7 North Carolina free of charge for tuition, provided such enrollment does not interfere with  
8 normal employment obligations and further provided that such enrollments are not counted for  
9 the purpose of receiving general fund appropriations."

10  
11 **NO SPECIAL TALENT TUITION WAIVERS FOR STUDENT ATHLETES**

12           **SECTION 9.22.(a)** G.S. 116-143(c) reads as rewritten:

13           "(c) Inasmuch as the giving of tuition and fee waivers, or especially reduced rates,  
14 represent in effect a variety of scholarship awards, the said practice is hereby prohibited except  
15 when expressly authorized by statute or by the Board of Governors of The University of North  
16 Carolina; and, furthermore, it is hereby directed and required that all budgeted funds expended  
17 for scholarships of any type must be clearly identified in budget reports. The Board of  
18 Governors of The University of North Carolina shall not authorize a reduced rate of tuition for  
19 the special talent of athletics."

20           **SECTION 9.22.(b)** No policy adopted by the Board of Governors to authorize a  
21 special tuition rate for students who have athletics as a special talent shall be implemented for  
22 the 2009-2011 fiscal biennium.

23  
24 **NO IMPLEMENTATION OF CAMPUS INITIATED TUITION INCREASES**

25           **SECTION 9.23.** Notwithstanding any other provision of law, no campus initiated  
26 tuition increase, including those approved by the Board of Governors of The University of  
27 North Carolina for the 2009-2010 academic year on February 13, 2009, shall be implemented  
28 for the 2009-2010 academic year.

29  
30 **ESTABLISH JOINT LEGISLATIVE COMMITTEE ON CONSOLIDATION OF**  
31 **STATE SCHOLARSHIPS**

32           **SECTION 9.24.(a)** There is created the Joint Legislative Study Committee on  
33 Consolidation of State Scholarships. The Committee shall consist of 10 members. The Speaker  
34 of the House of Representatives shall appoint five members, and the President Pro Tempore of  
35 the Senate shall appoint five members.

36           The Speaker of the House of Representatives and the President Pro Tempore of the  
37 Senate each shall appoint a cochair for the Committee. The Committee may meet at any time  
38 upon the joint call of the cochairs. Vacancies on the Committee shall be filled by the same  
39 appointing authority as made the initial appointment.

40           The Committee, while in the discharge of its official duties, may exercise all powers  
41 provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may  
42 contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

43           Subject to the approval of the Legislative Services Commission, the Committee may  
44 meet in the Legislative Building or the Legislative Office Building. The Legislative Services  
45 Commission, through the Legislative Services Officer, shall assign professional staff to assist  
46 the Committee in its work. The House of Representatives' and the Senate's Director of  
47 Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to  
48 the clerical employees shall be borne by the Committee. Members of the Committee shall  
49 receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as  
50 appropriate.

1           **SECTION 9.24.(b)** The Committee shall study the feasibility of consolidating the  
2 scholarships available for students who attend any of the institutions of higher education that  
3 are part of The University of North Carolina. More specifically, the Committee shall consider  
4 consolidating those scholarships categorized as income-based scholarships and consolidating  
5 those scholarships categorized as merit-based scholarships. In its study the Committee shall  
6 review the qualifications for each scholarship, the purpose for which the scholarship is  
7 awarded, and any other criteria that make the scholarship either similar to other scholarships in  
8 the same category or that make the scholarship unique from others in its category. The  
9 Committee also shall consider marketing strategies for the scholarships and how to make the  
10 information regarding those scholarships more transparent, understandable, and accessible to  
11 the general public and to the students who may be interested in applying for the scholarships.  
12 In addition, the Committee may consider any other issues relevant to this study.

13           **SECTION 9.24.(c)** The Committee may make an interim report, including any  
14 legislative recommendations, to the 2009 General Assembly, 2010 Regular Session, and shall  
15 submit a final report, including any legislative recommendations, to the 2011 General  
16 Assembly. The Committee shall terminate upon filing its final report or upon the convening of  
17 the 2011 General Assembly, whichever is earlier.

18           **SECTION 9.24.(d)** From the funds appropriated by this act to the General  
19 Assembly for the 2009-2010 fiscal year and for the 2010-2011 fiscal year, the Legislative  
20 Services Commission may allocate monies to fund the work of the Committee.

21  
22 **ENCORE CENTER FOR LIFELONG ENRICHMENT AND THE WILLIAM AND IDA**  
23 **FRIDAY CENTER FOR CONTINUING EDUCATION/DISCRETIONARY FEE**  
24 **INCREASES TO COVER STATE BUDGET REDUCTIONS**

25           **SECTION 9.26.(a)** Notwithstanding G.S. 116-40.22 and G.S. 116-143, the fees  
26 charged for courses offered by the Encore Center for Lifelong Enrichment at North Carolina  
27 State University may, upon approval of the Chancellor of North Carolina State University, be  
28 increased for the 2009-2010 fiscal year and the 2010-2011 fiscal year to cover the Center's  
29 budget reduction of seventy-one thousand two hundred forty-three dollars (\$71,243) in State  
30 funds for each fiscal year.

31           **SECTION 9.26.(b)** Notwithstanding G.S. 116-40.22 and G.S. 116-143, the fees  
32 charged for courses offered by The William and Ida Friday Center for Continuing Education at  
33 the University of North Carolina at Chapel Hill may, upon approval of the Chancellor of the  
34 University of North Carolina at Chapel Hill, be increased for the 2009-2010 fiscal year and the  
35 2010-2011 fiscal year to cover the Center's budget reduction of two hundred thousand dollars  
36 (\$200,000) in State funds for each fiscal year.

37  
38 **ELIMINATE STATE FUNDING FOR MILLENNIUM SEMINARS AND PUBLIC**  
39 **SAFETY LEADERSHIP CENTER AT NORTH CAROLINA STATE UNIVERSITY**

40           **SECTION 9.27.** Notwithstanding any provision of law, no State funds shall be  
41 used for the support of the millennium seminars or the public safety leadership center at North  
42 Carolina State University for the 2009-2011 fiscal biennium.

43           The amount spent for this purpose for the 2008-2009 fiscal year was one hundred  
44 five thousand dollars (\$105,000).

45  
46 **LEGISLATIVE TUITION GRANTS AND RELIGIOUS COLLEGE GRANTS**

47           **SECTION 9.28.(a)** Notwithstanding any other provision of law, if the amount  
48 appropriated by this act to the State Education Assistance Authority for the 2009-2010 fiscal  
49 year for legislative tuition grants exceeds the amount required to pay the legislative tuition  
50 grants in the amount of one thousand eight hundred fifty dollars (\$1,850) to each North  
51 Carolina resident student attending the State's private colleges, then the State Education

1 Assistance Authority shall disburse the surplus balance of the funds equally among each  
2 eligible student as defined by G.S. 116-21.2 as part of each student's legislative tuition grant for  
3 the 2009-2010 fiscal year. However, under no circumstances shall any student receive a  
4 legislative tuition grant that exceeds the amount of one thousand nine hundred fifty dollars  
5 (\$1,950) for the 2009-2010 fiscal year.

6 **SECTION 9.28.(b)** Notwithstanding any other provision of law, if the amount  
7 appropriated by this act to the State Education Assistance Authority for the 2009-2010 fiscal  
8 year for religious college grants exceeds the amount required to pay the religious college grants  
9 in the amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina  
10 resident student attending the State's eligible institutions as defined by G.S. 116-43.5, then the  
11 State Education Assistance Authority shall disburse the surplus balance of the funds equally  
12 among each eligible student as defined by G.S. 116-43.5 as part of each student's religious  
13 college grant for the 2009-2010 fiscal year. However, under no circumstances shall any student  
14 receive a religious college grant that exceeds the amount of one thousand nine hundred fifty  
15 dollars (\$1,950) for the 2009-2010 fiscal year.

16  
17 **REPEAL SENIOR CITIZEN TUITION WAIVER FOR UNC CONSTITUENT**  
18 **INSTITUTIONS**

19 **SECTION 9.29.(a)** G.S. 115B-2(a)(1) is repealed.

20 **SECTION 9.29.(b)** G.S. 115B-2.1 is repealed.

21 **SECTION 9.29.(c)** G.S. 115B-5(a) is repealed.

22 **SECTION 9.29.(d)** G.S. 115D-5(b) reads as rewritten:

23 "(b) In order to make instruction as accessible as possible to all citizens, the teaching of  
24 curricular courses and of noncurricular extension courses at convenient locations away from  
25 institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata  
26 portion of the established regular tuition rate charged a full-time student shall be charged a  
27 part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of  
28 Community Colleges shall establish a uniform registration fee, or a schedule of uniform  
29 registration fees, to be charged students enrolling in extension courses for which instruction is  
30 financed primarily from State funds; provided, however, that the State Board of Community  
31 Colleges may provide by general and uniform regulations for waiver of tuition and registration  
32 fees for persons not enrolled in elementary or secondary schools taking courses leading to a  
33 high school diploma or equivalent certificate, for training courses for volunteer firemen, local  
34 fire department personnel, volunteer rescue and lifesaving department personnel, local rescue  
35 and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT)  
36 members when the REACT team is under contract to a county as an emergency response  
37 agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all  
38 full-time custodial employees of the Department of Correction, employees of the Department's  
39 Division of Community Corrections and employees of the Department of Juvenile Justice and  
40 Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and  
41 the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in  
42 courses conducted under the New and Expanding Industry Program, clients of sheltered  
43 workshops, clients of adult developmental activity programs, students in Health and Human  
44 Services Development Programs, juveniles of any age committed to the Department of Juvenile  
45 Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates,  
46 members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as  
47 administered under Article 5 of Chapter 127A of the General Statutes, and elementary and  
48 secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation  
49 (CPR). Provided further, tuition shall be waived for senior citizens attending institutions  
50 operating under this ~~Chapter as set forth in Chapter 115B of the General Statutes, Tuition~~  
51 ~~Waiver for Senior Citizens. Chapter.~~ Provided further, tuition shall also be waived for all

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

## 6 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### 7 **CHILD CARE SUBSIDY RATES**

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

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

14 FAMILY SIZE	15 PERCENT OF GROSS FAMILY INCOME
16 1-3	17 10%
18 4-5	19 9%
20 6 or more	21 8%.

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

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

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

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

50 **SECTION 10.1.(e)** A market rate shall be calculated for child care centers and  
51 homes at each rated license level for each county and for each age group or age category of  
enrollees and shall be representative of fees charged to parents for each age group of enrollees  
within the county. The Division of Child Development shall also calculate a statewide rate and  
regional market rates for each rated license level for each age category.

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

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

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

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

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

#### 25 26 **CHILD CARE ALLOCATION FORMULA**

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

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

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

43           **SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department  
44 of Health and Human Services shall allocate up to twenty million dollars (\$20,000,000) in  
45 federal block grant funds and State funds appropriated for fiscal years 2009-2010 and  
46 2010-2011 for child care services. These funds shall be allocated to prevent termination of  
47 child care services. Funds appropriated for specific purposes, including targeted market rate  
48 adjustments given in the past, may also be allocated by the Department separately from the  
49 allocation formula described in subsection (a) of this section.

#### 50 51 **CHILD CARE FUNDS MATCHING REQUIREMENT**

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

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

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

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

#### 31 **CHILD CARE REVOLVING LOAN**

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

#### 38 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 39 **ENHANCEMENTS**

40           **SECTION 10.7.(a)** Administrative costs shall be equivalent to, on an average  
41 statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide  
42 allocation to all local partnerships. For purposes of this subsection, administrative costs shall  
43 include costs associated with partnership oversight, business and financial management,  
44 general accounting, human resources, budgeting, purchasing, contracting, and information  
45 systems management.

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

- 49           (1) For amounts of five thousand dollars (\$5,000) or less, the procedures  
50 specified by a written policy to be developed by the Board of Directors of  
51 the North Carolina Partnership for Children, Inc.

- 1 (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen  
2 thousand dollars (\$15,000), three written quotes.
- 3 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than  
4 forty thousand dollars (\$40,000), a request for proposal process.
- 5 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for  
6 proposal process and advertising in a major newspaper.

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

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

39 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall  
40 result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent  
41 fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for  
42 compiling information on the private cash and in-kind contributions into a report that is  
43 submitted to the Joint Legislative Commission on Governmental Operations in a format that  
44 allows verification by the Department of Revenue. The same match requirements shall apply to  
45 any expansion funds appropriated by the General Assembly.

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

48 **SECTION 10.7.(e)** The Department of Health and Human Services and the North  
49 Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early  
50 Childhood Education and Development Initiatives for State fiscal years 2009-2010 and  
51 2010-2011 shall be administered and distributed in the following manner:



- 1 (1) Capital expenditures are prohibited for fiscal years 2009-2010 and  
2 2010-2011. For the purposes of this section, "capital expenditures" means  
3 expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).  
4 (2) Expenditures of State funds for advertising and promotional activities are  
5 prohibited for fiscal years 2009-2010 and 2010-2011.

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

12 **SECTION 10.7.(g)** For fiscal years 2009-2010 and 2010-2011, The North Carolina  
13 Partnership for Children, Inc., and the local partnerships shall spend at the level required in  
14 order to draw down all federal recovery funds for child care subsidies. The Department of  
15 Health and Human Services shall determine the level of funds that need to be expended in order  
16 to draw down all federal recovery funds.  
17

## 18 **TASK FORCE ON THE CONSOLIDATION OF EARLY CHILDHOOD EDUCATION** 19 **AND CARE**

20 **SECTION 10.7A.(a)** Intent. – It is the intent of the General Assembly that not later  
21 than July 1, 2010, certain agencies and programs relating to early childhood education and care  
22 shall be consolidated.

23 **SECTION 10.7A.(b)** Task Force Established. – There is established the Joint  
24 Legislative Task Force on the Consolidation of Early Childhood Education and Care (Task  
25 Force). The Department of Health and Human Services and the Department of Public  
26 Instruction shall work with the Task Force to develop a Consolidation Plan (Plan) to implement  
27 the Plan as approved by the 2010 Regular Session of the 2009 General Assembly.

28 **SECTION 10.7A.(c)** Task Force Membership. –

- 29 (1) Appointments to the Task Force shall be as follows:  
30 a. Three members of the House of Representatives appointed by the  
31 Speaker of the House of Representatives.  
32 b. Three members of the Senate appointed by the President Pro  
33 Tempore of the Senate.  
34 c. Three members appointed by the Governor.  
35 (2) Ex officio members. – For the purpose of providing needed expertise and  
36 advising, but also to avoid potential conflicts of interest, the following  
37 members shall serve as ex officio nonvoting members, appointed by the  
38 Governor.  
39 a. A representative of the Division of Child Development of the  
40 Department of Health and Human Services.  
41 b. A representative of the Department of Public Instruction.  
42 b1. A representative of the North Carolina Partnership for Children, Inc.  
43 c. A representative of a local board of education.  
44 d. A representative of institutions of higher education appointed by the  
45 Board of Governors of The University of North Carolina.  
46 e. A representative of local providers of early childhood education and  
47 development services.  
48 f. A representative from Head Start agencies located in the State,  
49 including migrant and seasonal Head Start programs and Indian Head  
50 Start programs.  
51 g. The State Director of the Head Start Collaboration.

- 1 h. A representative of the State agency responsible for programs under  
2 part C of the Individuals with Disabilities Education Act (IDEA).  
3 i. A representative of the Division of Mental Health, Developmental  
4 Disabilities, and Substance Abuse Services.  
5 j. Any additional ad hoc members deemed beneficial to achieve the  
6 goals of the Task Force.

7 Appointments to the Task Force shall be made no later than September 1, 2009.

8 Vacancies in the Task Force or a vacancy as chair of the Task Force resulting from  
9 the resignation of a member or otherwise shall be filled in the same manner in which the  
10 original appointment was made.

11 **SECTION 10.7A.(d) Duties of the Task Force. –**

- 12 (1) In consultation with the Department of Health and Human Services and the  
13 Department of Public Instruction, develop a Plan for a highly coordinated  
14 and efficient system of early childhood education and care.  
15 (2) Not later than January 15, 2010, establish and appoint a transition team to  
16 implement the Plan approved by the General Assembly. The transition team  
17 shall be responsible for guiding the transition from the  
18 multiagency/multiprogram system now in place to a consolidated system and  
19 to ensure continuity and quality of existing services to young children,  
20 families, and early childhood programs and personnel.  
21 (3) Adhere to the following principles in the development and implementation  
22 of the Plan approved by the General Assembly.  
23 a. Ensuring high quality programs.  
24 b. Ensuring core functions remain intact.  
25 c. Maintaining the strengths and effectiveness of each program.  
26 d. Identifying and proposing efficiencies.  
27 e. Identifying needed improvements.  
28 f. Streamlining administrative savings.  
29 g. Promoting a seamless delivery of services from birth through  
30 kindergarten.  
31 h. Any other principles the Task Force deems relevant.  
32 (4) Consider the following agencies and functions for consolidation:  
33 a. The North Carolina Partnership for Children, Inc.  
34 b. The "More at Four" Program.  
35 c. Title I Prekindergarten programs.  
36 d. Preschool Exceptional Children.  
37 e. Early Intervention programs.  
38 f. Head Start Collaboration.  
39 g. Child Care Regulatory and Subsidy.  
40 h. Licensing and Regulatory Functions.  
41 i. Workforce Professional Development and Recognition.  
42 j. Quality Initiatives.  
43 (5) Consult with appropriate State departments, agencies, and board  
44 representatives on issues related to early childhood education and care.  
45 (6) In developing the Plan, review and consider the proposal included in  
46 Ensuring School Readiness for North Carolina's Children: Bringing the Parts  
47 Together to Create an Integrated Early Care and Education System,  
48 November, 2004.

49 **SECTION 10.7A.(e) Chair; Meetings. –** The Speaker of the House of  
50 Representatives and the President Pro Tempore of the Senate shall each designate one member  
51 to serve as cochair of the Task Force.

1 The cochairs shall call the initial meeting of the Task Force on or before October 1,  
 2 2009. The Task Force shall subsequently meet upon such notice and in such manner as its  
 3 members determine. A majority of the members of the Task Force shall constitute a quorum.

4 **SECTION 10.7A.(f)** Expenses of Members. – Members of the Task Force shall  
 5 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or  
 6 138-6, as appropriate.

7 **SECTION 10.7A.(g)** Cooperation by Government Agencies. – The Task Force  
 8 may call upon any department, agency, institution, or officer of the State or any political  
 9 subdivision thereof for facilities, data, or other assistance.

10 **SECTION 10.7A.(h)** Report. – The Task Force shall report its findings and  
 11 recommendations by January 15, 2010, to the Joint Legislative Oversight Committee on  
 12 Government Operations, the House of Representatives Appropriations Subcommittee on Health  
 13 and Human Services, the Senate Appropriations Committee on Health and Human Services, the  
 14 House of Representatives Subcommittee on Education, the Senate Appropriations Committee  
 15 on Education, and the Fiscal Research Division. The Task Force shall terminate upon filing its  
 16 final report.

17 **SECTION 10.7A.(i)** Proposal. – After reviewing the report submitted by the Task  
 18 Force, the House of Representatives Appropriations Subcommittee on Health and Human  
 19 Services, the Senate Appropriations Committee on Health and Human Services, the House of  
 20 Representatives Appropriations Subcommittee on Education, and the Senate Appropriations  
 21 Committee on Education shall develop language and a budget proposal by May 30, 2010, to  
 22 present to the 2010 Regular Session of the 2009 General Assembly to implement the  
 23 consolidation of early childhood education and care programs, which consolidation shall  
 24 become effective July 1, 2010.

25 **SECTION 10.7A.(j)** Funding. – The Legislative Services Officer shall allocate  
 26 funds to carry out the duties of the Task Force.

27 **SECTION 10.7A.(k)** Effective date. – This section becomes effective July 1, 2009.  
 28 Effective July 1, 2010, the Consolidation as contained in the Plan approved by the 2010  
 29 Regular Session of the 2009 General Assembly, shall be implemented.

30  
 31 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL**  
 32 **SERVICES**

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

38  
 39 **INCREASE CHILD CARE LICENSING FEES FOR CHILD CARE FACILITIES**

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

41 "**§ 110-90. Powers and duties of Secretary of Health and Human Services.**

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

44 ...

45 (1a) To establish a fee for the licensing of child care ~~centers-facilities~~. The fee  
 46 does not apply to a religious-sponsored child care ~~center-facility~~ operated  
 47 pursuant to a letter of compliance. The amount of the fee may not exceed the  
 48 amount listed in this subdivision.

<b>Capacity of <del>Center</del>Facility</b>	<b>Maximum Fee</b>
12 or fewer children	<del>\$ 35.00</del> \$52.00
13-50 children	<del>\$125.00</del> \$187.00

1	51-100 children	<del>\$250.00</del> <u>\$375.00</u>
2	101 or more children	<del>\$400.00</del> <u>\$600.00</u>
3	...."	

## 5 MENTAL HEALTH CHANGES

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

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

20 **SECTION 10.12.(c)** Of the funds appropriated in this act to the Department of  
21 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
22 Substance Abuse Services, the sum of fourteen million one hundred forty-nine thousand one  
23 hundred fifteen dollars (\$14,149,115) for the 2009-2010 fiscal year and the sum of fourteen  
24 million one hundred forty-nine thousand one hundred fifteen dollars (\$14,149,115) for the  
25 2010-2011 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or  
26 bed days. These beds or bed days shall be distributed across the State according to need as  
27 determined by the Department. The Department shall enter into contracts with the LMEs and  
28 community hospitals for the management of these beds or bed days. Local inpatient psychiatric  
29 beds or bed days shall be managed and controlled by the LME, including the determination of  
30 which local or State hospital the individual should be admitted to pursuant to an involuntary  
31 commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide  
32 reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse  
33 Services to pay for services authorized by the LMEs and billed by the hospitals through the  
34 LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt  
35 of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt  
36 of payment from the Division. If the Department determines (i) that an LME is not effectively  
37 managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days  
38 in the local hospital not being utilized while demand for services at the State psychiatric  
39 hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment  
40 provisions of this subsection, the Department may contract with another LME to manage the  
41 beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the  
42 hospital directly. The Department shall develop reporting requirements for LMEs regarding  
43 the utilization of the beds or bed days. Funds appropriated in this section for the purchase of  
44 local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed  
45 days not currently funded by or through LMEs and shall not be used to supplant other funds  
46 available or otherwise appropriated for the purchase of psychiatric inpatient services under  
47 contract with community hospitals, including beds or bed days being purchased through  
48 Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2010,  
49 the Department shall report to the House of Representatives Appropriations Subcommittee on  
50 Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental  
51 Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research

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

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

12 **SECTION 10.12.(e)**

13 (1) The Department of Health and Human Services, Division of Mental Health,  
14 Developmental Disabilities, and Substance Abuse Services shall create an  
15 "incurred but not reported" category of expenditures such that services are  
16 paid based on the actual date of services rather than the date when the  
17 invoice is received. The Department may only implement this change with  
18 the approval of the Office of State Budget and Management.

19 (2) The Department of Health and Human Services, Division of Mental Health,  
20 Developmental Disabilities, and Substance Abuse Services may require that  
21 providers of mental health, developmental disabilities, and substance abuse  
22 services submit bills to the LME for State-funded services within 60 days of  
23 the date the services were provided.

24 **SECTION 10.12.(f)** The Department of Health and Human Services may create a  
25 midyear process by which it can reallocate State service dollars away from LMEs that do not  
26 appear to be on track to spend the LMEs' full appropriation and toward LMEs that appear able  
27 to spend the additional funds.

28 **SECTION 10.12.(g)**

29 (1) The Department of Health and Human Services, Division of Mental Health,  
30 Developmental Disabilities, and Substance Abuse Services, shall continue  
31 implementation of the current Supports Intensity Scale (SIS) assessment tool  
32 pilot project if the pilot project has demonstrated that the SIS tool:

- 33 a. Is effective in identifying the appropriate array and intensity of  
34 services, including residential supports or placement, for individuals  
35 assessed.
- 36 b. Is valid for determining intensity of support related to resource  
37 allocation for CAP-MR/DD, public and private ICF-MR facilities,  
38 developmental disability group homes, and other State- or federally  
39 funded services.
- 40 c. Is used by an assessor that does not have a pecuniary interest in the  
41 determinations resulting from the assessment.
- 42 d. Determines the level of intensity and type of services needed from  
43 developmental disability service providers.

44 (2) The Department shall report on the progress of the pilot project by May 1,  
45 2010. The Department shall submit the report to the Joint Legislative  
46 Oversight Committee on Mental Health, Developmental Disabilities, and  
47 Substance Abuse Services, the House of Representatives Appropriations  
48 Subcommittee on Health and Human Services, the Senate Appropriations  
49 Committee on Health and Human Services, and the Fiscal Research  
50 Division. The report shall include the following:

- 1 a. The infrastructure that will be needed to assure that the  
2 administration of the assessment tool is independent from service  
3 delivery, the qualifications of assessors, training and management of  
4 data, and test-retest accountability.  
5 b. The cost to: (i) purchase the tool, (ii) implement the tool, (iii) provide  
6 training, and (iv) provide for future expansion of the tool statewide.  
7

8 **REENACT 2007 SPECIAL PROVISION ON COLLABORATION ON**  
9 **SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

10 **SECTION 10.13.** Section 10.9 of S.L. 2007-323 is reenacted for the 2009-2011  
11 fiscal biennium.  
12

13 **SUBSTANCE ABUSE TASK FORCE RECOMMENDATIONS/AVAILABILITY OF**  
14 **SUBSTANCE ABUSE TREATMENT**

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

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

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

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

39 **TOTAL QUALITY MANAGEMENT**

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

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

49 The Department shall submit a report on the status of the Total Quality Management  
50 Program, including any activities associated with its implementation within State facilities, to  
51 the Senate Appropriations Committee on Health and Human Services, the House of

1 Representatives Appropriations Subcommittee on Health and Human Services, the Joint  
2 Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance  
3 Abuse Services, and the Fiscal Research Division not later than December 1, 2009.

#### 4 5 **IOM STUDIES**

6 **SECTION 10.18.(a)** Funds appropriated in this act to the Department of Health  
7 and Human Services for North Carolina Institute of Medicine (NCIOM) may be used to study  
8 the following:

- 9 (1) The availability of Medicaid and State-funded mental health, developmental  
10 disability, and substance abuse services to active duty, reserve, and veteran  
11 members of the military and National Guard. The study should discuss the  
12 current availability of services, the extent of use, and any gaps in services.
- 13 (2) Issues related to cost, quality, and access to appropriate and affordable  
14 health care for all North Carolinians. The NC Institute of Medicine  
15 (NCIOM) may use funds appropriated for the 2007-2009 fiscal biennium to  
16 continue the work of its Health Access Study Group to study these issues.  
17 The Health Access Study Group may include in its study the matters  
18 contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181, and may also  
19 monitor federal health-related legislation to determine how the legislation  
20 would impact costs, quality, and access to health care.
- 21 (3) Short-term and long-term strategies to address issues within adult care  
22 homes that provide residence to persons who are frail and elderly and to  
23 persons suffering from mental illness.

24 **SECTION 10.18.(b)** The Institute shall make an interim report to the Governor's  
25 Office, the Joint Legislative Health Care Oversight Committee, and the Joint Legislative  
26 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse  
27 Services no later than January 15, 2010, which may include recommendations and proposed  
28 legislation, and shall issue its final report with findings, recommendations, and suggested  
29 legislation to the 2011 General Assembly upon its convening. In the event members of the  
30 General Assembly serve on the NCIOM Health Access Study Group, they shall receive per  
31 diem, subsistence, and travel allowances in accordance with G.S. 120-3.1. The Health Access  
32 Study Group may include in its study the matters contained in Sections 31.1, 31.2, and 31.3 of  
33 S.L. 2008-181, and may also monitor federal health-related legislation to determine how the  
34 legislation would impact costs, quality, and access to health care.

#### 35 36 **DHHS DATA COLLECTION REVIEW AND STREAMLINING**

37 **SECTION 10.18B.** The Department of Health and Human Services, Division of  
38 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall review all data  
39 collection instruments and shall streamline the amount of paperwork involved with patient data  
40 reporting by physicians and providers.

#### 41 42 **MULTICOUNTY LME FUND BALANCE REQUIREMENTS**

43 **SECTION 10.19A.(a)** Notwithstanding any other provision of law to the contrary,  
44 requirements for the maintenance, deposit, and withdrawal from a multicounty LME's fund  
45 balance are as follows:

- 46 (1) The Department of Health and Human Services shall allocate the  
47 nonrecurring reduction in State funds in each fiscal year on a pro rata basis  
48 to each multicounty LME based on the LME's fund balance. The Department  
49 shall not allocate State funds to the LME until the LME has supplanted its  
50 pro rata reduction from its fund balance to provide services to non-Medicaid  
51 eligible IPRS clients.

- 1 (2) LMEs shall use funds in the LME's fund balance to supplant nonrecurring  
2 reductions in State funds for the 2009-2010 fiscal year and the 2010-2011  
3 fiscal year in an amount equal to or greater than the nonrecurring reduction  
4 in State funds in each fiscal year. Fund balance funds used to supplant  
5 nonrecurring reductions shall be used exclusively to provide services to  
6 LME clients. In no event shall the LME reduce or otherwise adversely affect  
7 services due to nonrecurring reductions in State funds in each fiscal year.
- 8 (3) LMEs shall not use fund balance funds for any purpose other than to provide  
9 services to LME clients, even if funds in the fund balance exceed what is  
10 necessary to provide services for the 2009-2010 and 2010-2011 fiscal years.
- 11 (4) The use of fund balance monies to provide services is subject to the prior  
12 approval of the Department of Health and Human Services, Division of  
13 Mental Health, Developmental Disabilities, and Substance Abuse Services.  
14 The Division shall track fund balance usage of each LME to ensure that the  
15 amount used from the fund balance in each fiscal year is at least equal to the  
16 nonrecurring reduction in State funds for that fiscal year and is used to  
17 provide services and for no other purpose.
- 18 (5) Reimbursements received from the Department of Health and Human  
19 Services after July 1, 2009, for services provided in the 2008-2009,  
20 2009-2010, and 2010-2011 fiscal years shall not be deposited in the LME's  
21 fund balance but shall be used to continue to provide services in each fiscal  
22 year.

23 **SECTION 10.19A.(b)** The Department of Health and Human Services, Division of  
24 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall require  
25 quarterly reporting from single county LMEs in a format that will enable the Division to  
26 determine if any funds in the county's fund balance are funds allocated for but not used to  
27 provide mental health, developmental disabilities, and substance abuse services. The  
28 Department of Health and Human Services shall report the results of the quarterly reports to the  
29 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and  
30 Substance Abuse Services, the House of Representatives Appropriations Subcommittee on  
31 Health and Human Services, the Senate Appropriations Committee on Health and Human  
32 Services, and the Fiscal Research Division on or before May 1, 2010.

33 **SECTION 10.19A.(c)** The Department of Health and Human Services, Division of  
34 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop  
35 categories reflecting the source and original purpose of MH/DD/SA funds in an LME or county  
36 fund balance.

## 37 38 **TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED** 39 **SERVICES TO LOCAL MANAGEMENT ENTITIES**

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

## 46 47 **VENDING ACCOUNTS**

48 **SECTION 10.20A.** The Office of State Budget and Management and the  
49 Department of Health and Human Services, Division of Mental Health, Developmental  
50 Disabilities, and Substance Abuse Services, shall eliminate all Budget Codes within the 2000  
51 range and the 6000 range that pertain to vending receipt accounts and patient and employee



1 activities. These vending receipt accounts shall become part of the operating budgets within the  
2 State facilities and shall be budgeted for patient activities and services on an ongoing basis. All  
3 receipts generated by vending machine services shall be retained for use in the facility in which  
4 the vending machine service is operated.

## 5 6 **WESTERN REGIONAL MAINTENANCE OPERATIONS**

7 **SECTION 10.21A.(a)** In coordination with Broughton Hospital, the Western  
8 School for the Deaf, the J. Iverson Riddle Developmental Center, and elected representatives of  
9 the workers in each trade assigned to Western Regional Maintenance (WRM), the Department  
10 of Health and Human Services shall develop and implement a plan for western regional  
11 maintenance operations that increases efficiency, improves facility support, and is more  
12 responsive to WRM customers. The plan shall provide for the following:

- 13 (1) WRM programs shall be decentralized.
- 14 (2) Staff shall be assigned directly to each facility and shall report to designated  
15 facility managers.
- 16 (3) Supervisors shall be responsible for filling work orders and supervising team  
17 members. Eliminate supervisor positions that are not needed to effectively  
18 carry out all supervisory duties.
- 19 (4) Make available to each supported organization general maintenance workers  
20 to allow the completion of simple tasks without requiring work orders  
21 through a central location.
- 22 (5) The maintenance programs of each facility shall share equipment and  
23 expertise to the extent possible to achieve savings.

24 **SECTION 10.21A.(b)** The Department shall decentralize the maintenance  
25 activities at the Butner facilities.

26 **SECTION 10.21A.(c)** The Department of Health and Human Services shall report  
27 on the implementation of these changes not later than October 1, 2009, to the House of  
28 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
29 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

## 30 31 **CAP-MR/DD STATE FUND SERVICE ELIGIBILITY**

32 **SECTION 10.21B.** CAP-MR/DD recipients are not eligible for any State-funded  
33 services except for those services for which there is not a comparable service in the  
34 CAP-MR/DD waiver. The excepted services are limited to guardianship, room and board, and  
35 time-limited supplemental staffing to stabilize residential placement.

## 36 37 **MINIMIZE ALLOCATION OF MH/DD/SA REDUCTIONS IN EARLY CHILDHOOD 38 INTERVENTION PROGRAMS**

39 **SECTION 10.21C.** In allocating the recurring reduction to Non-core State  
40 operated services, the Department of Health and Human Services, Division of Mental Health,  
41 Developmental Disabilities, and Substance Abuse Services, shall minimize reductions to  
42 childhood early intervention programs operating in multi-counties such that the overall  
43 reduction to the Family Infant and Preschool Program for the 2009-2011 biennium shall not  
44 exceed twenty-five percent (25%) of the Program's total authorized budget for the 2008-2009  
45 fiscal year. The Department of Health and Human Services shall pursue federal recovery funds  
46 and additional Headstart funds for the operations of these programs."

## 47 48 **VITAL RECORDS FEES**

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

50 **"§ 130A-93.1. Fees for vital records copies or search; automation fund.**

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

- 1 (1) A fee not to exceed ~~fifteen dollars (\$15.00)~~ twenty-four dollars (\$24.00)  
2 shall be charged for issuing ~~any~~ a first copy of a vital record or for  
3 conducting a routine search of the files for the record when no copy is made.  
4 A fee of fifteen dollars (\$15.00) shall be charged for each additional  
5 certificate copy requested from the same search. When certificates are issued  
6 or searches conducted for statewide issuance by local agencies using  
7 databases maintained by the State Registrar, the local agency shall charge  
8 ~~this fee these fees~~ and shall ~~forward five dollars (\$5.00) of this fee~~ retain ten  
9 dollars (\$10.00) of these fees to cover local administrative costs and forward  
10 the remaining fees to the State Registrar for the purposes established in  
11 subsection (b) of this section.
- 12 (2) A fee not to exceed fifteen dollars (\$15.00) for in-State requests and not to  
13 exceed twenty dollars (\$20.00) for out-of-state requests shall be charged in  
14 addition to the fee charged under subdivision (1) of this subsection and to all  
15 shipping and commercial charges when expedited service is specifically  
16 requested.
- 17 (2a) The fee for a copy of a computer or microform database shall not exceed the  
18 cost to the agency of making and providing the copy.
- 19 (3) Except as provided in subsection (b) of this section, fees collected under this  
20 subsection shall be used by the Department for public health purposes.
- 21 (b) The Vital Records Automation Account is established as a nonreverting account  
22 within the Department. Five dollars (\$5.00) of each fee collected pursuant to subdivision (a)(1)  
23 shall be credited to this Account. The Department shall use the revenue in the Account to fully  
24 automate and maintain the vital records system. When funds sufficient to fully automate and  
25 maintain the system have accumulated in the Account, fees shall no longer be credited to the  
26 Account but shall be used as specified in subdivision (a)(3) of this section."  
27

## 28 CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES 29 INITIATIVE

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

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

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

- 49 (1) Which community programs and local health departments received CFEHDI  
50 grants.  
51 (2) The amount of funding each program or local health department received.

- 1 (3) Which of the minority populations were served by the programs or local
- 2 health departments.
- 3 (4) Which counties were served by the programs or local health departments.
- 4 (5) What activities were planned and implemented by the programs or local
- 5 health departments to fulfill the community focus of the CFEHDI program.
- 6 (6) How the activities implemented by the programs or local health departments
- 7 fulfilled the goal of reducing health disparities among minority populations.

8 The report shall also include specific activities undertaken pursuant to subsection (a)  
9 of this section to address large gaps in health status among North Carolinians who are  
10 African-American and other minority populations in this State. The Department shall submit  
11 the report not later than March 15, 2010, to the House of Representatives Appropriations  
12 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
13 and Human Services, and the Fiscal Research Division.

#### 14 15 **AIDS DRUG ASSISTANCE PROGRAM**

16 **SECTION 10.25.(a)** For the 2009-2010 and 2010-2011 fiscal years, the  
17 Department may, within existing Aids Drug Assistance Program (ADAP) resources, adjust the  
18 financial eligibility criterion of the ADAP up to an amount not exceeding three hundred percent  
19 (300%) of the federal poverty level in order to serve as many eligible North Carolinians living  
20 with HIV disease as possible within existing resources plus any new federal resources. If a  
21 waiting list develops as a result of the eligibility criterion being raised, the Department shall  
22 give first priority to those individuals on the waiting list with income at or below one hundred  
23 twenty-five percent (125%) of the federal poverty level, and second priority to those  
24 individuals with income above one hundred twenty-five percent (125%) and at or below two  
25 hundred fifty percent (250%) of federal poverty guidelines.

26 **SECTION 10.25.(b)** The Department of Health and Human Services (DHHS) shall  
27 work with the Department of Correction (DOC) to use DOC funds to purchase pharmaceuticals  
28 for the treatment of DOC inmates with HIV/AIDS in a manner that allows these funds to be  
29 accounted for as State matching funds in DHHS drawing down federal Ryan White funds.

#### 30 31 **PUBLIC HEALTH IMPROVEMENT PLAN**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **REPLACEMENT OF RECEIPTS FOR CHILD DEVELOPMENT SERVICE AGENCIES**

**SECTION 10.26A.** Receipts earned by the Child Development Service Agencies (CDSAs) from any public or private third-party payor shall be budgeted on a recurring basis to replace reductions in State appropriations to CDSAs.

## **HOSPITAL-ACQUIRED INFECTIONS**

**SECTION 10.28.** The Department of Health and Human Services shall apply for federal funds that are available through the American Recovery and Reinvestment Act of 2009, P.L. 111-5, to implement a mandatory statewide hospital-acquired infections surveillance and reporting system, as recommended by the Joint Study Committee on Hospital Infection Control and Disclosure.

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

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

- (1) Explore various opportunities through public awareness campaigns and enlisting community organizations to alert families of the opportunities of

- 1 Medicaid and NC Health Choice to provide preventive health care to their  
2 children; and  
3 (2) Pursue opportunities in the federal Children's Health Insurance Program  
4 Reauthorization Act (CHIPRA) to enhance outreach efforts and enrollment  
5 for children in Medicaid and NC Health Choice. These enhancements may  
6 include funding for outreach and enrollment activities and implementation of  
7 the "Express Lane" option that uses agencies that determine eligibility for  
8 TANF, IV-D SNAP, Head Start, and School Lunch programs to enroll  
9 children.

## 10 11 **NC HEALTH CHOICE TRANSITION**

12 **SECTION 10.31.(a)** The Secretary of the Department of Health and Human  
13 Services shall develop and implement a plan for assuming administrative responsibility for the  
14 North Carolina Health Choice for Children program by transitioning all administrative  
15 oversight activities from the Executive Administrator and Board of Trustees of the State Health  
16 Plan for Teachers and State Employees to the Division of Medical Assistance. The transition  
17 of all administrative oversight from the State Health Plan to the Division of Medical Assistance  
18 shall be completed not later than July 1, 2010. The Secretary shall report to the Joint  
19 Legislative Health Care Oversight Committee and the Committee on Employee Hospital and  
20 Medical Benefits at least 30 days prior to effecting the transition of the responsibilities for the  
21 administration from the Executive Administrator and Board of Trustees of the State Health  
22 Plan for Teachers and State Employees to the Department.

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

## 34 35 **NC HEALTH CHOICE MEDICAL POLICY**

36 **SECTION 10.33.** Unless required for compliance with federal law, the Department  
37 shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC  
38 Health Choice health care services and who may provide services until the Division of Medical  
39 Assistance has prepared a five-year fiscal analysis documenting the increased cost of the  
40 proposed change in medical policy and submitted it for Departmental review. If the fiscal  
41 impact indicated by the fiscal analysis for any proposed medical policy change exceeds one  
42 million dollars (\$1,000,000) in total requirements for a given fiscal year, then the Department  
43 shall submit the proposed medical policy change with the fiscal analysis to the Office of State  
44 Budget and Management and the Fiscal Research Division. The Department shall not  
45 implement any proposed medical policy change exceeding one million dollars (\$1,000,000) in  
46 total requirements for a given fiscal year unless the source of State funding is identified and  
47 approved by the Office of State Budget and Management. For medical policy changes  
48 exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year that are  
49 required for compliance with federal law, the Department shall submit the proposed medical  
50 policy or policy interpretation change with a five-year fiscal analysis to the Office of State  
51 Budget and Management prior to implementing the change. The Department shall provide the

1 Office of State Budget and Management and the Fiscal Research Division a quarterly report  
2 itemizing all medical policy changes with total requirements of less than one million dollars  
3 (\$1,000,000).

#### 5 NCHC FUNDS REDUCTION/CCNC

6 **SECTION 10.35.(a)** Effective July 1, 2009, G.S. 108A-70.21(b) reads as rewritten:

7 "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,  
8 copayments, and other cost sharing charges, health benefits coverage provided to children  
9 eligible under the Program shall be equivalent to coverage provided for dependents under the  
10 Predecessor Plan.

11 In addition to the benefits provided under the Predecessor Plan, the following services and  
12 supplies are covered under the Health Insurance Program for Children established under this  
13 Part:

- 14 (1) Oral examinations, teeth cleaning, and topical fluoride treatments twice  
15 during a 12-month period, full mouth X-rays once every 60 months,  
16 supplemental bitewing X-rays showing the back of the teeth once during a  
17 12-month period, sealants, extractions, other than impacted teeth or wisdom  
18 teeth, therapeutic pulpotomies, space maintainers, root canal therapy for  
19 permanent anterior teeth and permanent first molars, prefabricated stainless  
20 steel crowns, and routine fillings of amalgam or other tooth colored filling  
21 material to restore diseased teeth.
- 22 (1a) Orthognathic surgery to correct functionally impairing malocclusions when  
23 orthodontics was approved and initiated while the child was covered by  
24 Medicaid and the need for orthognathic surgery was documented in the  
25 orthodontic treatment plan.
- 26 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass  
27 lenses or contact lenses once every 12 months, routine replacement of  
28 eyeglass frames once every 24 months, and optical supplies and solutions  
29 when needed. Optical services, supplies, and solutions must be obtained  
30 from licensed or certified ophthalmologists, optometrists, or optical  
31 dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal,  
32 trifocal, or other complex lenses necessary for a Plan enrollee's visual  
33 welfare. Coverage for oversized lenses and frames, designer frames,  
34 photosensitive lenses, tinted contact lenses, blended lenses, progressive  
35 multifocal lenses, coated lenses, and laminated lenses is limited to the  
36 coverage for single vision, bifocal, trifocal, or other complex lenses provided  
37 by this subsection. Eyeglass frames are limited to those made of zylonite,  
38 metal, or a combination of zylonite and metal. All visual aids covered by this  
39 subsection require prior approval. Upon prior approval refractions may be  
40 covered more often than once every 12 months.
- 41 (3) Hearing: Auditory diagnostic testing services and hearing aids and  
42 accessories when provided by a licensed or certified audiologist,  
43 otolaryngologist, or other approved hearing aid specialist. Prior approval is  
44 required for hearing aids, accessories, earmolds, repairs, loaners, and rental  
45 aids.
- 46 (4) Over the counter medications: Selected over the counter medications  
47 provided the medication is covered under the State Medical Assistance Plan.  
48 Coverage shall be subject to the same policies and approvals as required  
49 under the Medicaid program.
- 50 (5) Routine diagnostic examinations and tests: annual routine diagnostic  
51 examinations and tests, including x-rays, blood and blood pressure checks,

1 urine tests, tuberculosis tests, and general health check-ups that are  
2 medically necessary for the maintenance and improvement of individual  
3 health are covered.

4 No benefits are to be provided for services and materials under this subsection that do not  
5 meet the standards accepted by the American Dental Association.

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

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

## 15

### 16 **REPORT ON DHHS POSITION ELIMINATIONS**

17 **SECTION 10.35A.** The Secretary of the Department of Health and Human  
18 Services may achieve the savings from position eliminations by reducing a lesser number of  
19 positions than prescribed in the money report for Department of Health and Human Services.  
20 The Secretary shall report on the number of positions eliminated in the budget for the  
21 2009-2010 fiscal year. The report shall include the total number of positions, including  
22 positions filled and vacant positions, and savings generated through salary and fringe benefits  
23 and any severance paid out. The Secretary shall submit the report to the House of  
24 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
25 Appropriations Committee on Health and Human Services, and the Fiscal Research Division on  
26 or before March 1, 2010.

## 27

### 28 **COMMUNITY CARE OF NORTH CAROLINA**

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

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

- 38 (1) Written standards for patient access and patient communication.
- 39 (2) Use of data to show patients are meeting these standards.
- 40 (3) Adoption and implementation of evidence-based guidelines for priority  
41 diseases and conditions identified by the Department.
- 42 (4) Active support, monitoring, follow-up, and documentation on patient  
43 self-management.
- 44 (5) Tracking system to test and identify abnormal results, and follow-up in a  
45 timely manner.
- 46 (6) Tracking referrals from and to other acute and long-term care facilities and  
47 providers, so as to provide continuous management of patient care.
- 48 (7) Measurement of clinical and/or service performance by physician or across a  
49 practice.
- 50 (8) Reporting performance according to baseline data and performance  
51 measures established by the Department's Independent Advisory Group



(IAG) across CCNC networks, practices, and physicians to achieve the maximum savings possible through improvement in the quality of care.

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

- (1) The IAG shall begin work immediately so that baseline data, clinically acceptable performance measures, and practice goals to improve quality and cost savings can be implemented no later than January 1, 2010.
- (2) The Department shall prepare a report to the General Assembly on the baseline data, clinically acceptable performance measures, and practice goals adopted by the IAG and the improved quality and cost savings expected as a result of their implementation. This report will be due January 31, 2010.
- (3) The IAG shall establish baseline information and performance measures for the diseases and conditions listed in this subdivision, the focus of which shall be on Medicaid recipients who are children, adults, and those who are aged, blind, or disabled. The diseases and conditions shall include all of the following:
  - a. Asthma.
  - b. Diabetes.
  - c. Heart disease.
  - d. Chronic Obstructive Pulmonary Disease.
  - e. Mental illness.
  - f. Substance abuse.
  - g. Obesity.
  - h. High risk maternity care.
- (4) The baseline information, performance measures, and practice and physician goals developed for the continuing care of Medicaid recipients who are also eligible for Medicare shall include attention to all of the following for this population:
  - a. Increased primary care visit rate.
  - b. Hospital admission rate.
  - c. Hospital readmission rate.
  - d. Emergency department visit rate.
  - e. Mortality rate.
  - f. Prescription drug management, including:
    1. Number of prescriptions prescribed,
    2. Number of generic versus brand-name prescriptions, and
    3. Reconciliation of a patient's prescriptions between hospital, nursing facility, and primary care physician.

**SECTION 10.36.(c1)** 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 upon (i) CCNC performance measures, (ii) performance measures adopted by the IAG, and (iii) nationally accepted evidence-based performance measures.

1           **SECTION 10.36.(d)** The Department shall conduct a Request for Proposal process  
2 to solicit bids from qualified outside entities with proven experience in conducting actuarial  
3 and health care studies and evaluations to annually report on the Medicaid cost savings  
4 achieved by the CCNC networks during a 12-month period.

5           **SECTION 10.36.(e)** The contractor's report, information, and data shall be in a  
6 format that allows the Department to manipulate and assess the performance of CCNC as a  
7 whole and for its 14 networks individually. Not later than October 1, 2010, and annually  
8 thereafter, the Department shall provide to the Senate Appropriations Committee on Health and  
9 Human Services, the House of Representatives Appropriations Subcommittee on Health and  
10 Human Services, and the Fiscal Research Division copies of the contractor's report for CCNC  
11 activities conducted during the 2009-2010 fiscal year.

12           **SECTION 10.36.(f)** The Children's Health Insurance Program Reauthorization  
13 Act, P.L. 111-1, directs the U.S. Secretary of Health and Human Services to:

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

18           Given this directive, the IAG shall develop targeted baseline data, clinically  
19 acceptable performance measures that recognize nationally accredited treatment protocols, and  
20 patient, physician, and practice goals that improve quality of care in order to realize necessary  
21 savings within North Carolina's Health Choice program. The IAG shall begin this effort so that  
22 baseline data, clinically acceptable performance measures, and practice goals to improve  
23 quality and cost savings can be implemented by July 1, 2010, the date on which the Department  
24 of Health and Human Services, Division of Medical Assistance, assumes management  
25 responsibility of the Health Choice program from the State Health Plan.

## 26 27 **COMMUNITY HEALTH CENTER CHANGES**

28           **SECTION 10.37.** Of the funds appropriated in this act for Community Health  
29 Grants, the sum of one million eight hundred sixty thousand dollars (\$1,860,000) in recurring  
30 funds for the 2009-2010 fiscal year and the sum of one million eight hundred sixty thousand  
31 dollars (\$1,860,000) for the 2010-2011 fiscal year shall be allocated as grants on a competitive  
32 basis to rural health centers, free clinics, public health departments, school-based health  
33 centers, qualified health centers, and other nonprofit organizations that provide primary care  
34 and preventive health services to uninsured and indigent persons.

## 35 36 **REALLOCATE RESTORATION FUNDS TO THE PUBLIC HEALTH INCUBATOR 37 PROGRAM**

38           **SECTION 10.37A.** Of the funds restored in this act for the accreditation of local  
39 health departments, the sum of one hundred thousand dollars (\$100,000) in recurring funds in  
40 each year of the biennium shall be allocated in each year of the biennium to support the Public  
41 Health Incubator Program.

## 42 43 **LIABILITY INSURANCE**

44           **SECTION 10.38.(a)** The Secretary of the Department of Health and Human  
45 Services, the Secretary of the Department of Environment and Natural Resources, and the  
46 Secretary of the Department of Correction may provide medical liability coverage not to  
47 exceed one million dollars (\$1,000,000) per incident on behalf of employees of the  
48 Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who  
49 are faculty members of The University of North Carolina who work on contract for the  
50 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for  
51 incidents that occur in Division programs, and on behalf of physicians in all residency training

1 programs from The University of North Carolina who are in training at institutions operated by  
2 the Department of Health and Human Services. This coverage may include commercial  
3 insurance or self-insurance and shall cover these individuals for their acts or omissions only  
4 while they are engaged in providing medical and dental services pursuant to their State  
5 employment or training.

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

11 **SECTION 10.38.(c)** The coverage provided pursuant to this section shall not  
12 require any additional appropriations and shall not apply to any individual providing  
13 contractual service to the Department of Health and Human Services, the Department of  
14 Environment and Natural Resources, or the Department of Correction, with the exception that  
15 coverage may include physicians in all residency training programs from The University of  
16 North Carolina who are in training at institutions operated by the Department of Health and  
17 Human Services and licensed physicians who are faculty members of The University of  
18 North Carolina who work for the Division of Mental Health, Developmental Disabilities, and  
19 Substance Abuse Services.

#### 20 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

21 **SECTION 10.40.** Subject to rules adopted by the State Controller, an employee of  
22 the Department of Health and Human Services may authorize, in writing, the periodic  
23 deduction from the employee's salary or wages for employment by the State, a designated lump  
24 sum to be paid to satisfy the cost of services received for child care provided by the  
25 Department.  
26

#### 27 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)** 28 **FUNDS/IMPLEMENTATION OF MMIS**

29 **SECTION 10.41.(a)** Of the funds appropriated in this act to the Department of  
30 Health and Human Services (Department) from prior year earned revenues received by the  
31 Department for the Medicaid Management Information System (MMIS), the sum of eleven  
32 million seventy-one thousand five hundred two dollars (\$11,071,502) for fiscal year 2009-2010  
33 and the sum of nine million eight hundred twenty thousand six hundred eighty-nine dollars  
34 (\$9,820,689) for fiscal year 2010-2011 shall be (i) deposited to the Department's information  
35 technology budget code and (ii) used to match federal funds for the procurement, design,  
36 development, and implementation of the new MMIS system and to fund the central  
37 management of the project. In the event that the Department does not receive prior year earned  
38 revenues in these amounts, the Department is authorized with approval of the Office of State  
39 Budget and Management to use other over-realized receipts to the level appropriated in this act  
40 for MMIS expenditures.  
41

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

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

48 The Department shall make every effort to expedite the implementation of the  
49 enhancements. The Office of Information Technology Services shall work in cooperation with  
50 the Department to ensure the timely and effective implementation of the MMIS and  
51 enhancements. The contract between the Department and the contract vendor shall contain an

1 explicit provision requiring that the MMIS have the capability to fully implement the  
2 administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the  
3 Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid  
4 waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must  
5 have detailed cost information for each requirement before signing the contract. Any contract  
6 between the Department and a vendor for the MMIS that does not contain the explicit provision  
7 required under this subsection is void on its face. Notwithstanding any other provision of law to  
8 the contrary, the Secretary of the Department does not have the authority to sign a contract for  
9 the MMIS if the contract does not contain the explicit provision required under this section.

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

16 **SECTION 10.41.(d)** The Department shall develop a comprehensive schedule for  
17 the development and implementation of the MMIS that fully incorporates federal and State  
18 project management and review requirements. The Department shall ensure that the schedule  
19 is as accurate as possible. Any changes to the design, development, and implementation  
20 schedule shall be reported as part of the Department's quarterly MMIS reporting requirements.  
21 The Department shall submit the schedule to the Chairs of the House of Representatives  
22 Committee on Appropriations and the House of Representatives Subcommittee on Health and  
23 Human Services, the Chairs of the Senate Committee on Appropriations and the Senate  
24 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.  
25 Any change to key milestones in either schedule shall be immediately reported to the Chairs of  
26 the House of Representatives Committee on Appropriations and the House of Representatives  
27 Subcommittee on Health and Human Services, the Chairs of the Senate Committee on  
28 Appropriations and the Senate Appropriations Committee on Health and Human Services, and  
29 the Fiscal Research Division with a full explanation of the reason for the change.

30 **SECTION 10.41.(e)** Beginning July 1, 2009, the Department shall make quarterly  
31 reports on changes in the functionality and projected costs of the MMIS. The first quarterly  
32 submission shall contain a final report on the contract award to include total costs and  
33 functionality of the MMIS. Each report shall be made to the Chairs of the House of  
34 Representatives Committee on Appropriations and the House of Representatives Subcommittee  
35 on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the  
36 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
37 Division. A copy of the final report on the contract award shall also be submitted to the Joint  
38 Legislative Commission on Governmental Operations.

39 **SECTION 10.41.(f)** Upon initiation of the NC MMIS Program Reporting and  
40 Analytics Project and the Division of Health Services Regulation Project, the Department shall  
41 submit all reports regarding functionality, schedule, and cost in the next regular cycle of  
42 reporting identified in subsections (d) and (e) of this section. The Department shall ensure that  
43 the solution developed in the Reporting and Analytics Project supports the capability, in its  
44 initial implementation, to interface with the North Carolina Teachers' and State Employees'  
45 Health Plan. The costs for this capability shall be negotiated prior to the award of the  
46 Reporting and Analytics contract. The Reporting and Analytics solution must be completed  
47 simultaneously with the replacement MMIS.

48  
49 **NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH**  
50 **TECHNOLOGY (NC FAST) FUNDS**

1           **SECTION 10.42.** The sum of eighteen million three hundred twenty-seven  
2 thousand four hundred seventy-eight dollars (\$18,327,478) is appropriated from Budget Code  
3 24441, Fund Code 2006, to the Department of Health and Human Services, Division of Central  
4 Management Services, for the 2009-2010 fiscal year. These funds shall be used for the  
5 development and implementation of North Carolina Families Accessing Services Through  
6 Technology (NC FAST). Funds will be placed in the Department's information technology  
7 budget code and will match federal funds for project implementation.

8  
9 **PROGRAM ON PREVENTION OF ABUSE AND NEGLECT**

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

14           **SECTION 10.43.(b)** G.S. 7B-1301 reads as rewritten:  
15 **"§ 7B-1301. Program on Prevention of Abuse and Neglect.**

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

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

22           (1) ~~The Department of Public Instruction shall review applications and make~~  
23 ~~recommendations to the State Board of Education concerning the awarding~~  
24 ~~of contracts under this Article.~~

25           (2) ~~The State Board of Education~~ Division of Social Services shall review  
26 applications and contract with public or private nonprofit organizations,  
27 agencies, schools, or with qualified individuals to operate community-based  
28 educational and service programs designed to prevent the occurrence of  
29 abuse and neglect. Every contract entered into by the ~~State Board of~~  
30 ~~Education~~ Division of Social Services shall contain provisions that at least  
31 twenty-five percent (25%) of the total funding required for a program be  
32 provided by the administering organization in the form of in-kind or other  
33 services and that a mechanism for evaluation of services provided under the  
34 contract be included in the services to be performed. In addition, every  
35 proposal to the ~~Department of Public Instruction~~ Division of Social Services  
36 for funding under this Article shall include assurances that the proposal has  
37 been forwarded to the local department of social services for comment so  
38 that the ~~Department of Public Instruction~~ Division of Social Services may  
39 consider coordination and duplication of effort on the local level ~~as criteria~~  
40 ~~in making recommendations to the State Board of Education level.~~

41           (3) ~~The State Board of Education with the assistance of the Department of~~  
42 ~~Public Instruction~~ Division of Social Services shall develop appropriate  
43 guidelines and criteria for awarding contracts under this Article. These  
44 criteria shall include, but are not limited to: documentation of need within  
45 the proposed geographical impact area; diversity of geographical areas of  
46 programs funded under this Article; demonstrated effectiveness of the  
47 proposed strategy or program for preventing abuse and neglect;  
48 reasonableness of implementation plan for achieving stated objectives;  
49 utilization of community resources including volunteers; provision for an  
50 evaluation component that will provide outcome data; plan for dissemination

1 of the program for implementation in other communities; and potential for  
2 future funding from private sources.

3 (4) ~~The State Board of Education with the assistance of the Department of~~  
4 ~~Public Instruction~~ Division of Social Services shall develop guidelines for  
5 regular monitoring of contracts awarded under this Article in order to  
6 maximize the investments in prevention programs by the Children's Trust  
7 Fund and to establish appropriate accountability measures for administration  
8 of contracts.

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

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

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

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

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

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

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

35 **"§ 7B-1302. Children's Trust Fund.**

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

41 (b) The Department of ~~Public Instruction~~ Health and Human Services shall report  
42 annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative  
43 Commission on Governmental Operations."  
44

#### 45 INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND 46 PERFORMANCE ENHANCEMENTS

47 **SECTION 10.44.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the  
48 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to  
49 children and families in cases of abuse, neglect, and dependency where a child is at imminent  
50 risk of removal from the home and to children and families in cases of abuse where a child is  
51 not at imminent risk of removal. The Program shall be developed and implemented statewide

1 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria  
2 for determining imminent risk and clear criteria for determining out-of-home placement.

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

- 6 (1) An established follow-up system with a minimum of six months of  
7 follow-up services.
- 8 (2) Detailed information on the specific interventions applied, including  
9 utilization indicators and performance measurement.
- 10 (3) Cost-benefit data.
- 11 (4) Data on long-term benefits associated with Intensive Family Preservation  
12 Services. This data shall be obtained by tracking families through the  
13 intervention process.
- 14 (5) The number of families remaining intact and the associated interventions  
15 while in IFPS and 12 months thereafter.
- 16 (6) The number and percentage by race of children who received Intensive  
17 Family Preservation Services compared to the ratio of their distribution in  
18 the general population involved with Child Protective Services.

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

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

## 26 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

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

- 29 (1) \$475.00 per child per month for children aged birth through 5;
- 30 (2) \$581.00 per child per month for children aged 6 through 12; and
- 31 (3) \$634.00 per child per month for children aged 13 through 18.

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

- 34 (1) \$475.00 per child per month for children aged birth through 5;
- 35 (2) \$581.00 per child per month for children aged 6 through 12; and
- 36 (3) \$634.00 per child per month for children aged 13 through 18.

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

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

- 43 (1) \$800.00 per child per month with indeterminate HIV status;
- 44 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- 45 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- 46 (4) \$1,600 per child per month terminally ill with complex care needs.

47 **SECTION 10.45.(e)** The State and a county participating in foster care and  
48 adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost  
49 of care for a child placed by a county department of social services or child placing agency in a  
50 family foster home or residential child care facility. A county shall be held harmless from  
51

1 contributing fifty percent (50%) of the nonfederal share of the cost for a child placed in a  
2 family foster home or residential child care facility under an agreement with that provider as of  
3 October 31, 2008, until the child leaves foster care or experiences a placement change.

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

8 **SECTION 10.45.(g)** This section becomes effective July 1, 2009, and applies to  
9 payments made on or after that date.

## 10 11 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

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

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

17 ...

18 (9) Implement and maintain performance standards for each of the State and  
19 county child support enforcement offices across the State. The performance  
20 standards shall include the following:

21 a. Cost per collections.

22 b. Consumer satisfaction.

23 c. Paternity establishments.

24 d. Administrative costs.

25 e. Orders established.

26 f. Collections on arrearages.

27 g. Location of absent parents.

28 h. Other related performance measures.

29 The Department shall monitor the performance of each office and shall  
30 implement a system of reporting that allows each local office to review its  
31 performance as well as the performance of other local offices. The  
32 Department shall publish an annual performance report that includes the  
33 statewide and local office performance of each child support office."

## 34 35 **ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES**

36 **SECTION 10.46A.(a)** G.S. 110-141 reads as rewritten:

37 **"§ 110-141. Effectuation of intent of Article.**

38 The North Carolina Department of Health and Human Services shall supervise the  
39 administration of ~~this~~ the program in accordance with federal law and shall cause the provisions  
40 of this Article to be effectuated and to secure child support from absent, deserting, abandoning  
41 and nonsupporting parents.

42 ~~Effective July 1, 1986, the entity, whether the board of county commissioners or the~~  
43 ~~Department of Health and Human Services, that is administering, or providing for the~~  
44 ~~administration of, this program in each county on June 30, 1986, shall continue to administer,~~  
45 ~~or provide for the administration of, this program in that county, with one exception. If a~~  
46 ~~county program is being administered by the Department of Health and Human Services on~~  
47 ~~June 30, 1986, and if the board of county commissioners of this county desires on or after that~~  
48 ~~date to assume responsibility for the administration of the program, the board of county~~  
49 ~~commissioners shall notify the Department of Health and Human Services between July 1 and~~  
50 ~~September 1 of the current fiscal year. The obligations of the board of county commissioners to~~  
51 ~~assume responsibility for the administration of the program shall not commence prior to July 1~~



1 of the subsequent fiscal year. Until that time, it is the responsibility of the Department of Health  
2 and Human Services to administer or provide for the administration of the program in the  
3 county.

4 Effective July 1, 2010, each child support enforcement program being administered by the  
5 Department of Health and Human Services on behalf of counties shall be administered, or the  
6 administration provided for, by the board of county commissioners of those counties. Until July  
7 1, 2010, it shall be the responsibility of the Department of Health and Human Services to  
8 administer or provide for the administration of the program in those counties.

9 A county may negotiate alternative arrangements to the procedure outlined in G.S. 110-130  
10 for designating a local person or agency to administer the provisions of this Article in that  
11 county."

12 **SECTION 10.46A.(b)** Counties affected by this section shall submit plans to the  
13 Department of Health and Human Services, Division of Social Services, no later than January  
14 1, 2010, outlining the proposed operation of child support enforcement programs. The Division  
15 shall establish the criteria to be included within county plans for operations and review  
16 submitted plans to ensure the appropriate transitioning of administrative and programmatic  
17 responsibility.

## 18 **CHILD CARING INSTITUTIONS**

19 **SECTION 10.47.** Until the Social Services Commission adopts rules setting  
20 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the  
21 maximum reimbursement for child caring institutions shall not exceed the rate established for  
22 the specific child caring institution by the Department of Health and Human Services, Office of  
23 the Controller. In determining the maximum reimbursement, the State shall include county and  
24 IV-E reimbursements.  
25

## 26 **SPECIAL CHILDREN ADOPTION FUND**

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

### 29 **"§ 108A-50.2. Special Children Adoption Fund.**

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

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

47 (c) The Division of Social Services shall monitor the total expenditures in the Special  
48 Children Adoption Fund and redistribute unspent funds to ensure that the funds are used in  
49 accordance with the guidelines established in subsection (a) of this section."  
50  
51

**LIMITATION ON STATE ABORTION FUND**

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

**CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT FUND**

**SECTION 10.50.(a)** There is appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of one million five hundred thousand dollars (\$1,500,000) for the 2009-2010 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2010-2011 fiscal year. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million five hundred thousand dollars (\$1,500,000) for the 2009-2010 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2010-2011 fiscal year. These funds shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087II. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

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

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

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

Funds appropriated under this section from the Escheat Fund that remain uncommitted as of the end of a fiscal year shall be returned to the Escheat Fund.

The General Assembly encourages the State Education Assistance Authority to try not to reduce the Escheat Fund principal below the sum of two hundred million dollars (\$200,000,000) in complying with this section, but also acknowledges that current economic factors may not make that feasible. All limitations on asset allocation of Escheat Funds invested by the State Treasurer shall be calculated at the time of investment.

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

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

1           **SECTION 10.50.(d)** Funds appropriated to the Department of Health and Human  
2 Services for the child welfare postsecondary support program shall be used only for students  
3 attending public institutions of higher education in this State.  
4

#### 5 **TANF BENEFIT IMPLEMENTATION**

6           **SECTION 10.51.(a)** The General Assembly approves the plan titled "North  
7 Carolina Temporary Assistance for Needy Families State Plan FY 2009-2011," prepared by the  
8 Department of Health and Human Services and presented to the General Assembly. The North  
9 Carolina Temporary Assistance for Needy Families State Plan covers the period October 1,  
10 2009, through September 30, 2011. The Department shall submit the State Plan, as revised in  
11 accordance with subsection (b) of this section, to the United States Department of Health and  
12 Human Services, as amended by this act or any other act of the 2009 General Assembly.

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

16           **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as an  
17 Electing County or to be redesignated as an Electing County and the accompanying county plan  
18 for fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the  
19 Electing County budget requirements effective July 1, 2009. For programmatic purposes, all  
20 counties referred to in this subsection shall remain under their current county designation  
21 through September 30, 2009.  
22

#### 23 **OFFICE OF EDUCATION SERVICES/FUNDS TRANSFER AND CONSOLIDATION** 24 **OF SCHOOLS**

25           **SECTION 10.51A.(a)** There is transferred from the Office of Education Services  
26 Trust Fund, Budget Code 66424, the sum of one hundred seventy-five thousand three hundred  
27 twenty-one dollars (\$175,321) to the Office of Education Services General Fund, Budget Code  
28 14424. These funds shall be used to support the operations of the North Carolina School for  
29 the Deaf at Morganton, Eastern North Carolina School for the Deaf at Wilson, and Governor  
30 Morehead School for the Blind. Donations and bequests to these schools shall be used in  
31 accordance with their designated purpose.

32           **SECTION 10.51A.(a1)** There is established the Joint Legislative Task Force on  
33 Educational Services for the Deaf and Blind. The Task Force shall be composed of 9 voting  
34 members, three of whom shall be appointed by the Speaker of the House of Representatives,  
35 three of whom shall be appointed by the President Pro Tempore of the Senate, and three of  
36 whom shall be appointed by the Governor. For the purposes of providing expertise and advice  
37 to the Task Force, the following members shall be appointed by the Governor to serve as ex-  
38 officio, nonvoting members:

- 39           (1) Two educators certified to teach deaf children;
- 40           (2) One educator certified to teach blind children; and
- 41           (3) One graduate from each of the three residential schools.

42 The Governor shall appoint the chair of the Task Force. The Task Force shall begin meeting  
43 not earlier than October 1, 2009 and shall meet not more than 4 times during the period October  
44 1, 2009 through April 30, 2010.

45           **SECTION 10.51A.(b)** The Department of Health and Human Services, Office of  
46 Education Services (OES), shall not enroll new students at the Governor Morehead School for  
47 the Blind during the 2009-2010 and 2010-2011 school years. During these years, the Office of  
48 Education Services shall allow the census to decline and prepare to close the Governor  
49 Morehead School for the Blind.

50           The Task Force, in collaboration with the Office of Education Services of the  
51 Department of Health and Human Services, shall develop a plan for the consolidation of the

1 Governor Morehead School for the Blind (GMS) at the existing campuses of the North  
2 Carolina School for the Deaf at Morganton (NCSD) and the Eastern North Carolina School for  
3 the Deaf at Wilson (ENCSD). Within the GMS consolidation plan, the Task Force shall  
4 accomplish all of the following:

- 5 (1) Determine the number of current students enrolled at GMS that would  
6 require continued residential instruction, and the number of students that  
7 could be more appropriately served within their area local education  
8 agencies (LEAs).
- 9 (2) Require GMS school staff to work in conjunction with LEAs and others to  
10 revise individualized educational plans for each student, as needed, and  
11 prepare a transition plan for every student.
- 12 (3) Collaborate with the Department of Public Instruction and affected LEAs to  
13 identify additional LEA resource requirements to appropriately educate  
14 transitioning GMS students.
- 15 (4) Prepare a budget for the consolidated residential schools for students who  
16 are deaf, blind, or deaf-blind, which itemizes instructional, residential, and  
17 other personnel requirements, operating requirements, and physical  
18 improvements to the campuses.
- 19 (5) Provide a specific timeline for the closure and transitioning of students  
20 currently enrolled at GMS.
- 21 (6) Identify alternative instructional and operational models to improve the  
22 quality of instruction at the consolidated residential schools, and to improve  
23 the capacities of LEAs to educate students who are deaf, blind, or deaf-blind.

24 Not later than May 1, 2010, the Task Force shall report on each of the required  
25 components of the consolidation plan set forth in subdivisions (1) through (6) of this subsection  
26 to the House of Representatives Appropriations Subcommittee on Health and Human Services,  
27 the Senate Appropriations Committee on Health and Human Services, the Joint Legislative  
28 Commission on Governmental Operations, and the Fiscal Research Division.

29 **SECTION 10.51A.(d)** Members of the Task Force shall receive per diem,  
30 subsistence, and travel allowances in accordance with G.S. 130-3.1, 138-5, or 138-6, as  
31 appropriate.

### 32 **NON-MEDICAID REIMBURSEMENT CHANGES**

34 **SECTION 10.55.(a)** Providers of medical services under the various State  
35 programs, other than Medicaid, offering medical care to citizens of the State shall be  
36 reimbursed at rates no higher than those under the North Carolina Medical Assistance Program.

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

42 Notwithstanding the provisions of this section, the Department of Health and  
43 Human Services may negotiate with providers of medical services under the various  
44 Department of Health and Human Services programs, other than Medicaid, for rates as close as  
45 possible to Medicaid rates for the following purposes: contracts or agreements for medical  
46 services and purchases of medical equipment and other medical supplies. These negotiated  
47 rates are allowable only to meet the medical needs of its non-Medicaid eligible patients,  
48 residents, and clients who require such services that cannot be provided when limited to the  
49 Medicaid rate.

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

1	DSB Medical Eye Care	125% FPL
2	DSB Independent Living <55	125% FPL
3	DSB Independent Living 55>	200% FPL
4	DSB Vocational Rehabilitation	125% FPL
5	DVR Independent Living	125% FPL
6	DVR Vocational Rehabilitation	125% FPL

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

10 **SECTION 10.55.(b)** The Secretary shall reduce provider rates for medical and  
11 nonmedical services rendered for the Medical Eye Care, Independent Living, and Vocational  
12 Rehabilitation programs within the Division of Services for the Blind, and Independent Living  
13 and Vocational Rehabilitation programs within the Division of Vocational Rehabilitation to  
14 achieve an overall rate reduction of three and six hundredths percent (3.06%) in fiscal year  
15 2009-2010 and three and fifty-six hundredths percent (3.56%) in fiscal year 2010-2011.

## 16 17 **DIVISION OF SERVICES FOR THE DEAF AND HARD OF HEARING/FUNDS** 18 **TRANSFER AND APPROPRIATION**

19 **SECTION 10.56.(a)** Notwithstanding G.S. 62-157, on July 1, 2009, the State  
20 Controller shall transfer eight million five hundred thousand dollars (\$8,500,000) from the  
21 Special Account for Telecommunications Relay Service to Nontax Budget Code 19978 (Intra  
22 State Transfers) to support General Fund appropriations for the 2009-2010 fiscal year.

23 **SECTION 10.56.(b)** The Department of Health and Human Services shall,  
24 pursuant to G.S. 62-157, file a petition with the North Carolina Utilities Commission to reset  
25 the surcharge provided for in G.S. 62-157 to maintain a reasonable margin for reserve for the  
26 operation of the statewide telecommunications relay service.

## 27 28 **STATE-COUNTY SPECIAL ASSISTANCE**

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

35 **SECTION 10.57.(b)** Effective October 1, 2009, the maximum monthly rate for  
36 residents in adult care home facilities shall be one thousand one hundred seventy-three dollars  
37 (\$1,173) per month per resident unless adjusted by the Department in accordance with  
38 subsection (d) of this section. The eligibility of Special Assistance recipients residing in adult  
39 care homes on September 30, 2009, shall not be affected by an income reduction in the Special  
40 Assistance eligibility criteria resulting from the adoption of this maximum monthly rate,  
41 provided these recipients are otherwise eligible.

42 **SECTION 10.57.(c)** The maximum monthly rate for residents in  
43 Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars  
44 (\$1,515) per month per resident unless adjusted by the Department in accordance with  
45 subsection (d) of this section.

46 **SECTION 10.57.(d)** Notwithstanding any other provision of this section, the  
47 Department of Health and Human Services shall review activities and costs related to the  
48 provision of care in adult care homes and shall determine what costs may be considered to  
49 properly maximize allowable reimbursement available through Medicaid personal care services  
50 for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary  
51 approval from the Centers for Medicare and Medicaid Services (CMS) and the approval of the

1 Office of State Budget and Management, the Department may transfer necessary funds from  
2 the State-County Special Assistance program within the Division of Social Services to the  
3 Division of Medical Assistance and may use those funds as State match to draw down federal  
4 matching funds to pay for such activities and costs under Medicaid's personal care services for  
5 adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for  
6 State-County Special Assistance set forth in subsections (b) and (c) of this section shall be  
7 adjusted by the Department to reflect any transfer of funds from the Division of Social Services  
8 to the Division of Medical Assistance and related transfer costs and responsibilities from  
9 State-County Special Assistance to the Medicaid personal care services for adult care homes  
10 (ACH-PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS)  
11 and prior to implementing this section, the Department may disregard a limited amount of  
12 income for individuals whose countable income exceeds the adjusted State-County Special  
13 Assistance rate. The amount of the disregard shall not exceed the difference between the  
14 Special Assistance rate prior to the adjustment and the Special Assistance rate after the  
15 adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the  
16 Medicaid payment for the individual's personal care services provided in an adult care home. In  
17 no event shall the reimbursement for services through the ACH-PCS exceed the average cost of  
18 the services as determined by the Department from review of cost reports as required and  
19 submitted by adult care homes. The Department shall report any transfers of funds and  
20 modifications of rates to the House of Representatives Appropriations Subcommittee on Health  
21 and Human Services, the Senate Appropriations Committee on Health and Human Services,  
22 and the Fiscal Research Division.

23 **SECTION 10.57.(e)** The Department of Health and Human Services shall  
24 recommend rates for State-County Special Assistance and for Adult Care Home Personal Care  
25 Services. The Department may recommend rates based on appropriate cost methodology and  
26 cost reports submitted by adult care homes that receive State-County Special Assistance funds  
27 and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care  
28 Home Personal Care Services to the same standards as apply to other residential service  
29 providers.  
30

## 31 **MEDICAID**

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

- 33 (1) Use of funds. – Funds appropriated in this act for services provided in  
34 accordance with Title XIX of the Social Security Act (Medicaid) are for both  
35 the categorically needy and the medically needy.
- 36 (2) Allocation of nonfederal cost of Medicaid. – The State shall pay one  
37 hundred percent (100%) of the nonfederal costs of all applicable services  
38 listed in this section. In addition, the State shall pay one hundred percent  
39 (100%) of the federal Medicare Part D clawback payments under the  
40 Medicare Modernization Act of 2004.
- 41 (3) Use of funds for development and acquisition of equipment and software. –  
42 If first approved by the Office of State Budget and Management, the  
43 Division of Medical Assistance, Department of Health and Human Services,  
44 may use funds that are identified to support the cost of development and  
45 acquisition of equipment and software and related operational costs through  
46 contractual means to improve and enhance information systems that provide  
47 management information and claims processing. The Department of Health  
48 and Human Services shall identify adequate funds to support the  
49 implementation and first year's operational costs that exceed funds allocated  
50 for the 2009-2010 and 2010-2011 fiscal years for the new contract for the  
51 fiscal agent for the Medicaid Management Information System.

- 1 (4) Reports. – Unless otherwise provided, whenever the Department of Health  
2 and Human Services is required by this section to report to the General  
3 Assembly, the report shall be submitted to the House of Representatives  
4 Appropriations Subcommittee for Health and Human Services, the Senate  
5 Appropriations Committee on Health and Human Services, and the Fiscal  
6 Research Division of the Legislative Services Office. Reports shall be  
7 submitted on the date provided in the reporting requirement.

8 **SECTION 10.58.(b) Policy.**

- 9 (1) Volume purchase plans and single source procurement. – The Department of  
10 Health and Human Services, Division of Medical Assistance, may, subject to  
11 the approval of a change in the State Medicaid Plan, contract for services,  
12 medical equipment, supplies, and appliances by implementation of volume  
13 purchase plans, single source procurement, or other contracting processes in  
14 order to improve cost containment.
- 15 (2) Cost containment programs. – The Department of Health and Human  
16 Services, Division of Medical Assistance, may undertake cost containment  
17 programs, including contracting for services, preadmissions to hospitals, and  
18 prior approval for certain outpatient surgeries before they may be performed  
19 in an inpatient setting.
- 20 (3) Fraud and abuse. – The Division of Medical Assistance, Department of  
21 Health and Human Services, shall provide incentives to counties that  
22 successfully recover fraudulently spent Medicaid funds by sharing State  
23 savings with counties responsible for the recovery of the fraudulently spent  
24 funds.
- 25 (4) Medical policy. – Unless required for compliance with federal law, the  
26 Department shall not change medical policy affecting the amount,  
27 sufficiency, duration, and scope of health care services and who may provide  
28 services until the Division of Medical Assistance has prepared a five-year  
29 fiscal analysis documenting the increased cost of the proposed change in  
30 medical policy and submitted it for Departmental review. If the fiscal impact  
31 indicated by the fiscal analysis for any proposed medical policy change  
32 exceeds three million dollars (\$3,000,000) in total requirements for a given  
33 fiscal year, then the Department shall submit the proposed medical policy  
34 change with the fiscal analysis to the Office of State Budget and  
35 Management and the Fiscal Research Division. The Department shall not  
36 implement any proposed medical policy change exceeding three million  
37 dollars (\$3,000,000) in total requirements for a given fiscal year unless the  
38 source of State funding is identified and approved by the Office of State  
39 Budget and Management. For medical policy changes exceeding three  
40 million dollars (\$3,000,000) in total requirements for a given fiscal year that  
41 are required for compliance with federal law, the Department shall submit  
42 the proposed medical policy or policy interpretation change with the  
43 five-year fiscal analysis to the Office of State Budget and Management prior  
44 to implementing the change. The Department shall provide the Office of  
45 State Budget and Management and the Fiscal Research Division a quarterly  
46 report itemizing all medical policy changes with total requirements of less  
47 than three million dollars (\$3,000,000).

48 **SECTION 10.58.(c) Eligibility.** – Eligibility for Medicaid shall be determined in  
49 accordance with the following:

- 50 (1) Medicaid and Work First Family Assistance.

- 1 a. Income eligibility standards. – The maximum net family annual  
 2 income eligibility standards for Medicaid and Work First Family  
 3 Assistance and the Standard of Need for Work First Family  
 4 Assistance shall be as follows:

	<b>CATEGORICALLY NEEDY – WFFA*</b>	<b>MEDICALLY NEEDY</b>		
5	Standard of Need			
6	&			
7	Families and			
8				
9				
10				
11				
12				
13	Family	WFFA*	Children &	
14	Size	Payment	AA, AB, AD*	
15		Level	Income Level	
16	1	\$4,344	\$2,172	\$2,900
17	2	5,664	2,832	3,800
18	3	6,528	3,264	4,400
19	4	7,128	3,564	4,800
20	5	7,776	3,888	5,200
21	6	8,376	4,188	5,600
22	7	8,952	4,476	6,000
23	8	9,256	4,680	6,300

24 \*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the  
 25 Blind (AB); and Aid to the Disabled (AD).

- 26 b. The payment level for Work First Family Assistance shall be fifty  
 27 percent (50%) of the standard of need. These standards may be  
 28 changed with the approval of the Director of the Budget.
- 29 c. The Department of Health and Human Services shall provide  
 30 Medicaid coverage to 19- and 20-year-olds in accordance with  
 31 federal rules and regulations.
- 32 d. Medicaid enrollment of categorically needy families with children  
 33 shall be continuous for one year without regard to changes in income  
 34 or assets.
- 35 (2) For the following Medicaid eligibility classifications for which the federal  
 36 poverty guidelines are used as income limits for eligibility determinations,  
 37 the income limits will be updated each April 1 immediately following  
 38 publication of federal poverty guidelines. The Department of Health and  
 39 Human Services, Division of Medical Assistance, shall provide Medicaid  
 40 coverage to the following:
- 41 a. All elderly, blind, and disabled people who have incomes equal to or  
 42 less than one hundred percent (100%) of the federal poverty  
 43 guidelines.
- 44 b. Pregnant women with incomes equal to or less than one hundred  
 45 eighty-five percent (185%) of the federal poverty guidelines and  
 46 without regard to resources. Services to pregnant women eligible  
 47 under this subsection continue throughout the pregnancy but include  
 48 only those related to pregnancy and to those other conditions  
 49 determined by the Department as conditions that may complicate  
 50 pregnancy.



- 1 c. Infants under the age of one with family incomes equal to or less
- 2 than two hundred percent (200%) of the federal poverty guidelines
- 3 and without regard to resources.
- 4 d. Children aged one through five with family incomes equal to or less
- 5 than two hundred percent (200%) of the federal poverty guidelines
- 6 and without regard to resources.
- 7 e. Children aged six through 18 with family incomes equal to or less
- 8 than one hundred percent (100%) of the federal poverty guidelines
- 9 and without regard to resources.
- 10 f. Family planning services to men and women of childbearing age
- 11 with family incomes equal to or less than one hundred eighty-five
- 12 percent (185%) of the federal poverty guidelines and without regard
- 13 to resources.
- 14 g. Workers with disabilities described in G.S. 108A-54.1 with unearned
- 15 income equal to or less than one hundred fifty percent (150%) of the
- 16 federal poverty guidelines.

17 (3) The Department of Health and Human Services, Division of Medical  
 18 Assistance, shall provide Medicaid coverage to adoptive children with  
 19 special or rehabilitative needs regardless of the adoptive family's income.

20 (4) The Department of Health and Human Services, Division of Medical  
 21 Assistance, shall provide Medicaid coverage to "independent foster care  
 22 adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the  
 23 Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the  
 24 adolescent's assets, resources, or income levels.

25 (5) ICF and ICF/MR work incentive allowances. – The Department of Health  
 26 and Human Services may provide an incentive allowance to  
 27 Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly  
 28 engaged in work activities as part of their developmental plan, and for whom  
 29 retention of additional income contributes to their achievement of  
 30 independence. The State funds required to match the federal funds that are  
 31 required by these allowances shall be provided from savings within the  
 32 Medicaid budget or from other unbudgeted funds available to the  
 33 Department. The incentive allowances may be as follows:

<b>Monthly Net Wages</b>	<b>Monthly Incentive Allowance</b>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00

39 (6) The Department of Health and Human Services, Division of Medical  
 40 Assistance, shall provide Medicaid coverage to women who need treatment  
 41 for breast or cervical cancer and who are defined in 42 U.S.C. §  
 42 1396a.(a)(10)(A)(ii)(XVIII).

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

49 (1) Hospital inpatient. – Payment for hospital inpatient services will be  
 50 prescribed by the State Plan as established by the Department of Health and  
 51 Human Services.

- 1 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a  
2 prospective reimbursement plan as established by the Department of Health  
3 and Human Services.
- 4 (3) Nursing facilities. – Nursing facilities providing services to Medicaid  
5 recipients who also qualify for Medicare must be enrolled in the Medicare  
6 program as a condition of participation in the Medicaid program. State  
7 facilities are not subject to the requirement to enroll in the Medicare  
8 program. Residents of nursing facilities who are eligible for Medicare  
9 coverage of nursing facility services must be placed in a Medicare-certified  
10 bed. Medicaid shall cover facility services only after the appropriate services  
11 have been billed to Medicare.
- 12 (4) Physicians, certified nurse midwife services, certified registered nurse  
13 anesthetists, nurse practitioners. – Fee schedules as developed by the  
14 Department of Health and Human Services.
- 15 (5) Community Alternative Program, EPSDT Screens. – Payments in  
16 accordance with rate schedule developed by the Department of Health and  
17 Human Services.
- 18 (6) Home health and related services, durable medical equipment. – Payments  
19 according to reimbursement plans developed by the Department of Health  
20 and Human Services.
- 21 (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 22 (8) Rural health clinical services. – Provider-based, reasonable cost,  
23 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 24 (9) Family planning. – Negotiated rate for local health departments. For other  
25 providers see specific services, e.g., hospitals, physicians.
- 26 (10) Independent laboratory and X-ray services. – Uniform fee schedules as  
27 developed by the Department of Health and Human Services.
- 28 (11) Ambulatory surgical centers.
- 29 (12) Private duty nursing, clinic services, prepaid health plans.
- 30 (13) Intermediate care facilities for the mentally retarded.
- 31 (14) Chiropractors, podiatrists, optometrists, dentists.
- 32 (15) Limitations on dental coverage. – Dental services shall be provided on a  
33 restricted basis in accordance with criteria adopted by the Department to  
34 implement this subsection.
- 35 (16) Medicare Buy-In. – Social Security Administration premium.
- 36 (17) Ambulance services. – Uniform fee schedules as developed by the  
37 Department of Health and Human Services. Public ambulance providers will  
38 be reimbursed at cost.
- 39 (18) Optical supplies. – Payment for materials is made to a contractor in  
40 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers  
41 are negotiated fees established by the State agency based on industry  
42 charges.
- 43 (19) Medicare crossover claims. – The Department shall apply Medicaid medical  
44 policy to Medicare claims for dually eligible recipients. The Department  
45 shall pay an amount up to the actual coinsurance or deductible or both, in  
46 accordance with the State Plan, as approved by the Department of Health  
47 and Human Services. The Department may disregard application of this  
48 policy in cases where application of the policy would adversely affect  
49 patient care.
- 50 (20) Physical therapy, occupational therapy, and speech therapy. – Services for  
51 adults and EPSDT eligible children. Payments are to be made only to

- 1 qualified providers at rates negotiated by the Department of Health and  
2 Human Services.
- 3 (21) Personal care services. – Payment in accordance with the State Plan  
4 developed by the Department of Health and Human Services.
- 5 (22) Case management services. – Reimbursement in accordance with the  
6 availability of funds to be transferred within the Department of Health and  
7 Human Services.
- 8 (23) Hospice.
- 9 (24) Medically necessary prosthetics or orthotics. – In order to be eligible for  
10 reimbursement, providers must be licensed or certified by the occupational  
11 licensing board or the certification authority having authority over the  
12 provider's license or certification. Medically necessary prosthetics and  
13 orthotics are subject to prior approval and utilization review.
- 14 (25) Health insurance premiums.
- 15 (26) Medical care/other remedial care. – Services not covered elsewhere in this  
16 section include related services in schools; health professional services  
17 provided outside the clinic setting to meet maternal and infant health goals;  
18 and services to meet federal EPSDT mandates.
- 19 (27) Pregnancy-related services. – Covered services for pregnant women shall  
20 include nutritional counseling, psychosocial counseling, and predelivery and  
21 postpartum home visits by maternity care coordinators and public health  
22 nurses.
- 23 (28) Drugs. – Reimbursements. Reimbursements shall be available for  
24 prescription drugs as allowed by federal regulations plus a professional  
25 services fee per month, excluding refills for the same drug or generic  
26 equivalent during the same month. Payments for drugs are subject to the  
27 provisions of this subdivision or in accordance with the State Plan adopted  
28 by the Department of Health and Human Services, consistent with federal  
29 reimbursement regulations. Payment of the professional services fee shall be  
30 made in accordance with the State Plan adopted by the Department of Health  
31 and Human Services, consistent with federal reimbursement regulations. The  
32 professional services fee for generic and for brand-name drugs shall be  
33 established per prescription by the Department based on the reductions made  
34 in this act. Further adjustments to the professional services fee shall be  
35 established by the General Assembly. In addition to the professional services  
36 fee, the Department may pay an enhanced fee for pharmacy services.
- 37 Limitations on quantity. – The Department of Health and Human  
38 Services may establish authorizations, limitations, and reviews for specific  
39 drugs, drug classes, brands, or quantities in order to manage effectively the  
40 Medicaid pharmacy program, except that the Department shall not impose  
41 limitations on brand-name medications for which there is a generic  
42 equivalent in cases where the prescriber has determined, at the time the drug  
43 is prescribed, that the brand-name drug is medically necessary and has  
44 written on the prescription order the phrase "medically necessary."
- 45 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through  
46 G.S. 90-85.31, or any other law to the contrary, under the Medical  
47 Assistance Program (Title XIX of the Social Security Act), and except as  
48 otherwise provided in this subsection for drugs listed in the narrow  
49 therapeutic index, a prescription order for a drug designated by a trade or  
50 brand name shall be considered to be an order for the drug by its established  
51 or generic name, except when the prescriber has determined, at the time the

1 drug is prescribed, that the brand-name drug is medically necessary and has  
2 written on the prescription order the phrase "medically necessary." An initial  
3 prescription order for a drug listed in the narrow therapeutic drug index that  
4 does not contain the phrase "medically necessary" shall be considered an  
5 order for the drug by its established or generic name, except that a pharmacy  
6 shall not substitute a generic or established name prescription drug for  
7 subsequent brand or trade name prescription orders of the same prescription  
8 drug without explicit oral or written approval of the prescriber given at the  
9 time the order is filled. Generic drugs shall be dispensed at a lower cost to  
10 the Medical Assistance Program rather than trade or brand-name drugs. As  
11 used in this subsection, "brand name" means the proprietary name the  
12 manufacturer places upon a drug product or on its container, label, or  
13 wrapping at the time of packaging; and "established name" has the same  
14 meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic  
15 Act, as amended, 21 U.S.C. § 352(e)(3).

16 Prior authorization. – The Department of Health and Human Services  
17 shall not impose prior authorization requirements or other restrictions under  
18 the State Medical Assistance Program on medications prescribed for  
19 Medicaid recipients for the treatment of HIV/AIDS.

20 (29) Other mental health services. – Unless otherwise covered by this section,  
21 coverage is limited to:

22 a. Services as defined by the Division of Mental Health, Developmental  
23 Disabilities, and Substance Abuse Services and approved by the  
24 Centers for Medicare and Medicaid Services (CMS) when provided  
25 in agencies meeting the requirements of the rules established by the  
26 Commission for Mental Health, Developmental Disabilities, and  
27 Substance Abuse Services and reimbursement is made in accordance  
28 with a State Plan developed by the Department of Health and Human  
29 Services not to exceed the upper limits established in federal  
30 regulations, and

31 b. For children eligible for EPSDT services provided by:

32 1. Licensed or certified psychologists, licensed clinical social  
33 workers, certified clinical nurse specialists in psychiatric  
34 mental health advanced practice, nurse practitioners certified  
35 as clinical nurse specialists in psychiatric mental health  
36 advanced practice, licensed psychological associates, licensed  
37 professional counselors, licensed marriage and family  
38 therapists, licensed clinical addictions specialists, and  
39 certified clinical supervisors, when Medicaid-eligible children  
40 are referred by the Community Care of North Carolina  
41 primary care physician, a Medicaid-enrolled psychiatrist, or  
42 the area mental health program or local management entity,  
43 and

44 2. Institutional providers of residential services as defined by the  
45 Division of Mental Health, Developmental Disabilities, and  
46 Substance Abuse Services and approved by the Centers for  
47 Medicare and Medicaid Services (CMS) for children and  
48 Psychiatric Residential Treatment Facility services that meet  
49 federal and State requirements as defined by the Department.

50 c. For Medicaid-eligible adults, services provided by licensed or  
51 certified psychologists, licensed clinical social workers, certified

1 clinical nurse specialists in psychiatric mental health advanced  
2 practice, and nurse practitioners certified as clinical nurse specialists  
3 in psychiatric mental health advanced practice, licensed  
4 psychological associates, licensed professional counselors, licensed  
5 marriage and family therapists, certified clinical addictions  
6 specialists, and licensed clinical supervisors, Medicaid-eligible adults  
7 may be self-referred.

- 8 d. Payments made for services rendered in accordance with this  
9 subdivision shall be to qualified providers in accordance with  
10 approved policies and the State Plan. Nothing in sub-subdivision b.  
11 or c. of this subdivision shall be interpreted to modify the scope of  
12 practice of any service provider, practitioner, or licensee, nor to  
13 modify or attenuate any collaboration or supervision requirement  
14 related to the professional activities of any service provider,  
15 practitioner, or licensee. Nothing in sub-subdivision b. or c. of this  
16 subdivision shall be interpreted to require any private health insurer  
17 or health plan to make direct third-party reimbursements or payments  
18 to any service provider, practitioner, or licensee.

19 Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human  
20 Services may adopt temporary rules in accordance with Chapter 150B of the  
21 General Statutes further defining the qualifications of providers and referral  
22 procedures in order to implement this subdivision. Coverage policy for  
23 services defined by the Division of Mental Health, Developmental  
24 Disabilities, and Substance Abuse Services under sub-subdivisions a. and  
25 b.2. of this subdivision shall be established by the Division of Medical  
26 Assistance.

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

- 28 (1) Subject to the provisions of this subdivision, the Department may require  
29 Medicaid-enrolled providers to purchase a performance bond in an amount  
30 not to exceed one hundred thousand dollars (\$100,000) naming as  
31 beneficiary the Department of Health and Human Services, Division of  
32 Medical Assistance, or provide to the Department a validly executed letter of  
33 credit or other financial instrument issued by a financial institution or agency  
34 honoring a demand for payment in an equivalent amount. The Department  
35 may require the purchase of a performance bond or the submission of an  
36 executed letter of credit or financial instrument as a condition of initial  
37 enrollment, reenrollment, or reinstatement if:  
38 a. The provider fails to demonstrate financial viability,  
39 b. The Department determines there is significant potential for fraud  
40 and abuse,  
41 c. The Department otherwise finds it is in the best interest of the  
42 Medicaid program to do so.

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

- 45 (1a) The Department may waive or limit the requirements of this paragraph for  
46 individual Medicaid-enrolled providers or for one or more classes of  
47 Medicaid-enrolled providers based on the following:  
48 a. The provider's or provider class's dollar amount of monthly billings  
49 to Medicaid.  
50 b. The length of time an individual provider has been licensed,  
51 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 with federal law. In addition, the Department shall establish a threshold of some number of visits for these services. The Department shall ensure that primary care providers or the appropriate CCNC network are notified when a patient is nearing the established threshold to facilitate care coordination and intervention as needed.

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

**SECTION 10.58.(f) Exceptions and Limitations on Services; Authorization of Co-Payments and Other Services. –**

- (1) Exceptions to service limitations, eligibility requirements, and payments. – Service limitations, eligibility requirements, and payment bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.
- (2) Co-payment for Medicaid services. – The Department of Health and Human Services may establish co-payments up to the maximum permitted by federal law and regulation.

**SECTION 10.58.(g) Rules, Reports, and Other Matters. –**

- (1) Rules. – The Department of Health and Human Services may adopt temporary or emergency rules according to the procedures established in G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are

1 necessary to maximize receipt of federal funds within existing State  
2 appropriations, to reduce Medicaid expenditures, and to reduce fraud and  
3 abuse. The Department of Health and Human Services shall adopt rules  
4 requiring providers to attend training as a condition of enrollment and may  
5 adopt temporary or emergency rules to implement the training requirement.

6 Prior to the filing of the temporary or emergency rules authorized under  
7 this subsection with the Rules Review Commission and the Office of  
8 Administrative Hearings, the Department shall consult with the Office of  
9 State Budget and Management on the possible fiscal impact of the temporary  
10 or emergency rule and its effect on State appropriations and local  
11 governments.

- 12 (2) Changes to Medicaid program; reports. – The Department shall report on  
13 any change it anticipates making in the Medicaid program that impacts the  
14 type or level of service, reimbursement methods, or waivers, any of which  
15 require a change in the State Plan or other approval by the Centers for  
16 Medicare and Medicaid Services (CMS). The reports shall be provided at the  
17 same time they are submitted to CMS for approval. In addition to the entities  
18 listed in subdivision (a)(4) of this section, the report shall be submitted to the  
19 Joint Legislative Health Care Oversight Committee.  
20

## 21 **MEDICAID PROVIDER FEE**

22 **SECTION 10.58A.** Effective September 1, 2009, the Department of Health and  
23 Human Services, Division of Medical Assistance, shall charge an enrollment fee of one  
24 hundred dollars (\$100.00) to each provider enrolling in the Medicaid program for the first time.  
25 The fee shall be charged to all providers at reenrollment every three years.  
26

## 27 **ACCELERATED DHHS PROCUREMENT PROCESS TO ACHIEVE BUDGET** 28 **REDUCTIONS**

29 **SECTION 10.58B.(a)** Notwithstanding any other provision of law to the contrary,  
30 the Department of Health and Human Services may modify or extend existing contracts or as  
31 necessary enter into sole source contracts to timely achieve the provisions of this act. Any such  
32 modifications or contract extensions or sole source contracts must be approved by the Governor  
33 and reported to the Senate Appropriations Committee on Health and Human Services, the  
34 House of Representatives Appropriations Subcommittee on Health and Human Services, the  
35 Fiscal Research Division, and the Office of State Budget and Management. This subsection  
36 applies to the following activities and shall expire six months from the date of enactment of this  
37 act:

- 38 (1) Acquisition of medical equipment, supplies, and appliances;  
39 (2) Maximizing technology to increase third-party recovery, increase cost  
40 avoidance activities, identify provider overbilling and other abuse or  
41 program integrity activities;  
42 (3) Implementing prior authorization efforts in imaging and other high-cost  
43 services;  
44 (4) Providing technical assistance to enhance care coordination, analysis, and  
45 reports to assess provider compliance and performance;  
46 (5) Conducting independent assessments; and  
47 (6) Providing technology services to establish physician/provider online  
48 attestation reporting and assist CCNC in care management activities.

49 **SECTION 10.58B.(b)** The Department shall report on the activities conducted  
50 under this section to the House Appropriations Subcommittee on Health and Human Services,

1 the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
2 Division on or before April 1, 2010.

#### 3 4 **MEDICAID SPECIAL FUND TRANSFER**

5 **SECTION 10.61.** Of the funds transferred to the Department of Health and Human  
6 Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the  
7 Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three  
8 million dollars (\$43,000,000) for the 2009-2010 fiscal year and the sum of forty-three million  
9 dollars (\$43,000,000) for the 2010-2011 fiscal year. These funds shall be allocated as  
10 prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in  
11 G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall  
12 replace the reduction in general revenue funding effected in this act. The Department may also  
13 use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share  
14 Hospital payment audit issues between the Department of Health and Human Services and the  
15 federal government related to fiscal years 1997-2002, and funds are appropriated from the Fund  
16 for the 2009-2010 fiscal year for this purpose.

#### 17 18 **EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS** 19 **REIMBURSEMENT SYSTEM**

20 **SECTION 10.62.** Full implementation for the Community Alternatives Programs  
21 reimbursement system shall be not later than 12 months after the date on which the replacement  
22 Medicaid Management Information System becomes operational and stabilized.

#### 23 24 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

25 **SECTION 10.64.(a)** Receivables reserved at the end of the 2009-2010 and  
26 2010-2011 fiscal years shall, when received, be accounted for as nontax revenue for each of  
27 those fiscal years.

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

#### 39 40 **FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD** 41 **PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY** 42 **INCOME**

43 **SECTION 10.65.(a)** Subject to approval from the Centers for Medicare and  
44 Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical  
45 Assistance, shall, in consultation with the Division of Mental Health, Developmental  
46 Disabilities, and Substance Abuse Services, and Community Alternatives Program (CAP)  
47 stakeholders, develop a schedule of cost-sharing requirements for families of children with  
48 incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid  
49 expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation  
50 and Developmentally Disabled) and the CAP-C (Community Alternatives Program for  
51 Children). The cost-sharing amounts shall be based on a sliding scale of family income and



1 shall take into account the impact on families with more than one child in the CAP programs.  
2 In developing the schedule, the Department shall also take into consideration how other states  
3 have implemented cost-sharing in their CAP programs. The Division of Medical Assistance  
4 may establish monthly deductibles as a means of implementing this cost-sharing. The  
5 Department shall provide for at least one public hearing and other opportunities for individuals  
6 to comment on the imposition of cost-sharing under the CAP program schedule.

7 **SECTION 10.65.(b)** The Division of Medical Assistance shall also, in  
8 collaboration with the Controller's Office of the Department of Health and Human Services, the  
9 Division of Information Resource Management (DIRM), and the new vendor of the  
10 replacement Medicaid Management Information System, develop business rules, program  
11 policies and procedures, and define relevant technical requirements.

12 **SECTION 10.65.(c)** Prior to seeking approval from CMS, but not later than  
13 October 1, 2009, the Department shall report to the Joint Legislative Oversight Committee on  
14 Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding  
15 Needs, and to the Senate Appropriations Committee on Health and Human Services, the House  
16 of Representatives Appropriations Subcommittee on Health and Human Services, and the  
17 Fiscal Research Division. The report shall include a summary of comments the Department has  
18 received at the public hearing, business rules, policies and procedures, and technical  
19 requirements of the initiative and shall also indicate any barriers to implementing the  
20 cost-sharing.

## 21 **IMPLEMENTATION PLAN FOR FOUR TIERS OF CAP-MR/DD PROGRAM**

22 **SECTION 10.65A.(a)** For the purposes of improving efficiency in the expenditure  
23 of available funds and effectively identifying and meeting the needs of CAP-MR/DD eligible  
24 individuals, on or before January 1, 2010, the Department of Health and Human Services,  
25 Division of Medical Assistance, in conjunction with the Division of Mental Health,  
26 Developmental Disabilities, and Substance Abuse Services, shall submit a State Plan  
27 Developmental Disabilities, and Substance Abuse Services, shall submit to the Joint Legislative  
28 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse  
29 Services a plan for the implementation of Tiers 1 through 4 of the CAP-MR/DD program. The  
30 plan shall describe the implementation of Tiers 1 and 4 and the proposed implementation of  
31 Tiers 2 and 3, and revisions of Tier 4, and shall include detail on each of the following:

- 32 (1) The array and intensity level of services that will be available under each of  
33 the four Tiers;
- 34 (2) The range of costs for the array and intensity level of services under each of  
35 the four Tiers;
- 36 (3) How the relative intensity of need for each current and future CAP-MR/DD  
37 eligible individual will be reliably determined; and
- 38 (4) How the determination of intensity of need will be used to assign individuals  
39 appropriately into one of the four Tiers.

40 The Department may develop an application to the Centers for Medicare and  
41 Medicaid services for additional Medicaid waivers for Tiers 2 and 3 of  
42 CAP-MR/DD program. The Department shall not submit the application until after  
43 it has submitted the plan required under this subdivision. Nothing in this subdivision  
44 obligates the General Assembly to appropriate additional funds for the  
45 CAP-MR/DD waiver.

46 **SECTION 10.65A.(b)** The Division of Mental Health, Developmental Disabilities,  
47 and Substance Abuse Services, in conjunction with local management entities shall review the  
48 services funded through the Division received by individuals with developmental disabilities  
49 who are not currently being served through the CAP-MR/DD waiver to determine (i) if those  
50 individuals could be better served through the CAP-MR/DD Tier 1 waiver , and (ii) if the State  
51

1 appropriations currently funding services for those individuals would be sufficient to provide  
2 the non-federal match for those individuals if they became eligible for the CAP-MR/DD Tier 1  
3 waiver. The Division shall report its findings by March 1, 2010 to the Joint Legislative  
4 Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse  
5 Services, the House of Representatives Appropriations Subcommittee on Health and Human  
6 Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal  
7 Research Division.

## 9 **PREFERRED DRUG LIST PROGRAM**

10 **SECTION 10.66.(a)** The Department of Health and Human Services shall establish  
11 and implement a preferred drug list program under the Division of Medical Assistance. The  
12 Department shall submit a medical assistance State Plan amendment to the Centers for  
13 Medicare and Medicaid Services (CMS) of the United States Department of Health and Human  
14 Services to implement the program.

15 **SECTION 10.66.(b)** The pharmaceutical and therapeutics committee of the  
16 Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list.  
17 Members of the committee shall submit conflict of interest disclosure statements to the  
18 Department and shall have an ongoing duty to disclose conflicts of interest not included in the  
19 original disclosure.

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

- 22 (1) Guidelines for the presentation and review of drugs for inclusion on the  
23 preferred drug list,
- 24 (2) The manner and frequency of audits of the preferred drug list for  
25 appropriateness of patient care and cost-effectiveness,
- 26 (3) An appeals process for the resolution of disputes, and
- 27 (4) Such other policies and procedures as the Department deems necessary and  
28 appropriate.

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

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

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

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

## 46 **CLARIFYING CHANGES TO STATE MEDICAID RESPONSIBILITIES**

47 **SECTION 10.68.** Consistent with Sections 31.16.1(c) and (d) of S.L. 2007-323  
48 that require the State to assume responsibility for the nonfederal share of the costs of medical  
49 services provided under the Medicaid Program starting June 1, 2009, the counties shall neither  
50 bear any responsibility for settlement payments to providers nor refunds of expenditures for

1 program service claims paid on or before June 1, 2009. Counties will continue to participate in  
2 their share of administrative costs.

3  
4 **AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN**  
5 **STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN**  
6 **THE MEDICAID PROGRAM**

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

12 (1) Electronic transactions. –

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

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

- 30 a. Modify or eliminate Physical Therapy, Speech Therapy, and  
31 Occupational Therapy.  
32 b. Modify or eliminate Dental Services.  
33 c. Consolidate and reduce Targeted Case Management and case  
34 management functions bundled within other Medicaid services.  
35 d. Eliminate coverage of HIV case management.  
36 e. Eliminate coverage of therapeutic camps.  
37 f. Modify or eliminate adult routine eye exams and visual aids.

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

- 41 a. Independent assessment by an entity that does not provide direct PCS  
42 services for evaluation of the recipient prior to initiation of service.  
43 The independent assessment will determine the qualifying Activities  
44 of Daily Living (ADL), the level of assistance required, and the  
45 amount and scope of PCS to be provided, according to policy  
46 criteria.  
47 b. Independent assessment or review from the assigned Community  
48 Care of North Carolina (CCNC) physician of the continued  
49 qualification for PCS services under the revised PCS policy criteria.  
50 c. Establishment of four levels of qualifying criteria and service, as  
51 follows:

- 1 1. PCS I- requires limited assistance with three ADLs; up to 20
- 2 hours/month; no housekeeping.
- 3 2. PCS II- requires limited assistance with four ADLs; up to 40
- 4 hours/month; no housekeeping.
- 5 3. PCS III- requires extensive assistance with three ADLs, or
- 6 limited assistance and extensive assistance with two ADLs;
- 7 up to 60 hours/month; up to twenty-five percent (25%)
- 8 housekeeping.
- 9 4. PCS-Plus- requires extensive assistance with four ADLs; up
- 10 to 80 hours/month; up to twenty-five percent (25%)
- 11 housekeeping.
- 12 d. Establishment of time limits on physician service orders and
- 13 reauthorization in accordance with the recipient's diagnosis and
- 14 acuity of need.
- 15 e. Add the following items to the list of tasks that are not covered by
- 16 this service: non-medical transportation, errands and shopping,
- 17 money management, cueing, and prompting, guiding, or coaching.
- 18 f. Online physician attestation of medical necessity.
- 19 g. Revision of audits and review process, including extending of the
- 20 current contract with the postpayment vendor.
- 21 h. If sufficient reduction in cost is not achieved with the revised policy,
- 22 the Secretary shall direct the Division of Medical Assistance to
- 23 further modify the policy to achieve targeted cost savings.
- 24 Recipients currently receiving PCS services shall be reviewed under the
- 25 above criteria, and those recipients not meeting the new criteria shall be
- 26 terminated from the service within 30 days of the review. The Department
- 27 shall review usage of personal care services in adult care homes to determine
- 28 if overuse is occurring and shall report its findings to the House of
- 29 Representatives Appropriations Subcommittee on Health and Human
- 30 Services, the Senate Appropriations Committee on Health and Human
- 31 Services, and the Fiscal Research Division on or before December 1, 2009.
- 32 (4) MH/DD/SAS Personal Care and Personal Assistance Services Provision. – A
- 33 denial, reduction, or termination of Medicaid-funded personal care services
- 34 shall result in a similar denial, reduction, or termination of State-funded
- 35 MH/DD/SA personal care and personal assistance services.
- 36 (5) Community Support and other MH/DD/SA services. – The Department of
- 37 Health and Human Services shall eliminate community support services on
- 38 or before April 1, 2010. Upon enactment of this act, the Division of Medical
- 39 Assistance and the Division of MH/DD/SA shall take the steps necessary for
- 40 the Medicaid and the State-funded community support program to provide
- 41 for transition and discharge planning to recipients currently receiving
- 42 community support services. The following shall occur:
- 43 a. No new admissions shall be allowed.
- 44 b. Authorizations currently in effect as of the date of enactment of this
- 45 act remain valid. Any new authorization or subsequent
- 46 reauthorization is subject to the provisions of this act.
- 47 c. No community support services shall be provided in conjunction
- 48 with other enhanced services, except through December 31, 2009,
- 49 professional level community support may be provided in
- 50 conjunction with residential Level III and IV to assist in recipient
- 51 discharge planning. Up to a maximum of 24 hours over a 90-day

- 1 authorization may be provided as approved by the prior authorization  
2 vendor.
- 3 d. The current moratorium on community support provider  
4 endorsement shall remain in effect.
- 5 e. A provider of community support services whose endorsement,  
6 Medicaid participation, or services have been suspended is not  
7 entitled to payment during the period the appeal is pending, and the  
8 Department shall make no payment to the provider during that  
9 period. If the final agency decision is in favor of the provider, the  
10 Department shall remove the suspension, commence payment for  
11 provider services, and reimburse the provider for payments withheld  
12 during the period of appeal.
- 13 f. Effective 60 days from the enactment of this act, the paraprofessional  
14 level of community support shall be eliminated, and from this date  
15 the Department shall not use any Medicaid or State funds to pay for  
16 this level of service.
- 17 g. Community support services are limited to no more than four hours  
18 per week. The four hours are solely for the purpose of transition and  
19 discharge planning.
- 20 h. Thirty days after the enactment of this act, any concurrent request  
21 shall be accompanied with a discharge plan. Submission of the  
22 discharge plan will be a required document for a request to be  
23 considered complete. Failure to submit the discharge plan will result  
24 in the request being returned as "unable to process." Discharge from  
25 the service must occur within 90 days after the submission of the  
26 discharge plan.
- 27 i. Any community support provider that ceases to function as a  
28 provider shall provide written notification to DMA, the Local  
29 Management Entity, recipients, and the prior authorization vendor 30  
30 days prior to closing of the business.
- 31 j. Medical and financial record retention is the responsibility of the  
32 provider and shall be in compliance with the record retention  
33 requirements of their Medicaid provider agreement or State-funded  
34 services contract. Records shall also be available to State, federal,  
35 and local agencies.
- 36 k. Failure to comply with notification, recipient transition planning, or  
37 record maintenance shall result in suspension of further payment  
38 until such failure is corrected. In addition, failure to comply shall  
39 result in denial of enrollment as a provider for any Medicaid or  
40 State-funded service.
- 41 (6) Community Support Team. – Authorization for a Community Support Team  
42 shall be based upon medical necessity as defined by the Department and  
43 shall not exceed 18 hours per week. The Division of Medical Assistance  
44 shall do an immediate rate study of the Community Support Team to bring  
45 the average cost of service per recipient in line with Assertive Community  
46 Treatment Team (ACTT) services. The Division shall also revise provider  
47 qualifications and tighten the service definition to contain costs in this line  
48 item. Not later than October 1, 2009, the Division of Medical Assistance  
49 shall report its findings on the rate study and any actions it has taken to  
50 conform with this subdivision to the Joint Legislative Oversight Committee

- 1 on Mental Health, Developmental Disabilities, and Substance Abuse  
2 Services.
- 3 (7) MH Residential. – The Department of Health and Human Services shall  
4 restructure the Medicaid and State-funded child MH/DD/SA residential  
5 services. The Division of Medical Assistance and the Division of  
6 MH/DD/SA shall establish a team inclusive of providers, LMEs, prior  
7 authorization vendors, and other stakeholders to assure effective transition of  
8 recipients to appropriate treatment options. Included in the restructuring  
9 shall be the following:
- 10 a. On or before October 1, 2009, the Department shall eliminate High  
11 Risk Intervention Residential Level III and Level IV service.
- 12 b. Submission to CMS of a therapeutic family service definition.
- 13 c. Within 30 days of this action, the Department shall institute a  
14 moratorium on admissions to High Risk Intervention Residential  
15 Level III and Level IV group homes.
- 16 d. Thirty days after enactment, any concurrent request must be  
17 accompanied with a discharge plan. Discharge from the placement  
18 must occur within six months after the submission of the discharge  
19 plan.
- 20 e. All transition and discharge plans must be developed by the child and  
21 family team and with active participation by the LME and/or the  
22 prior authorization vendor.
- 23 f. Submission of a discharge plan is a required document in order for  
24 the request to be considered complete. Failure to submit the  
25 discharge plan will result in the request being returned as "unable to  
26 process."
- 27 g. Any residential provider that ceases to function as a provider shall  
28 provide written notification to DMA, the Local Management Entity,  
29 recipients, and the prior authorization vendor 30 days prior to closing  
30 of the business.
- 31 h. Medical and financial record retention is the responsibility of the  
32 provider and shall be in compliance with the record retention  
33 requirements of their Medicaid provider agreement or State-funded  
34 services contract. Records shall also be available to State, federal,  
35 and local agencies.
- 36 i. Failure to comply with notification, recipient transition planning, or  
37 record maintenance shall result in suspension of further payment  
38 until such failure is corrected. In addition, failure to comply shall  
39 result in denial of enrollment as a provider for any Medicaid or  
40 State-funded service.
- 41 (8) Reduce Medicaid rates. – Subject to the prior approval of the Office of State  
42 Budget and Management, the Secretary shall reduce Medicaid provider rates  
43 to accomplish an overall rate reduction of three and six hundredths percent  
44 (3.06%) in the 2009-2010 fiscal year and three and fifty-six hundredths  
45 percent (3.56%) in the 2010-2011 fiscal year. The Secretary shall consider  
46 the impact on access to care through primary care providers and safety net  
47 critical care access hospitals and may adjust the rates accordingly. The rate  
48 reduction applies to all Medicaid private and public providers with the  
49 following exceptions: federally qualified health clinics, rural health centers,  
50 State institutions, outpatient hospitals, pharmacies, and the noninflationary  
51 components of the case-mix reimbursement system for nursing facilities.

1 Medicaid rates predicated upon Medicare fee schedules shall follow  
2 Medicare reductions but not Medicare increases unless federally required.  
3 Inflationary increases for Medicaid providers paying provider fees (private  
4 ICF-MRs and nursing facilities) can occur if the State share of the increases  
5 can be funded with provider fees.

6 (9) Medicaid identification cards. – The Department shall issue Medicaid  
7 identification cards to recipients on a quarterly basis.

8 (10) The Department of Health and Human Services shall develop a plan for the  
9 consolidation of case management services. The plan shall address the  
10 timeline and process for implementation, the vendors involved, the  
11 identification of savings, and the Medicaid recipients affected by the  
12 consolidation. By August 1, 2009, the Department shall report on the plan to  
13 the House of Representative Appropriations Subcommittee on Health and  
14 Human Services, the Senate Appropriations Committee on Health and  
15 Human Services, and the Fiscal Research Division.

16 **SECTION 10.68A.(c)** G.S. 108A-54.2(1) reads as rewritten:

17 "(1) During the development of new medical coverage policy or amendment to  
18 existing medical coverage policy, consult with and seek the advice of the  
19 Physician Advisory Group of the ~~North Carolina Medical Society~~  
20 Department and other organizations the Secretary deems appropriate. The  
21 Secretary shall also consult with and seek the advice of officials of the  
22 professional societies or associations representing providers who are affected  
23 by the new medical coverage policy or amendments to existing medical  
24 coverage policy."

25 **SECTION 10.68A.(d)** Part 6 of Article 2 of Chapter 108A of the General Statutes  
26 is amended by adding the following new section to read:

27 "**§ 108A-55.5. Insurers must accept Departmental authorization for medical services.**

28 Health insurers, as defined in G.S. 108A-55.4, shall accept authorization from the Division  
29 of Medical Assistance for the provision of medical services on behalf of a recipient of medical  
30 assistance as the insurer's authorization for the provision of those services and shall not deny a  
31 claim submitted by the Division solely on the basis that the insurer did not prior approve or  
32 prior authorize the service."

33 **SECTION 10.68A.(e)** At least 30 days prior to the adoption of new or amended  
34 medical coverage policies necessitated by the reductions to the Medicaid program enacted in  
35 this act, the Department shall:

36 (1) Publish the proposed new or amended medical coverage policies via the  
37 Medicaid Bulletin published on the Department's Web site, which shall  
38 include an invitation to readers to send written comments on the proposed  
39 new or amended policies to the Department's mailing address, including  
40 e-mail.

41 (2) Notify via direct mail the members of the Department's Physicians' Advisory  
42 Group (PAG) of the proposed policies and Medicaid recipients of clinical  
43 coverage changes.

44 (3) Update the policies published on the Web site to reflect any changes made as  
45 a result of written comments received from the PAG and others.  
46

## 47 **CO-PAYMENTS FOR TICKET TO WORK**

48 **SECTION 10.69.** G.S. 108A-54.1(d) reads as rewritten:

49 "**§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

50 ...

1 (d) Fees, Premiums, and Co-Payments. – Individuals who participate in HCWD and  
2 have countable income greater than one hundred fifty percent (150%) of FPG shall pay an  
3 annual enrollment fee of fifty dollars (\$50.00) to their county department of social services.  
4 Individuals who participate in HCWD and have countable income greater than or equal to two  
5 hundred percent (200%) of FPG shall pay a monthly premium in addition to the annual fee. The  
6 Department shall set a sliding scale for premiums, which is consistent with applicable federal  
7 law. An individual with countable income equal to or greater than four hundred fifty percent  
8 (450%) of FPG shall pay not less than one hundred percent (100%) of the cost of the premium,  
9 as determined by the Department. The premium shall be based on the experience of all  
10 individuals participating in the Medical Assistance Program. Individuals who participate in  
11 HCWD are subject to co-payments equal to those required under the ~~North Carolina Health~~  
12 ~~Choice Program.~~ Medical Assistance Program.  
13

#### 14 INFORMATION ON MEDICAID WAIVERS

15 **SECTION 10.72A.(a)** The Department of Health and Human Services, Division of  
16 Medical Assistance, shall report on the feasibility and efficacy of applying for Medicaid  
17 waivers from the Centers for Medicare and Medicaid Services. The report shall recommend  
18 whether the following waivers should be pursued and the reasons therefore:

- 19 (1) An 1115 waiver to permit individuals that test positive for HIV and have  
20 incomes at or below two hundred percent (200%) of the federal poverty level  
21 access to Medicaid services. The report and recommendation shall indicate  
22 the number of people that may be eligible for Medicaid services under the  
23 waiver, the resulting cost and cost savings to the State if all potentially  
24 eligible individuals applied for assistance, and the programmatic and  
25 technical impact should the waiver be implemented.
- 26 (2) An 1115 waiver or other available Medicaid options to provide  
27 interconceptional coverage to low-income women with incomes below one  
28 hundred eighty-five percent (185%) of the federal poverty guidelines who  
29 have given birth to a high-risk infant. A high-risk infant is defined as  
30 weighing less than 1,500 grams, is born less than 34 weeks gestation, is born  
31 with a congenital anomaly, or who has died within the first 28 days of life.  
32 Interconceptional care would be limited to two years following the birth of a  
33 high-risk infant, or until a subsequent birth, whichever comes first. The  
34 report and recommendations should include estimated cost savings from  
35 improved birth outcomes that will offset the cost of providing Medicaid  
36 coverage to this targeted population.
- 37 (3) A 1915(c) waiver to permit individuals who sustain traumatic brain injury  
38 after age 22 to access home and community-based Medicaid services. The  
39 report and recommendation shall include the estimated cost to implement the  
40 waiver.
- 41 (4) A waiver to prevent a Medicaid recipient from losing Medicaid eligibility  
42 due to Social Security and Railroad Retirement cost of living adjustments  
43 and federal poverty level adjustments. The report and recommendation shall  
44 provide the cost to cover all affected persons effective March 1, 2009.

45 The Department shall provide for each waiver the estimated time needed to prepare  
46 the waiver application and the earliest date upon which the waiver, if approved by CMS, could  
47 be implemented.

48 **SECTION 10.72A.(b)** The Department shall submit its report and  
49 recommendations to the House of Representatives Appropriations Subcommittee on Health and  
50 Human Services, the Senate Appropriations Committee on Health and Human Services, the



1 Fiscal Research Division, and the Legislative Oversight Committee on Mental Health,  
2 Developmental Disabilities, and Substance Abuse Services by March 1, 2010.

3  
4 **DHSR LICENSE FEE INCREASES**

5 **SECTION 10.76.(a)** G.S. 131D-2(b) reads as rewritten:

6 "(b) Licensure; inspections. –

7 (1) The Department of Health and Human Services shall inspect and license,  
8 under rules adopted by the Medical Care Commission, all adult care homes  
9 for persons who are aged or mentally or physically disabled except those  
10 exempt in subsection (c) of this section. Licenses issued under the authority  
11 of this section shall be valid for one year from the date of issuance unless  
12 revoked earlier by the Secretary for failure to comply with any part of this  
13 section or any rules adopted hereunder. Licenses shall be renewed annually  
14 upon filing and the Department's approval of the renewal application. The  
15 Department shall charge each adult care home with six or fewer beds a  
16 nonrefundable annual license fee in the amount of ~~two hundred fifty dollars~~  
17 ~~(\$250.00)~~ three hundred fifteen dollars (\$315.00). The Department shall  
18 charge each adult care home with more than six beds a nonrefundable annual  
19 license fee in the amount of ~~three hundred fifty dollars (\$350.00)~~ three  
20 hundred sixty dollars (\$360.00) plus a nonrefundable annual per-bed fee of  
21 ~~twelve dollars and fifty cents (\$12.50)~~ seventeen dollars and fifty cents  
22 (\$17.50). A license shall not be renewed nor a new license issued for a  
23 change of ownership of an adult care home if outstanding fees, fines, and  
24 penalties imposed by the State against the home have not been paid. Fines  
25 and penalties for which an appeal is pending are exempt from consideration.  
26 The renewal application shall contain all necessary and reasonable  
27 information that the Department may by rule require. Except as otherwise  
28 provided in this subdivision, the Department may amend a license by  
29 reducing it from a full license to a provisional license for a period of not  
30 more than 90 days whenever the Department finds that:

- 31 a. The licensee has substantially failed to comply with the provisions of  
32 Articles 1 and 3 of Chapter 131D of the General Statutes and the  
33 rules adopted pursuant to these Articles;  
34 b. There is a reasonable probability that the licensee can remedy the  
35 licensure deficiencies within a reasonable length of time; and  
36 c. There is a reasonable probability that the licensee will be able  
37 thereafter to remain in compliance with the licensure rules for the  
38 foreseeable future.

39 The Department may extend a provisional license for not more than one  
40 additional 90-day period upon finding that the licensee has made substantial  
41 progress toward remedying the licensure deficiencies that caused the license  
42 to be reduced to provisional status.

43 The Department may revoke a license whenever:

- 44 a. The Department finds that:  
45 1. The licensee has substantially failed to comply with the  
46 provisions of Articles 1 and 3 of Chapter 131D of the General  
47 Statutes and the rules adopted pursuant to these Articles; and  
48 2. It is not reasonably probable that the licensee can remedy the  
49 licensure deficiencies within a reasonable length of time; or  
50 b. The Department finds that:

- 1 1. The licensee has substantially failed to comply with the
- 2 provisions of Articles 1 and 3 of Chapter 131D of the General
- 3 Statutes and the rules adopted pursuant to these Articles; and
- 4 2. Although the licensee may be able to remedy the deficiencies
- 5 within a reasonable time, it is not reasonably probable that the
- 6 licensee will be able to remain in compliance with licensure
- 7 rules for the foreseeable future; or

- 8 c. The Department finds that the licensee has failed to comply with the
- 9 provisions of Articles 1 and 3 of Chapter 131D of the General
- 10 Statutes and the rules adopted pursuant to these Articles, and the
- 11 failure to comply endangered the health, safety, or welfare of the
- 12 patients in the facility.

13 The Department may also issue a provisional license to a facility, pursuant to  
14 rules adopted by the Medical Care Commission, for substantial failure to  
15 comply with the provisions of this section or rules adopted pursuant to this  
16 section. Any facility wishing to contest the issuance of a provisional license  
17 shall be entitled to an administrative hearing as provided in the  
18 Administrative Procedure Act, Chapter 150B of the General Statutes. A  
19 petition for a contested case shall be filed within 30 days after the  
20 Department mails written notice of the issuance of the provisional license."

21 **SECTION 10.76.(b)** G.S. 131E-147 reads as rewritten:

22 "**§ 131E-147. Licensure requirement.**

23 (a) No person shall operate an ambulatory surgical facility without a license obtained  
24 from the Department.

25 (b) Applications shall be available from the Department, and each application filed with  
26 the Department shall contain all necessary and reasonable information that the Department may  
27 by rule require. A license shall be granted to the applicant upon a determination by the  
28 Department that the applicant has complied with the provisions of this Part and the rules  
29 promulgated by the Commission under this Part. The Department shall charge the applicant a  
30 nonrefundable annual base license fee in the amount of ~~seven hundred dollars (\$700.00)~~eight  
31 hundred fifty dollars (\$850.00) plus a nonrefundable annual per-operating room fee in the  
32 amount of ~~fifty dollars (\$50.00)~~seventy-five dollars (\$75.00)."

33 **SECTION 10.76.(c)** G.S. 131E-167(a) reads as rewritten:

34 "(a) Applications for certification shall be available from the Department, and each  
35 application filed with the Department shall contain all necessary and reasonable information  
36 that the Department may by rule require. A certificate shall be granted to the applicant for a  
37 period not to exceed one year upon a determination by the Department that the applicant has  
38 substantially complied with the provisions of this Article and the rules promulgated by the  
39 Department under this Article. The Department shall charge the applicant a nonrefundable  
40 annual certification fee in the amount of ~~two hundred fifty dollars (\$250.00)~~three hundred  
41 eighty-five dollars (\$385.00)."

42 **SECTION 10.76.(d)** G.S. 131E-138(c) reads as rewritten:

43 "(c) An application for a license shall be available from the Department, and each  
44 application filed with the Department shall contain all information requested by the  
45 Department. A license shall be granted to the applicant upon a determination by the  
46 Department that the applicant has complied with the provisions of this Part and the rules  
47 promulgated by the Commission under this Part. The Department shall charge the applicant a  
48 nonrefundable annual license fee in the amount of ~~four hundred dollars (\$400.00)~~five hundred  
49 ten dollars (\$510.00)."

50 **SECTION 10.76.(e)** G.S. 131E-77 reads as rewritten:

51 "**§ 131E-77. Licensure requirement.**

(a) No person or governmental unit shall establish or operate a hospital in this state without a license. An infirmary is not required to obtain a license under this Part.

(b) The Commission shall prescribe by rule that any licensee or prospective applicant seeking to make specified types of alteration or addition to its facilities or to construct new facilities shall submit plans and specifications before commencement to the Department for preliminary inspection and approval or recommendations with respect to compliance with the applicable rules under this Part.

(c) An applicant for licensing under this Part shall provide information related to hospital operations as requested by the Department. The required information shall be submitted by the applicant on forms provided by the Department and established by rule.

(d) The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Facility Type	Number of Beds	Base Fee	Per-Bed Fee
General Acute Hospitals:	1-49 beds	\$250.00	<del>\$12.50</del> <u>\$17.50</u>
	50-99 beds	\$350.00	<del>\$12.50</del> <u>\$17.50</u>
	100-199 beds	\$450.00	<del>\$12.50</del> <u>\$17.50</u>
	200-399 beds	\$550.00	<del>\$12.50</del> <u>\$17.50</u>
	400-699 beds	\$750.00	<del>\$12.50</del> <u>\$17.50</u>
Other Hospitals:	700+ beds	\$950.00	<del>\$12.50</del> <u>\$17.50</u>
		\$500.00	<del>\$12.50</del> <u>\$17.50</u>

(e) The Department shall issue the license to the operator of the hospital who shall not transfer or assign it except with the written approval of the Department. The license shall designate the number and types of inpatient beds, the number of operating rooms, and the number of gastrointestinal endoscopy rooms.

(f) The operator shall post the license on the licensed premises in an area accessible to the public."

**SECTION 10.76.(f)** G.S. 122C-23(h) reads as rewritten:

"(h) The Department shall charge facilities licensed under this Chapter a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF/MR):	0 beds	<del>\$175.00</del> <u>\$215.00</u>	\$0
	1 to 6 beds	<del>\$250.00</del> <u>\$305.00</u>	\$0
	More than 6 beds	<del>\$350.00</del> <u>\$475.00</u>	<del>\$12.50</del> <u>\$17.50</u>
ICF/MR Only:	1 to 6 beds	<del>\$650.00</del> <u>\$845.00</u>	\$0
	More than 6 beds	<del>\$650.00</del> <u>\$800.00</u>	<del>\$12.50</del> <u>\$17.50</u> "

**SECTION 10.76.(g)** G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of ~~four hundred fifty dollars (\$450.00)~~ four hundred twenty dollars (\$420.00) plus a nonrefundable annual per-bed fee of ~~twelve dollars and fifty cents (\$12.50)~~ seventeen dollars and fifty cents (\$17.50)."

**SECTION 10.76.(h)** G.S. 131E-202(b) reads as rewritten:

"(b) The Department shall provide applications for hospice licensure. Each application filed with the Department shall contain all information requested therein. A license shall be granted to the applicant upon determination by the Department that the applicant has complied with the provisions of this Article and with the rules adopted by the Commission thereunder. Each license shall be issued only for the premises and persons named therein, shall not be transferable or assignable except with the written approval of the Department, and shall be posted in a conspicuous place on the licensed premises. The Department shall charge the applicant a nonrefundable annual license fee in the amount of four hundred dollars (\$400.00)."

**DHSR INITIAL LICENSURE FEES NEW FACILITIES**

**SECTION 10.77.** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-272. Initial licensure fees for new facilities.**

The following fees are initial licensure fees for new facilities and are applicable as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Initial License Fee</u>	<u>Initial Bed Fee</u>
<u>Adult Care Licensure</u>	<u>More than 6</u>	<u>\$400.00</u>	<u>\$19.00</u>
	<u>6 or Fewer</u>	<u>\$350.00</u>	<u>\$ -</u>
<u>Acute and Home Care</u>			
<u>General Acute Hospitals</u>	<u>1-49</u>	<u>\$550.00</u>	<u>\$19.00</u>
	<u>50-99</u>	<u>\$750.00</u>	<u>\$19.00</u>
	<u>100-199</u>	<u>\$950.00</u>	<u>\$19.00</u>
	<u>200-399</u>	<u>\$1150.00</u>	<u>\$19.00</u>
	<u>400-699</u>	<u>\$1550.00</u>	<u>\$19.00</u>
	<u>700+</u>	<u>\$1950.00</u>	<u>\$19.00</u>
<u>Other Hospitals</u>		<u>\$1050.00</u>	<u>\$19.00</u>
<u>Home Care</u>	<u>=</u>	<u>\$560.00</u>	<u>\$ -</u>
<u>Ambulatory Surgical Ctrs.</u>	<u>=</u>	<u>\$900.00</u>	<u>\$85.00</u>
<u>Hospice (Free Standing)</u>	<u>=</u>	<u>\$450.00</u>	<u>\$ -</u>
<u>Abortion Clinics</u>	<u>=</u>	<u>\$750.00</u>	<u>\$ -</u>
<u>Cardiac Rehab. Centers</u>	<u>=</u>	<u>\$425.00</u>	<u>\$ -</u>
<u>Nursing Home &amp; L&amp;C</u>			
<u>Nursing Homes</u>		<u>\$470.00</u>	<u>\$19.00</u>
<u>All Others</u>		<u>\$ -</u>	<u>\$19.00</u>
<u>Mental Health Facilities</u>			
<u>Nonresidential</u>		<u>\$265.00</u>	<u>\$ -</u>
<u>Non ICF-MR</u>	<u>6 or fewer</u>	<u>\$350.00</u>	<u>\$ -</u>
<u>ICF-MR only</u>	<u>6 or fewer</u>	<u>\$900.00</u>	<u>\$ -</u>
<u>Non ICF-MR</u>	<u>More than 6</u>	<u>\$525.00</u>	<u>\$19.00</u>
<u>ICF-MR only</u>	<u>More than 6</u>	<u>\$850.00</u>	<u>\$19.00.</u> "

**DHHS BLOCK GRANTS**

**SECTION 10.78.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2010, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES  
(TANF) BLOCK GRANT

1			
2	Local Program Expenditures		
3			
4	Division of Social Services		
5			
6	01.    Work First Family Assistance		\$87,083,100
7			
8	02.    Work First County Block Grants		94,453,315
9			
10	03.    Child Protective Services – Child Welfare		
11	Workers for Local DSS		14,452,391
12			
13	04.    Child Welfare Collaborative		1,019,193
14			
15	Division of Child Development		
16			
17	05.    Subsidized Child Care Program		61,087,077
18			
19	Division of Public Health		
20			
21	06.    Teen Pregnancy Initiatives		450,000
22			
23	DHHS Administration		
24			
25	07.    Division of Social Services		1,093,176
26			
27	08.    Office of the Secretary		75,392
28			
29	09.    Office of the Secretary/DIRM – TANF		
30	Automation Projects		720,000
31			
32	10.    Office of the Secretary/DIRM – NC FAST		
33	Implementation		1,200,000
34			
35	Transfers to Other Block Grants		
36			
37	Division of Child Development		
38			
39	11.    Transfer to the Child Care and		
40	Development Fund		84,330,900
41			
42	Division of Social Services		
43			
44	12.    Transfer to Social Services Block Grant for Child		
45	Protective Services – Child Welfare Training in		
46	Counties		2,738,827
47			
48	13.    Transfer to Social Services Block Grant for		
49	Maternity Homes		943,002
50			
51	14.    Transfer to Social Services Block Grant for Teen		

1	Pregnancy Prevention Initiatives	2,500,000
2		
3	15. Transfer to Social Services Block Grant for County	
4	Departments of Social Services for Children's Services	4,500,000
5		
6	16. Transfer to Social Services Block Grant for	
7	Foster Care Services	390,000
8		
9	17. Transfer to Social Services Block Grant for	
10	Medically Fragile Children	360,000
11		
12	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
13	(TANF) BLOCK GRANT	\$357,396,373
14		
15	TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
16	CONTINGENCY FUNDS	
17		
18	Local Program Expenditures	
19		
20	Division of Social Services	
21		
22	01. Work First Family Assistance	\$2,236,284
23		
24	02. Work First – Boys and Girls Clubs	1,600,000
25		
26	03. Work First – After-school Services	
27	For At-Risk Children	1,639,714
28		
29	04. Work First – After-school Programs	
30	For At-Risk Youth in Middle Schools	400,000
31		
32	05. Work First – Connect, Inc. (Work Central)	440,000
33		
34	06. Work First – Citizens Schools Program	360,000
35		
36	07. County Demonstration Grants	3,239,789
37		
38	08. Adoption Services – Special Children's Adoption Fund	3,000,000
39		
40	09. Family Violence Prevention	1,760,000
41		
42	10. Work First Functional Assessment	600,000
43		
44	11. Electing County State Funding Swap Out	2,378,213
45		
46	12. State Subsidized Child Care Funding Swap	12,452,484
47		
48	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
49	CONTINGENCY FUNDS	\$30,106,484
50		
51	SOCIAL SERVICES BLOCK GRANT	

1		
2	Local Program Expenditures	
3		
4	Divisions of Social Services and Aging and Adult Services	
5		
6	01. County Departments of Social Services	\$ 28,868,189
7	(Transfer from TANF – \$4,500,000)	
8		
9	02. State In-Home Services Fund	2,101,113
10		
11	03. State Adult Day Care Fund	2,155,301
12		
13	04. Child Protective Services/CPS Investigative	
14	Services-Child Medical Evaluation Program	397,718
15		
16	05. Foster Care Services	2,372,619
17	(Transfer from TANF – \$390,000)	
18		
19	06. Maternity Homes (Transfer from TANF)	943,002
20		
21	07. Special Children Adoption Incentive Fund	500,000
22		
23	08. Child Protective Services-Child Welfare Training	
24	for Counties	2,738,827
25	(Transfer from TANF)	
26		
27	09. Home and Community Care Block Grant (HCCBG)	1,834,077
28		
29	Division of Mental Health, Developmental Disabilities, and Substance	
30	Abuse Services	
31		
32	10. Mental Health Services Program	422,003
33		
34	11. Developmental Disabilities Services Program	5,000,000
35		
36	12. Mental Health Services-Adult and	
37	Child/Developmental Disabilities Program/	
38	Substance Abuse Services-Adult	3,234,601
39		
40	Division of Child Development	
41		
42	13. Subsidized Child Care Program	3,150,000
43		
44	Division of Public Health	
45		
46	14. Teen Pregnancy Prevention Initiatives	2,500,000
47	(Transfer from TANF)	
48		
49	15. Services for Medically Fragile Children	
50	(Transfer from TANF)	360,000
51		

1	DHHS Program Expenditures	
2		
3	Division of Aging and Adult Services	
4		
5	16.    UNC-CARES Training Contract	247,920
6		
7	Division of Vocational Rehabilitation	
8		
9	17.    Independent Living Program	400,000
10		
11	Division of Services for the Blind	
12		
13	18.    Independent Living Program	3,633,077
14		
15	Division of Health Service Regulation	
16		
17	19.    Adult Care Licensure Program	411,897
18		
19	20.    Mental Health Licensure and Certification Program	205,668
20		
21	DHHS Administration	
22		
23	21.    Division of Aging and Adult Services	688,436
24		
25	22.    Division of Social Services	892,624
26		
27	23.    Office of the Secretary/Controller's Office	138,058
28		
29	24.    Office of the Secretary/DIRM	87,483
30		
31	25.    Division of Child Development	15,000
32		
33	26.    Division of Mental Health, Developmental	
34	Disabilities, and Substance Abuse Services	29,665
35		
36	27.    Division of Health Service Regulation	235,625
37		
38	28.    Office of the Secretary-NC Inter-Agency Council	
39	for Coordinating Homeless Programs	250,000
40		
41	29.    Office of the Secretary	48,053
42		
43	Transfers to Other State Agencies	
44		
45	Department of Administration	
46		
47	30.    NC Commission of Indian Affairs In-Home	
48	Services for the Elderly	203,198
49		
50	Transfers to Other Block Grants	
51		



1	Division of Public Health	
2		
3	31. Transfer to Preventive Health Services Block Grant	
4	for HIV/STD Prevention and Community Planning	145,819
5		
6	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 64,209,973
7		
8	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT	
9		
10	Local Program Expenditures	
11		
12	Division of Social Services	
13		
14	01. Low-Income Energy Assistance Program (LIEAP)	\$ 22,612,198
15		
16	02. Crisis Intervention Program (CIP)	16,927,343
17		
18	Office of the Secretary – Office of Economic Opportunity	
19		
20	03. Weatherization Program	7,258,685
21		
22	04. Heating Air Repair & Replacement Program (HARRP)	3,385,583
23		
24	Local Administration	
25		
26	Division of Social Services	
27		
28	05. County DSS Administration	3,608,360
29		
30	Office of the Secretary – Office of Economic Opportunity	
31		
32	06. Local Residential Energy Efficiency Service	
33	Providers – Weatherization	420,035
34		
35	07. Local Residential Energy Efficiency Service	
36	Providers – HARRP	195,910
37		
38	DHHS Administration	
39		
40	08. Division of Social Services	275,000
41		
42	09. Division of Mental Health, Developmental	
43	Disabilities, and Substance Abuse Services	11,577
44		
45	10. Office of the Secretary/DIRM	384,494
46		
47	11. Office of the Secretary/Controller's Office	17,566
48		
49	12. Office of the Secretary/Office of Economic	
50	Opportunity – Weatherization	420,035
51		

1	13.	Office of the Secretary/Office of Economic	
2		Opportunity – HARRP	195,910
3			
4		Transfers to Other State Agencies	
5			
6	14.	Department of Administration –	
7		N.C. State Commission of Indian Affairs	95,469
8			
9		TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
10		BLOCK GRANT	\$ 55,808,166
11			
12		CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
13			
14		Local Program Expenditures	
15			
16		Division of Child Development	
17			
18	01.	Subsidized Child Care Services (CCDF)	\$144,097,307
19			
20	02.	Contract Subsidized Child Care Services Support	507,617
21			
22	03.	Subsidized Child Care Services	
23		(Transfer from TANF)	84,330,900
24			
25	04.	Quality and Availability Initiatives	23,985,876
26			
27	04A.	CASTLE Program for Preschool Classes and	
28		Teacher Training	575,000
29			
30			
31			
32		Division of Social Services	
33			
34	05.	Local Subsidized Child Care Services Support	\$16,594,417
35			
36		DHHS Administration	
37			
38		Division of Child Development	
39			
40	06.	DCD Administrative Expenses	6,539,277
41			
42		Division of Central Administration	
43			
44	07.	DHHS Central Administration – DIRM	
45		Technical Services	763,356
46			
47		TOTAL CHILD CARE AND DEVELOPMENT FUND	
48		BLOCK GRANT	\$277,393,750
49			
50		CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH	
51		THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	

1		
2	Local Program Expenditures	
3		
4	Division of Child Development	
5		
6	01.    Subsidized Child Care Services (CCDF)	\$53,993,329
7		
8	02.    Contract Subsidized Child Care Services Support	29,030
9		
10	DHHS Program Expenditures	
11		
12	Division of Child Development	
13		
14	03.    Quality and Availability Initiatives	7,719,144
15		
16	04.    TEACH	3,800,000
17		
18	Local Administration	
19		
20	Division of Social Services	
21		
22	05.    Subsidy Services Support	2,001,631
23		
24	TOTAL CHILD CARE AND DEVELOPMENT FUND	
25	BLOCK GRANT RECEIVED THROUGH ARRA	\$67,543,143
26		
27	MENTAL HEALTH SERVICES BLOCK GRANT	
28		
29	Local Program Expenditures	
30		
31	01.    Mental Health Services – Adult	\$ 5,977,762
32		
33	02.    Mental Health Services – Child	3,921,991
34		
35	03.    Comprehensive Treatment Service Program	1,500,000
36		
37	04.    Mental Health Services – UNC School of Medicine, Department of Psychiatry	300,000
38		
39		
40	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 11,699,753
41		
42	SUBSTANCE ABUSE PREVENTION	
43	AND TREATMENT BLOCK GRANT	
44		
45	Local Program Expenditures	
46		
47	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
48		
49	01.    Substance Abuse Services – Adult	\$ 22,258,080
50		
51	02.    Substance Abuse Treatment Alternative for	

1	Women	8,069,524
2		
3	03. Substance Abuse – HIV and IV Drug	5,116,378
4		
5	04. Substance Abuse Prevention – Child	7,186,857
6		
7	05. Substance Abuse Services – Child	4,940,500
8		
9	06. Institute of Medicine	250,000
10		
11	Division of Public Health	
12		
13	07. Risk Reduction Projects	633,980
14		
15	08. Aid-to-Counties	209,576
16		
17	09. Maternal Health	37,779
18		
19	TOTAL SUBSTANCE ABUSE PREVENTION	
20	AND TREATMENT BLOCK GRANT	\$ 48,702,674
21		
22	MATERNAL AND CHILD HEALTH BLOCK GRANT	
23		
24	Local Program Expenditures	
25		
26	Division of Public Health	
27		
28	01. Children's Health Services	7,534,865
29		
30	02. Women's Health	7,701,691
31		
32	03. Oral Health	38,041
33		
34	DHHS Program Expenditures	
35		
36	Division of Public Health	
37		
38	04. Children's Health Services	1,359,636
39		
40	05. Women's Health	135,452
41		
42	06. State Center for Health Statistics	179,483
43		
44	07. Quality Improvement in Public Health	14,646
45		
46	08. Health Promotion	88,746
47		
48	09. Office of Minority Health	55,250
49		
50	10. Immunization Program – Vaccine Distribution	382,648
51		

1	DHHS Administration	
2		
3	Division of Public Health	
4		
5	11.    Division of Public Health Administration	631,966
6		
7	TOTAL MATERNAL AND CHILD	
8	HEALTH BLOCK GRANT	\$ 18,122,424
9		
10	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
11		
12	Local Program Expenditures	
13		
14	Division of Public Health	
15		
16	01.    NC Statewide Health Promotion	\$1,730,653
17		
18	02.    Services to Rape Victims	197,112
19		
20	03.    HIV/STD Prevention and Community Planning	
21	(Transfer from Social Services Block Grant)	145,819
22		
23	DHHS Program Expenditures	
24		
25	Division of Public Health	
26		
27	04.    NC Statewide Health Promotion	1,699,044
28		
29	05.    Oral Health	70,000
30		
31	06.    State Laboratory of Public Health	16,600
32		
33	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$3,859,228
34		
35	COMMUNITY SERVICES BLOCK GRANT	
36		
37	Local Program Expenditures	
38		
39	Office of Economic Opportunity	
40		
41	01.    Community Action Agencies	\$ 16,673,336
42		
43	02.    Limited Purpose Agencies	926,297
44		
45	DHHS Administration	
46		
47	03.    Office of Economic Opportunity	926,296
48		
49	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 18,525,929
50		

1 COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN  
2 RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA)

3  
4 Local Program Expenditures

5  
6 Office of Economic Opportunity

7  
8 01. Community Action Agencies \$ 25,980,693

9  
10 DHHS Administration Expenditures

11  
12 02. Division of Social Services 262,431

13  
14 TOTAL COMMUNITY SERVICES BLOCK GRANT  
15 RECEIVED THROUGH ARRA \$ 26,243,124

16  
17 **GENERAL PROVISIONS**

18 **SECTION 10.78.(b)** Information to Be Included in Block Grant Plans. – The  
19 Department of Health and Human Services shall submit a separate plan for each Block Grant  
20 received and administered by the Department, and each plan shall include the following:

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

32 **SECTION 10.78.(c)** Changes in Federal Fund Availability. – If the Congress of the  
33 United States increases the federal fund availability for any of the Block Grants administered  
34 by the Department of Health and Human Services from the amounts appropriated in this  
35 section, the Department shall allocate the increase proportionally across the program and  
36 activity appropriations identified for that Block Grant in this section. In allocating an increase  
37 in federal fund availability, the Department shall not propose funding for new programs or  
38 activities not appropriated in this section.

39 If the Congress of the United States decreases the federal fund availability for any of  
40 the Block Grants administered by the Department of Health and Human Services from the  
41 amounts appropriated in this section, the Department shall reduce State administration by at  
42 least the percentage of the reduction in federal funds. After determining the State  
43 administration, the remaining reductions shall be allocated proportionately across the program  
44 and activity appropriations identified for that Block Grant in this section.

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

1           **SECTION 10.78.(d)** Appropriations from federal Block Grant funds are made for  
2 the fiscal year ending June 30, 2010, according to the schedule enacted for State fiscal year  
3 2009-2010 or until a new schedule is enacted by the General Assembly.

4           **SECTION 10.78.(e)** All changes to the budgeted allocations to the Block Grants  
5 administered by the Department of Health and Human Services that are not specifically  
6 addressed in this section shall be approved by the Office of State Budget and Management, and  
7 a report shall be submitted to the Joint Legislative Commission on Governmental Operations  
8 for review prior to implementing the changes. All changes to the budgeted allocations to the  
9 Block Grants shall be reported immediately to the House of Representatives Appropriations  
10 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
11 and Human Services, and the Fiscal Research Division. This subsection does not apply to  
12 Block Grant changes caused by legislative salary increases and benefit adjustments.

13  
14 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT AND**  
15 **TANF CONTINGENCY FUNDS**

16           **SECTION 10.78.(f)** The sum of one million ninety-three thousand one hundred  
17 seventy-six dollars (\$1,093,176) appropriated in this section in the TANF Block Grant to the  
18 Department of Health and Human Services, Division of Social Services, for the 2009-2010  
19 fiscal year shall be used to support administration of TANF-funded programs.

20           **SECTION 10.78.(g)** The sum of one million seven hundred sixty thousand dollars  
21 (\$1,760,000) appropriated under this section in TANF Contingency funds to the Department of  
22 Health and Human Services, Division of Social Services, for the 2009-2010 fiscal year shall be  
23 used to provide domestic violence services to Work First recipients. These funds shall be used  
24 to provide domestic violence counseling, support, and other direct services to clients. These  
25 funds shall not be used to establish new domestic violence shelters or to facilitate lobbying  
26 efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000)  
27 in TANF funds to support one administrative position within the Division of Social Services to  
28 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  
33 the domestic violence program director or the director's designee and submitted to the Division  
34 of Social Services by December 1, 2009. The Division of Social Services, in consultation with  
35 the Council for Women, shall review the county plans and shall provide consultation and  
36 technical assistance to the departments of social services and local domestic violence shelter  
37 programs, if 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  
40 allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of  
41 the remaining funds based on the county's proportion of the statewide total of the Work First  
42 caseload as of July 1, 2009, and the county's proportion of the statewide total of the individuals  
43 receiving domestic violence services from programs funded by the Council for Women as of  
44 July 1, 2009. The Division of Social Services may reallocate unspent funds to counties that  
45 submit a written request for additional funds.

46           **SECTION 10.78.(h)** The sum of one million six hundred thirty-nine thousand  
47 seven hundred fourteen dollars (\$1,639,714) appropriated in this section in TANF Contingency  
48 funds to the Department of Health and Human Services, Division of Social Services, for the  
49 2009-2010 fiscal year shall be used to expand after-school programs and services for at-risk  
50 children. The Department shall develop and implement a grant program to award grants to  
51 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  
4 human services programs in order to provide support services and assistance to the child and  
5 family. These funds may be used to fund one position within the Division of Social Services to  
6 coordinate at-risk after-school programs and shall not be used for other State administration.

7 **SECTION 10.78.(i)** The sum of fourteen million four hundred fifty-two thousand  
8 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department  
9 of Health and Human Services, Division of Social Services, in the TANF Block Grant for the  
10 2009-2010 fiscal year for child welfare improvements shall be allocated to the county  
11 departments of social services for hiring or contracting staff to investigate and provide services  
12 in Child Protective Services cases; to provide foster care and support services; to recruit, train,  
13 license, and support prospective foster and adoptive families; and to provide interstate and  
14 postadoption services for eligible families.

15 **SECTION 10.78.(j)** The sum of three million dollars (\$3,000,000) appropriated in  
16 this section in TANF Contingency funds to the Department of Health and Human Services,  
17 Special Children Adoption Fund, for the 2009-2010 fiscal year shall be used in accordance with  
18 G.S. 108A-50.2, as enacted in Section 10.48 of this act. The Division of Social Services, in  
19 consultation with the North Carolina Association of County Directors of Social Services and  
20 representatives of licensed private adoption agencies, shall develop guidelines for the awarding  
21 of funds to licensed public and private adoption agencies upon the adoption of children  
22 described in G.S. 108A-50 and in foster care. Payments received from the Special Children  
23 Adoption Fund by participating agencies shall be used exclusively to enhance the adoption  
24 services program. No local match shall be required as a condition for receipt of these funds.

25 **SECTION 10.78.(k)** The sum of one million two hundred thousand dollars  
26 (\$1,200,000) in this section appropriated to the Department of Health and Human Services in  
27 the TANF Block Grant for the 2009-2010 fiscal year shall be used to implement N.C. FAST  
28 (North Carolina Families Accessing Services through Technology). The N.C. FAST Program  
29 involves the entire automation initiative through which families access services and local  
30 departments of social services deliver benefits, supervised by the Department of Health and  
31 Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance,  
32 and Child Development. The statewide automated initiative shall be implemented in  
33 compliance with federal regulations in order to ensure federal financial participation in the  
34 project. The Department of Health and Human Services shall report on its compliance with this  
35 subsection to the House of Representatives Appropriations Subcommittee on Health and  
36 Human Services, the Senate Appropriations Committee on Health and Human Services, and the  
37 Fiscal Research Division no later than January 1, 2010.

38 **SECTION 10.78.(l)** The sum of four hundred thousand dollars (\$400,000)  
39 appropriated in this section to the Department of Health and Human Services, Division of  
40 Social Services, in TANF Contingency funds for the 2009-2010 fiscal year shall be used to  
41 expand after-school programs for at-risk children attending middle school. The Department  
42 shall develop and implement a grant program to award funds to community-based programs  
43 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and  
44 gang participation. These funds shall not be used for training or administration at the State  
45 level. All funds shall be distributed to community-based programs, focusing on those  
46 communities where similar programs do not exist in middle schools.

47 **SECTION 10.78.(m)** In implementing the TANF Block Grants, the Department of  
48 Health and Human Services shall review policies, programs, and initiatives to ensure that they  
49 support men in their role as fathers and strengthen fathers' involvement in their children's lives.  
50 The Department shall encourage county departments of social services to ensure their Work



1 First programs emphasize responsible fatherhood and increased participation by noncustodial  
2 fathers.

3       **SECTION 10.78.(n)** The sum of four hundred forty thousand dollars (\$440,000)  
4 appropriated in this section to the Department in TANF Contingency funds for the 2009-2010  
5 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of  
6 people served and the services received as a result of the receipt of funds. The report shall  
7 contain expenditure data, including the amount of funds used for administration and direct  
8 training. The report shall also include the number of people who have been employed as a  
9 direct result of services provided by Connect, Inc., including the length of employment in the  
10 new position. The Department of Health and Human Services shall evaluate the program and  
11 ensure that services provided are not duplicative of local employment security commissions in  
12 the nine counties served by Connect, Inc. The evaluation report shall be submitted to the House  
13 of Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
14 Appropriations Committee on Health and Human Services, and the Fiscal Research Division no  
15 later than May 1, 2010.

16       **SECTION 10.78.(o)** The sum of one million six hundred thousand dollars  
17 (\$1,600,000) appropriated in this section to the Department in TANF Contingency funds for  
18 Boys and Girls Clubs for the 2009-2010 fiscal year shall be used to make grants for approved  
19 programs. The Department of Health and Human Services, in accordance with federal  
20 regulations for the use of TANF Block Grant funds, shall administer a grant program to award  
21 funds to the Boys and Girls Clubs across the State in order to implement programs that improve  
22 the motivation, performance, and self-esteem of youths and to implement other initiatives that  
23 would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The  
24 Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and  
25 Support Our Students, Communities in Schools, and similar programs to submit joint  
26 applications for the funds if appropriate.

27       **SECTION 10.78.(p)** The Department of Health and Human Services, Division of  
28 Social Services, shall continue implementing county demonstration grants that began in the  
29 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years  
30 with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the  
31 county demonstration grants is to identify best practices that can be used by counties to  
32 improve the work participation rates. The Division of Social Services is authorized to establish  
33 two time-limited positions to manage the grant award process and monitor the demonstration  
34 projects through fiscal year 2009-2010.

35       Funding provided under the county demonstration grants shall not be used to  
36 supplant local funds, and counties shall be required to maintain the current level of effort and  
37 funding for the Work First program.

38       The Department of Health and Human Services, Division of Social Services, shall  
39 report on the status of county demonstration grants implemented pursuant to this subsection to  
40 the House of Representatives Appropriations Subcommittee on Health and Human Services,  
41 the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
42 Division no later than February 1, 2010.

43       **SECTION 10.78.(q)** The sum of one million nineteen thousand one hundred  
44 ninety-three dollars (\$1,019,193) appropriated in this section to the Department of Health and  
45 Human Services in the TANF Block Grant for the 2009-2010 fiscal year shall be used to  
46 continue support for the Child Welfare Collaborative and to implement other recruitment  
47 initiatives.

48       **SECTION 10.78.(r)** The sum of three hundred sixty thousand dollars (\$360,000)  
49 appropriated to the Department of Health and Human Services, Division of Social Services,  
50 under this section in TANF Contingency funds for the 2009-2010 fiscal year shall be used to

1 continue support for the Citizens Schools Program, a three-year urban/rural dropout prevention  
2 pilot program in the Durham and Vance county public school systems.

3  
4 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY**  
5 **CONTINGENCY FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY**  
6 **AND REINVESTMENT ACT OF 2009 (ARRA)**

7 **SECTION 10.78.(s)** The Department of Health and Human Services, Division of  
8 Social Services, shall demonstrate qualifying conditions and apply to the U.S. Department of  
9 Health and Human Services, Administration for Children & Families, for federal funding  
10 available through the Emergency Contingency Fund for State TANF Programs created by the  
11 American Recovery and Reinvestment Act of 2009.

12 Of the funds for which the Division qualifies, the sum of one million nine hundred  
13 fifty-nine thousand and twenty dollars (\$1,959,020) shall be used to implement a Conversion  
14 Pay for Performance Work First Benefits Program to improve work participation among Work  
15 First Family Assistance recipients.

16 If, based on increased Work First Family Assistance caseloads and payments, the  
17 Division of Social Services qualifies for funding in excess of the amount appropriated in this  
18 section, such additional Emergency Contingency Funds shall be used to support the Work First  
19 Family Assistance program.

20  
21 **SOCIAL SERVICES BLOCK GRANT**

22 **SECTION 10.78.(t)** Social Services Block Grant funds appropriated to the North  
23 Carolina Inter-Agency Council for Coordinating Homeless Programs and funds appropriated  
24 for child medical evaluations are exempt from the provisions of 10A NCAC 71R .0201(3).

25 **SECTION 10.78.(u)** The sum of two million seven hundred thirty-eight thousand  
26 eight hundred twenty-seven dollars (\$2,738,827) appropriated in this section in the Social  
27 Services Block Grant to the Department of Health and Human Services, Division of Social  
28 Services, for the 2009-2010 fiscal year shall be used to support various child welfare training  
29 projects as follows:

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

33 **SECTION 10.78.(v)** The sum of nine hundred forty-three thousand two dollars  
34 (\$943,002) appropriated in this section to the Department of Health and Human Services in the  
35 Social Services Block Grant for the 2009-2010 fiscal year shall be used to support payments to  
36 maternity home providers.

37 **SECTION 10.78.(w)** The sum of three hundred sixty thousand dollars (\$360,000)  
38 appropriated in this section to the Department of Health and Human Services, Division of  
39 Public Health, in the Social Services Block Grant for the 2009-2010 fiscal year shall be used to  
40 continue support for the Medically Fragile Children program.

41 **SECTION 10.78.(x)** The sum of two million three hundred seventy-two thousand  
42 six hundred nineteen dollars (\$2,372,619) appropriated in this section in the Social Services  
43 Block Grant for child caring agencies for the 2009-2010 fiscal year shall be allocated in support  
44 of State foster home children.

45 **SECTION 10.78.(y)** The sum of four hundred thousand dollars (\$400,000)  
46 appropriated in this section to the Department of Health and Human Services, Division of  
47 Vocational Rehabilitation, in the Social Services Block Grant for the 2009-2010 fiscal year  
48 shall be used for the Independent Living Program.

49 **SECTION 10.78.(z)** The Department of Health and Human Services is authorized,  
50 subject to the approval of the Office of State Budget and Management, to transfer Social

1 Services Block Grant funding allocated for departmental administration between divisions that  
2 have received administrative allocations from the Social Services Block Grant.

3 **SECTION 10.78.(aa)** Social Services Block Grant funds appropriated for the  
4 Special Children's Adoption Incentive Fund will require fifty percent (50%) local match.

5  
6 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

7 **SECTION 10.78.(bb)** Additional emergency contingency funds received may be  
8 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior  
9 consultation with the Joint Legislative Commission on Governmental Operations. Additional  
10 funds received shall be reported to the Joint Legislative Commission on Governmental  
11 Operations and the Fiscal Research Division upon notification of the award. The Department of  
12 Health and Human Services shall not allocate funds for any activities, including increasing  
13 administration, other than assistance payments, without prior consultation with the Joint  
14 Legislative Commission on Governmental Operations.

15 In addition to funds available for weatherization appropriated within the  
16 Low-Income Home Energy Assistance Block Grant, funds available through the American  
17 Recovery and Reinvestment Act of 2009 shall be used to continue to enhance weatherization  
18 activities coordinated by local agencies.

19  
20 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

21 **SECTION 10.78.(cc)** Payment for subsidized child care services provided with  
22 federal TANF funds shall comply with all regulations and policies issued by the Division of  
23 Child Development for the subsidized child care program.

24 **SECTION 10.78.(dd)** If funds appropriated through the Child Care and  
25 Development Fund Block Grant for any program cannot be obligated or spent in that program  
26 within the obligation or liquidation periods allowed by the federal grants, the Department may  
27 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the  
28 grant, in order to use the federal funds fully.

29 **SECTION 10.78.(ee)** Funds from the Child Care and Development Fund Block  
30 Grant and Child Care and Development Fund Block Grant received through the American  
31 Recovery and Reinvestment Act of 2009 shall be used to increase access to child care subsidy.  
32 To help address the economic downturn and increasing unemployment in North Carolina, the  
33 Department of Health and Human Services, Division of Child Development, shall adopt  
34 temporary policies that facilitate and expedite the prudent expenditure of these funds as  
35 follows:

- 36 (1) Permit the local purchasing agencies to issue time-limited vouchers to assist  
37 counties in managing onetime, nonrecurring subsidy funding.
- 38 (2) Extend the current 30/60-day job search policy to six months when a  
39 recipient experiences a loss of employment.
- 40 (3) Provide an up-front job search period of six months for applicants who have  
41 lost employment since October 1, 2008.
- 42 (4) Provide a job search period of six months for recipients that complete school  
43 and are entering the job market.
- 44 (5) Notwithstanding any other provision of law, extend the 24-month education  
45 time limit for an additional 12 months for a child care recipient who has lost  
46 a job since October 1, 2008, or otherwise needs additional training to  
47 enhance his or her marketable skills for job placement due to the economic  
48 downturn and who has depleted his or her 24-month allowable education  
49 time.

- 1 (6) Lower the number of hours a parent must be working in order to be eligible  
2 for subsidy to assist parents who are continuing to work but at reduced  
3 hours.

4 **SECTION 10.78.(ff)** If American Recovery and Reinvestment Act of 2009 funds  
5 appropriated through the Child Care and Development Fund Block Grant for any program  
6 cannot be obligated or spent in that program within the obligation or liquidation periods  
7 allowed by the federal grants, the Department may move funds to child care subsidies, unless  
8 otherwise prohibited by federal requirements of the grant, in order to use the federal funds  
9 fully.

#### 10 **MENTAL HEALTH BLOCK GRANT**

11 **SECTION 10.78.(gg)** The sum of one million five hundred thousand dollars  
12 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department  
13 of Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
14 Substance Abuse Services, for the 2009-2010 fiscal year and the sum of four hundred  
15 twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services  
16 Block Grant to the Department of Health and Human Services, Division of Social Services, for  
17 the 2009-2010 fiscal year shall be used to continue a Comprehensive Treatment Services  
18 Program for Children.

#### 19 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

20 **SECTION 10.78.(hh)** If federal funds are received under the Maternal and Child  
21 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193  
22 (42 U.S.C. § 710), for the 2009-2010 fiscal year, then those funds shall be transferred to the  
23 State Board of Education to be administered by the Department of Public Instruction. The  
24 Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage  
25 Education Program and shall delegate to one or more persons the responsibility of  
26 implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction  
27 shall carefully and strictly follow federal guidelines in implementing and administering the  
28 abstinence education grant funds.

29 The sum of three hundred ninety-one thousand six hundred forty-two dollars  
30 (\$391,642) in the Department of Health and Human Services Block Grant Plan Management  
31 Plan for the 2009-2010 fiscal year funding request is designated for new initiatives, survey and  
32 immunization activities, and salary increases. This sum, along with the total amount  
33 appropriated in this section to the Department of Health and Human Services, Division of  
34 Public Health, for the 2009-2010 fiscal year shall be used for current ongoing activities only.

35 **SECTION 10.78.(ii)** The Department of Health and Human Services shall ensure  
36 that there will be follow-up testing in the Newborn Screening Program.

#### 37 **COMMUNITY SERVICES BLOCK GRANT**

38 **SECTION 10.78.(kk)** In accordance with the intent of the American Recovery and  
39 Reinvestment Act of 2009, the North Carolina General Assembly strongly encourages  
40 recipients of Community Services Block Grant and Community Services Block Grant  
41 Recovery funds to enhance cooperation with county departments of social services and regional  
42 food banks to increase benefits enrollment for eligible persons.

43 **SECTION 10.78.(ll)** The sum of two hundred sixty-two thousand four hundred  
44 thirty-one dollars (\$262,431) appropriated in this section in the Community Services Block  
45 Grant, received through the American Recovery and Reinvestment Act of 2009 (ARRA), to the  
46 Department of Health and Human Services, Division of Social Services, for the 2009-2010  
47 fiscal year shall be used for coordination activities relating to the identification and enrollment  
48 of eligible individuals and families in federal, State, and local benefit programs.

**PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES****COMMERCIAL FERTILIZER FEES**

**SECTION 11.1.** G.S. 106-671(a) reads as rewritten:

"(a) For the purpose of defraying expenses on the inspection and of otherwise determining the value of commercial fertilizers in this State, there shall be paid to the Department of Agriculture and Consumer Services a charge of ~~twenty five cents (25¢)~~fifty cents (50¢) per ton on all commercial fertilizers other than packages of five pounds or less. Inspection fees shall be paid on all tonnage distributed into North Carolina to any person not having a valid reporting permit. On individual packages of five pounds or less there shall be paid in lieu of the tonnage fee an annual registration fee of twenty-five dollars (\$25.00) for each brand offered for sale, sold, or distributed; provided that any per annum (fiscal) tonnage of any brand sold in excess of one hundred tons may be subject to the charge of ~~twenty five cents (25¢)~~fifty cents (50¢) per ton on any amount in excess of one hundred tons as provided herein. Whenever any manufacturer of commercial fertilizer shall have paid the charges required by this section his goods shall not be liable to further tax, whether by city, town, or county; provided, this shall not exempt the commercial fertilizers from an ad valorem tax."

**INCREASE PESTICIDE REGISTRATION FEE**

**SECTION 11.2.** G.S. 143-442(b) reads as rewritten:

"(b) The applicant shall pay an annual registration fee of ~~one hundred dollars (\$100.00)~~one hundred fifty dollars (\$150.00) plus an additional annual assessment for each brand or grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the applicant's gross sales of the pesticide in this State for the preceding 12 months for the period ending September 30th were more than five thousand dollars (\$5,000.00) and twenty-five dollars (\$25.00) if gross sales were less than five thousand dollars (\$5,000.00). An additional two hundred dollars (\$200.00) delinquent registration penalty shall be assessed against the registrant for each brand or grade of pesticide which is marketed in North Carolina prior to registration as required by this Article. In the case of multi-year registration, the annual fee and additional assessment for each year shall be paid at the time of the initial registration. The Board shall give a pro rata refund of the registration fee and additional assessment to the registrant in the event that registration is canceled by the Board or by the United States Environmental Protection Agency."

**BOARD OF AGRICULTURE REVIEW OF FEE SCHEDULES**

**SECTION 11.3.** G.S. 106-6.1 reads as rewritten:

**"§ 106-6.1. Fees.**

(a) A board or commission within the Department of Agriculture and Consumer Services may establish fees or charges for the services it provides. The Board of Agriculture, subject to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule for the use of facilities operated by the Department of Agriculture and Consumer Services.

(b) No later than February 1 of each odd numbered year, the Board of Agriculture shall review the fees it established under this section to determine whether any of these fees should be changed and report to the Fiscal Research Division the amount of each fee reviewed, when the fee was last changed, the number of times the fee was collected during the prior fiscal year, the total receipts from the fee during the prior fiscal year, and any recommendations for increasing or decreasing the amount of any such fees. This report shall also include for each fee an evaluation of any inflationary change since the last change to the amount of the fee and any other information deemed relevant to this evaluation."

**FARMLAND PRESERVATION TRUST FUND**

**SECTION 11.4.(a)** G.S. 106-744(c) reads as rewritten:

"(c) There is established a "North Carolina Agricultural Development and Farmland Preservation Trust Fund" to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or funding programs that promote the development and sustainability of farming and assist in the transition of existing farms to new farm families, or monies transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The Commissioner shall use Trust Fund monies for any of the following purposes:

- (1) ~~The~~ For the purchase of agricultural conservation easements, including transaction costs.
- (2) ~~Public~~ For the costs of public and private enterprise programs that will promote profitable and sustainable family farms through assistance to farmers in developing and implementing plans for the production of food, fiber, and value-added products, agritourism activities, marketing and sales of agricultural products produced on the farm, and other agriculturally related business activities.
- (3) To fund conservation agreements to bring into or maintain farmland in active production of food, fiber, and other agricultural products.
- (4) ~~The~~ For the costs of administering the program under this Article, including the cost of staff and staff support."

**SECTION 11.4.(b)** G.S. 106-744(c1) reads as rewritten:

"(c1) The Commissioner shall distribute Trust Fund monies for ~~such purchases, only the purposes under subsection (c) of this section,~~ including transaction costs, as follows:

- (1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.
- (2) To counties according to the match requirements under subsection (c2) of this section."

**SECTION 11.4.(c)** G.S. 106-744(g)(11) reads as rewritten:

"(11) ~~The Director of the Southeast Regional Office of the American Farmland Trust or the~~ The Executive Director of the Rural Advancement Foundation International – USA or the Executive Director's designee."

**SECTION 11.4.(d)** This section is effective when it becomes law and the change in membership of the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee under G.S. 106-744, as amended by subsection (c) of this section, shall occur prior to the next quarterly meeting of the Advisory Committee that occurs on or after that date.

**PART XII. DEPARTMENT OF LABOR****DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM**

**SECTION 12.1.** Chapter 94 of the General Statutes is amended by adding a new section to read as follows:

**"§ 94-12. Fees.**

The following fees are imposed on each apprentice who is covered by a written apprenticeship agreement entered into under this Chapter: (i) a new registration fee of fifty dollars (\$50.00); and (ii) an annual fee of fifty dollars (\$50.00). Each fee authorized by this section is payable as thirty dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice. The sponsor shall collect the fees authorized by this section from the apprentice and

1 remit the total fees owed by the sponsor and the apprentice to the Department of Labor. The  
2 fees are departmental receipts and must be applied to the costs of administering the  
3 apprenticeship program. The Commissioner may adopt rules pursuant to Chapter 150B of the  
4 General Statutes to implement this section. The provisions of this section shall not apply to the  
5 State, a department or agency of the State, or any political subdivision of the State or an  
6 apprentice of the State, a department or agency of the State, or any political subdivision of the  
7 State."

## 9 DEPARTMENT OF LABOR/REVIEW ALL FEES BIENNIALLY

10 SECTION 12.2. Article 1 of Chapter 95 of the General Statutes is amended by  
11 adding a new section to read as follows:

### 12 "§ 95-14.1. Department review fees biennially.

13 No later than February 1 of each odd-numbered year, the Department of Labor shall review  
14 all fees charged under its authority to determine whether any of the fees should be changed and  
15 shall report its findings to the House of Representatives and Senate Appropriations  
16 Subcommittees on Natural and Economic Resources and the Fiscal Research Division. The  
17 report required by this section shall include all of the information reported to the Office of State  
18 Budget and Management for its Biennial Fee Report and all of the following:

- 19 (1) The names of the programs or divisions supported by the fee.
- 20 (2) The total expenditures of the programs or divisions.
- 21 (3) Any recommendations for increasing or decreasing the amount of the fee.
- 22 (4) An evaluation of inflation since the last change to the amount of the fee.
- 23 (5) Any other information deemed relevant to the review."

## 25 DEPARTMENT OF LABOR/TRANSFER SPECIAL FUNDS TO GENERAL FUND 26 AND TO APPRENTICESHIP PROGRAM

27 SECTION 12.3.(a) The Department of Labor shall, in consultation with the Office  
28 of State Budget and Management and the Office of the State Controller, transfer any  
29 unencumbered cash balance on June 30, 2009, in the Elevator and Amusement Device Bureau  
30 Special Fund (23800-2320) and the Boiler Bureau Special Fund (23800-2310) to a General  
31 Fund code and permanently close the Special Funds.

32 SECTION 12.3.(b) The Department of Labor shall, in consultation with the Office  
33 of State Budget and Management and the Office of the State Controller, transfer any  
34 unencumbered cash balance on June 30, 2009, in the Pre-Apprenticeship Special Fund  
35 (23800-2422) to the Apprenticeship Program to be used for operating expenses in the  
36 2009-2010 fiscal year and permanently close the Special Fund.

## 38 PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

### 40 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES REVIEW OF 41 FEE SCHEDULES

42 SECTION 13.1A. G.S. 143B-279.2 reads as rewritten:

#### 43 "§ 143B-279.2. Department of Environment and Natural Resources – duties.

44 It shall be the duty of the Department:

- 45 (1) To provide for the protection of the environment;
- 46 (1a) To administer the State Outer Continental Shelf (OCS) Task Force and  
47 coordinate State participation activities in the federal outer continental shelf  
48 resource recovery programs as provided under the OCS Lands Act  
49 Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS Lands Act  
50 Amendments of 1986 (43 USC §§ 1331 et seq.).

- 1 (1b) To provide for the protection of the environment and public health through  
2 the regulation of solid waste and hazardous waste management and the  
3 administration of environmental health programs.
- 4 (2) Repealed by Session Laws 1997-443, s. 11A.5.
- 5 (2a) To provide and keep a museum or collection of the natural history of the  
6 State and to maintain the North Carolina Biological Survey; and
- 7 (3) To provide for the management of the State's natural resources.
- 8 (4) No later than February 1 of each odd-numbered year, to review all fees  
9 charged under any program under its authority to determine whether any of  
10 these fees should be changed and submit a report to the House and Senate  
11 Appropriations Subcommittees on Natural and Economic Resources and the  
12 Fiscal Research Division that includes all of the following:
- 13 a. The most recent Biennial Fee Report submitted by the Department to  
14 the Office of State Budget and Management.
- 15 b. A list of each fee charged under any program under the Department's  
16 authority that, for each fee, identifies the program, if any, and the  
17 division of the Department, if any, that is supported by the fee; the  
18 total expenditures for each program supported by fees; an evaluation  
19 of any inflationary change since the last change to the amount of the  
20 fee; and any other information deemed relevant to this review.
- 21 c. The Department's findings resulting from its review under this  
22 subdivision and any recommendations to increase or decrease any of  
23 these fees."
- 24

25 **DENR TO STUDY ADVISABILITY OF ELIMINATING OR CONSOLIDATING ANY**  
26 **ENVIRONMENTAL BOARDS, COMMISSIONS, OR COUNCILS**

27 **SECTION 13.1B.** The Department of Environment and Natural Resources shall, in  
28 consultation with the Fiscal Research Division, study the advisability of eliminating or  
29 consolidating any boards, commissions, or councils that are located within the Department of  
30 Environment and Natural Resources for organizational, budgetary, or administrative purposes  
31 and that are involved in environmental policy-making in North Carolina, with powers and  
32 duties ranging from advisory to rule making and quasi-judicial. In conducting this study, the  
33 Department of Environment and Natural Resources shall consider whether the number of these  
34 environmental boards, commissions, and councils has created any inefficiency or duplication in  
35 overall environmental program delivery and whether the members that comprise an  
36 environmental board, commission, or council generally have the time and expertise necessary  
37 to address the environmental issues coming before them. No later than May 1, 2010, the  
38 Department of Environment and Natural Resources shall report its findings and any  
39 recommendations resulting from the study under this section, including any legislative or  
40 administrative proposals, to the Chairs of the House and Senate Appropriations Subcommittees  
41 on Natural and Economic Resources and the Fiscal Research Division.

42

43 **JOINT DEPARTMENTAL STUDY OF TRANSFERRING GRADE "A" MILK**  
44 **SANITATION PROGRAM**

45 **SECTION 13.1C.** The Department of Environment and Natural Resources and the  
46 Department of Agriculture and Consumer Services shall, in consultation with the Fiscal  
47 Research Division, jointly study the feasibility and the advisability of transferring the Grade  
48 "A" Milk Sanitation Program under Part 9 of Article 8 of Chapter 130A of the General Statutes  
49 that is currently located within the Division of Environmental Health of the Department of  
50 Environment and Natural Resources to the Department of Agriculture and Consumer Services.  
51 When conducting the study under this section, the Department of Environment and Natural



1 Resources and the Department of Agriculture and Consumer Services may consult with entities  
2 outside the two departments, including entities regulated by either department. No later than  
3 May 1, 2010, the Department of Environment and Natural Resources and the Department of  
4 Agriculture and Consumer Services shall submit a report of their findings and any  
5 recommendations and legislative or administrative proposals to the Chairs of the House and  
6 Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal  
7 Research Division. This report shall include all of the following:

- 8 (1) A description and assessment of the current budget and staffing levels for the  
9 Grade "A" Milk Sanitation Program within the Department of Environment  
10 and Natural Resources.
- 11 (2) A description and assessment of the current budget and staffing levels for the  
12 Dairy Section within the Food Program of the Food and Drug Protection  
13 Division of the Department of Agriculture and Consumer Services.
- 14 (3) An evaluation of the advisability of transferring the Grade "A" Milk  
15 Sanitation Program to the Department of Agriculture and Consumer  
16 Services, including the fiscal impact of the transfer and any efficiency gains  
17 or losses.

## 18 **LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER** 19 **INFRASTRUCTURE**

20 **SECTION 13.1D.(a)** There is created the Legislative Study Commission on Water  
21 and Wastewater Infrastructure. The Commission shall consist of 17 members appointed as  
22 follows:  
23

- 24 (1) Four members of the House of Representatives appointed by the Speaker of  
25 the House of Representatives.
- 26 (2) Four members of the Senate appointed by the President Pro Tempore of the  
27 Senate.
- 28 (3) Two members appointed by the Governor.
- 29 (4) The Secretary of the North Carolina Department of Environment and Natural  
30 Resources or the Secretary's designee.
- 31 (5) The Secretary of the North Carolina Department of Commerce or the  
32 Secretary's designee.
- 33 (6) The President of the North Carolina Rural Economic Development Center or  
34 the President's designee.
- 35 (7) The Executive Director of the North Carolina Clean Water Management  
36 Trust Fund or the Executive Director's designee.
- 37 (8) The Executive Director of the North Carolina League of Municipalities or  
38 the Executive Director's designee.
- 39 (9) The Executive Director of the North Carolina Association of County  
40 Commissioners or the Executive Director's designee.
- 41 (10) The Chair of the State Water Infrastructure Commission.

42 **SECTION 13.1D.(b)** The Speaker of the House of Representatives and the  
43 President Pro Tempore of the Senate shall each designate a cochair. The Commission may meet  
44 at anytime upon the joint call of the cochairs. A quorum of the Commission shall be a majority  
45 of its members.

46 Vacancies on the Commission shall be filled by the same appointing authority as  
47 made the initial appointment.

48 Subject to the approval of the Legislative Services Commission, the Commission  
49 may meet in the Legislative Building or the Legislative Office Building.

50 The Legislative Services Commission, through the Legislative Services Officer,  
51 shall assign professional staff to assist the Commission in its work. The House of

1 Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the  
2 Commission, and the expenses relating to the clerical employees shall be borne by the  
3 Commission.

4 In addition, the State agencies and nonprofits serving on the Commission shall  
5 cooperate in providing information and additional staff resources as needed to accomplish the  
6 work of the Commission.

7 The Commission, while in the discharge of its official duties, may exercise all  
8 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The  
9 Commission may contract for professional, clerical, or consultant services as provided by  
10 G.S. 120-32.02.

11 Members of the Commission shall receive subsistence and travel expenses at the  
12 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

13 **SECTION 13.1D.(c)** The Legislative Study Commission on Water and Wastewater  
14 Infrastructure shall focus on the development of an ongoing process to identify and regularly  
15 report to the North Carolina General Assembly on statewide water and wastewater  
16 infrastructure needs and to improve the delivery of State appropriated water and wastewater  
17 programs. The Commission shall specifically do all of the following:

- 18 (1) Evaluate the information provided through the drinking water and  
19 wastewater needs assessment prepared by the Environmental Protection  
20 Agency (EPA) every four years, the drinking water and wastewater needs  
21 surveys currently done by the North Carolina Department of Environment  
22 and Natural Resources in support of the EPA needs assessment; the data  
23 compiled as part of Water 2030 by the North Carolina Rural Economic  
24 Development Center, Inc., and any other existing data sets in order to  
25 determine what information currently exists and where there may be gaps in  
26 the data.
- 27 (2) Conduct at least six meetings of stakeholders in locations across the State as  
28 part of determining the ongoing method for regularly determining and  
29 reporting on the State's water and wastewater infrastructure needs. One of  
30 these meetings shall focus on the subject of small towns whose water or  
31 sewer rates exceed the high-unit-cost threshold as defined in G.S. 159G-20.
- 32 (3) Select a method for identifying and reporting on infrastructure needs in the  
33 future.
- 34 (4) Review infrastructure funding priorities currently set out in State law to  
35 determine whether the priorities appropriately reflect the State's most  
36 pressing needs in light of future growth projections.
- 37 (5) Recommend changes to infrastructure funding priorities and appropriations  
38 processes to ensure that funds are used to meet the State's most pressing  
39 needs.
- 40 (6) Ascertain the capacity and role of the State in bridging identified gaps  
41 between funding priorities and available funds.

42 **SECTION 13.1D.(d)** The Legislative Study Commission on Water and  
43 Wastewater Infrastructure shall submit an interim report to the 2009 General Assembly,  
44 Regular Session 2010, on or before May 1, 2010. This interim report also may include any  
45 other finding or recommendation of the Commission at that time. In addition, the Commission  
46 shall submit a final report on any other findings and recommendations under this study,  
47 including any legislative or administrative proposals, no later than the convening of the 2011  
48 Regular Session of the General Assembly. The Commission shall terminate upon the earlier of  
49 the filing of its final report or the convening of the 2011 General Assembly.

50  
51 **IMPROVE COORDINATION OF STATE WATER INFRASTRUCTURE FUNDING**

1           **SECTION 13.1E.(a)** The Department of Commerce, the Department of  
2 Environment and Natural Resources, the Executive Director of the Clean Water Management  
3 Trust Fund, and the Rural Economic Development Center shall work cooperatively with the  
4 State Water Infrastructure Commission to accomplish all of the following:

- 5           (1) Develop a common first page for applications for grants and loans for State  
6 water infrastructure funds, to be used by all of the State sources of water  
7 infrastructure projects funding.
- 8           (2) Conduct regular joint meetings of the State sources of water infrastructure  
9 projects funding.
- 10          (3) Develop a process for sharing progress reports and other information among  
11 the State sources of water infrastructure projects funding and for making  
12 joint site visits, for the purpose of improving oversight of the State funded  
13 water infrastructure projects.
- 14          (4) Provide water funding data to the State Water Infrastructure Commission in  
15 order that the State Water Infrastructure Commission is able to provide a  
16 single annual report to the General Assembly on State investments in water  
17 infrastructure projects.

18           **SECTION 13.1E.(b)** As used in this section, "State sources of water infrastructure  
19 projects funding" means the Department of Commerce, the Department of Environment and  
20 Natural Resources, the Clean Water Management Trust Fund, and the Rural Economic  
21 Development Center.

22           **SECTION 13.1E.(c)** The State Water Infrastructure Commission shall submit a  
23 final report to the House and Senate Appropriations Subcommittees on Natural and Economic  
24 Resources on or before May 1, 2010. This report shall include specifically the Commission's  
25 final determination under this study of the steps funding agencies can take to improve the  
26 delivery of existing funding programs as determined by the Commission under subsection (a)  
27 of this section.

28           **SECTION 13.1E.(d)** The sum of fifty thousand dollars (\$50,000) shall be  
29 transferred from the unencumbered cash balance of the Mercury Switch Removal Account  
30 established in G.S. 130A-310.54 to the Department of Environment and Natural Resources for  
31 the 2009-2010 fiscal year to be used by the State Water Infrastructure Commission to pay its  
32 expenses related to its work described in subsection (a) and subsection (c) of this section.  
33

#### 34 **JOINT STUDY OF DENR SPECIAL FUNDS**

35           **SECTION 13.1F.** The Department of Environment and Natural Resources, the  
36 Office of State Budget and Management, the Office of the State Controller, and the Fiscal  
37 Research Division shall jointly study the special funds within the Department of Environment  
38 and Natural Resources as of July 1, 2009. When conducting the study under this section, the  
39 Department of Environment and Natural Resources, the Office of State Budget and  
40 Management, the Office of the State Controller, and the Fiscal Research Division shall jointly  
41 evaluate each of these special funds to determine whether the receipts of each of these special  
42 fund are over- or under-realized. No later than May 1, 2010, the Department of Environment  
43 and Natural Resources, the Office of State Budget and Management, the Office of the State  
44 Controller, and the Fiscal Research Division shall report the results of this study, including  
45 their findings, recommendations, and any legislative proposals, to the Environmental Review  
46 Commission and the House and Senate Appropriations Subcommittees on Natural and  
47 Economic Resources. The report under this section shall include all of the following:

- 48           (1) A description of each of the special funds within the Department that were  
49 evaluated under this section.
- 50           (2) The sources of funds of each of these special funds.
- 51           (3) A list of these special funds that should be permanently closed.

- 1 (4) A list of these special funds that should be transferred to the General Fund.
- 2 (5) A list of these special funds that should remain as special funds.
- 3 (6) Any organizational or legal barriers to the creation or elimination of any of
- 4 these special funds.
- 5 (7) Any changes in statutes needed as a result of this study.
- 6

#### 7 **CLOSE/TRANSFER CERTAIN DENR SPECIAL FUNDS**

8 **SECTION 13.1G.(a)** The Office of State Budget and Management, in conjunction  
9 with the Office of the State Controller and the Department of Environment and Natural  
10 Resources, shall close all of the following special funds within the Department and transfer any  
11 unencumbered cash balance of each on June 30, 2009, to the North Carolina Aquariums Fund  
12 (General Fund budget code 23400-2865):

- 13 (1) Special Activities Roanoke Island (Special Fund code 24308-2850).
- 14 (2) Events Roanoke Island (Special Fund code 24308-2851).
- 15 (3) Special Activities Pine Knoll Shores (Special Fund code 24308-2860).
- 16 (4) Events Pine Knoll Shores (Special Fund code 24308-2861).
- 17 (5) Special Activities Fort Fisher (Special Fund code 24308-2855).
- 18 (6) Events Fort Fisher (Special Fund code 24308-2856).

19 **SECTION 13.1G.(b)** The Office of State Budget and Management, in conjunction  
20 with the Office of the State Controller and the Department of Environment and Natural  
21 Resources, shall close the Governor's Cup Trust Fund (Special Fund code 24302-2991), a  
22 special fund within the Department, and transfer any unencumbered cash balance of that fund  
23 on June 30, 2009, to the Division of Marine Fisheries (General Fund budget code 14300-1315).

24 **SECTION 13.1G.(c)** The Office of State Budget and Management, in conjunction  
25 with the Office of the State Controller and the Department of Environment and Natural  
26 Resources, shall close the Environmental Education Certification special fund (Special Fund  
27 code 24308-2105) within the Department and transfer any unencumbered cash balance of that  
28 fund on June 30, 2009, to the Office of Environmental Education (General Fund budget code  
29 14300-1120).

30 **SECTION 13.1G.(d)** The Office of State Budget and Management, in conjunction  
31 with the Office of the State Controller and the Department of Environment and Natural  
32 Resources, shall transfer to the General Fund any unencumbered cash balance on June 30,  
33 2009, in the special fund within the Department, ADM – Fines & Penalties (Special Fund code  
34 24317-2339); move this special fund from a Special Fund code to a General Fund code; and  
35 permanently close the special fund.

36 **SECTION 13.1G.(e)** The Office of State Budget and Management, in conjunction  
37 with the Office of the State Controller and the Department of Environment and Natural  
38 Resources, shall transfer to the General Fund any unencumbered cash balance on June 30,  
39 2009, in each of the following special funds within the Department and permanently close each  
40 of these special funds:

- 41 (1) DWQ – Groundwater Protection Permit Fees (Special Fund code
- 42 24300-2332).
- 43 (2) DLR – SB7 Landslide Mapping (Special Fund code 24310-2766).
- 44 (3) DLR – VRS Geodetic Survey & DOT (Special Fund code 24308-2815).

45 **SECTION 13.1G.(f)** The Office of State Budget and Management, in conjunction  
46 with the Office of the State Controller and the Department of Environment and Natural  
47 Resources, shall transfer to the Information Technology Fund (24667) any unencumbered cash  
48 balance on June 30, 2009, in each of the following special funds within the Department and  
49 permanently close each of these special funds:

- 50 (1) ADM – CGIA NGPOCS4 – Urban (Special Fund code 24300-2914)
- 51 (2) ADM – CGIA (Special Fund code 24300-2915)

(3) ADM – CGIA GIS Conference (Special Fund code 24300-2917)

## FOOD AND LODGING INSPECTION FEES INCREASES

**SECTION 13.2.(a)** G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school cafeterias, an annual fee of  ~~fifty dollars (\$50.00).~~seventy-five dollars (\$75.00). The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees collected under this subsection may be used to support State health programs and activities."

**SECTION 13.2.(b)** G.S. 130A-248(e) reads as rewritten:

"(e) In addition to the fees under subsection (d) of this section, the Department may charge a fee of  ~~two hundred dollars (\$200.00)~~two hundred fifty dollars (\$250.00) for plan review of plans for prototype franchised or chain facilities for food establishments subject to this section. All of the fees collected under this subsection may be used to support the State food, lodging, and institution sanitation programs and activities under this Part."

**SECTION 13.2.(c)** G.S. 130A-248(f) reads as rewritten:

"(f) Any local health department may charge a fee not to exceed  ~~two hundred dollars (\$200.00)~~two hundred fifty dollars (\$250.00) for plan review by that local health department of plans for food establishments subject to this section that are not subject to subsection (e) of this section. All of the fees collected under this subsection may be used for local food, lodging, and institution sanitation programs and activities. No food establishment that pays a fee under subsection (e) of this section is liable for a fee under this subsection."

## RADIATION PROTECTION SECTION SUPPORTED BY FEES/INCREASE FEES

**SECTION 13.3.(a)** G.S. 104E-19 reads as rewritten:

### "§ 104E-19. Fees.

(a) ~~In order to meet the anticipated costs of administering the educational and training programs in G.S. 104E 11(e), of enforcing and carrying out the inspection provisions in G.S. 104E 7(a)(7) and G.S. 104E 11(a), and of administering the licensing program in G.S. 104E 10.3, the Department is authorized to charge and collect such reasonable fees as it may by rule establish. An annual fee in the amount set by the Department is imposed on a person who is required to be registered or licensed under this Chapter. The Department must set the fees at amounts that provide revenue to offset its costs in performing its duties under this Chapter.~~

(b) Repealed by Session Laws 1987, c. 850, s. 13.

(c) The annual fees under subsection (a) of this section shall not exceed the maximum amounts as follows:

(1) For tanning facilities: two hundred dollars (\$200.00) for the first piece of tanning equipment and thirty dollars (\$30.00) for each additional piece of tanning equipment.

(2) For the following categories of facilities registered to use X-ray tubes or X-ray equipment: clinics, chiropractors, dentists, educational, government, podiatrists, industrial, physicians, veterinarians, and other; two hundred dollars (\$200.00) for the first X-ray tube or piece of X-ray equipment and thirty dollars (\$30.00) for each additional X-ray tube or piece of X-ray equipment.

1           (3)    For the following categories of facilities registered to use X-ray tubes or  
2           X-ray equipment: industrial medical, health departments, and service; three  
3           hundred dollars (\$300.00) for the first X-ray tube or piece of X-ray  
4           equipment and forty dollars (\$40.00) for each additional X-ray tube or piece  
5           of X-ray equipment.

6           (4)    For the following categories of facilities registered to use X-ray tubes or  
7           X-ray equipment: hospitals and industrial radiography; four hundred dollars  
8           (\$400.00) for the first X-ray tube or piece of X-ray equipment and fifty  
9           dollars (\$50.00) for each additional X-ray tube or piece of X-ray  
10          equipment."

11       **SECTION 13.3.(b)** G.S. 104E-9(a)(8) reads as rewritten:

12       "~~(8) To establish annual fees for activities under this Chapter based on actual~~  
13       ~~administrative costs to be applied to training, enforcement, and inspection~~  
14       ~~pursuant to the provisions of this Chapter and to charge and collect fees from~~  
15       ~~operators and users of low-level radioactive waste facilities pursuant to the~~  
16       ~~provisions of this Chapter. To establish fees in accordance with~~  
17       ~~G.S. 104E-19."~~

18       **SECTION 13.3.(c)** Notwithstanding G.S. 104E-19, as amended by this section, the  
19       Department of Environment and Natural Resources shall impose the following annual fees  
20       during the 2009-2010 fiscal year on a person who is required to be registered or licensed to use  
21       sources of radiation under Chapter 104E of the General Statutes:

22       (1)    For tanning facilities: one hundred thirty-five dollars (\$135.00) for the first  
23       piece of tanning equipment and twenty-two dollars (\$22.00) for each  
24       additional piece of tanning equipment.

25       (2)    For the following categories of facilities registered to use X-ray tubes or  
26       X-ray equipment: educational, government, and veterinarians; ninety dollars  
27       (\$90.00) for the first X-ray tube or piece of X-ray equipment and sixteen  
28       dollars (\$16.00) for each additional X-ray tube or piece of X-ray equipment.

29       (3)    For the following categories of facilities registered to use X-ray tubes or  
30       X-ray equipment: chiropractors, dentists, podiatrists, industrial, physicians,  
31       and other; one hundred twenty-five dollars (\$125.00) for the first X-ray tube  
32       or piece of X-ray equipment and twenty dollars (\$20.00) for each additional  
33       X-ray tube or piece of X-ray equipment.

34       (4)    For the following categories of facilities registered to use X-ray tubes or  
35       X-ray equipment: industrial medical, health departments, and service; one  
36       hundred eighty dollars (\$180.00) for the first X-ray tube or piece of X-ray  
37       equipment and, for industrial medical and health departments, twenty-five  
38       dollars (\$25.00) for each additional X-ray tube or piece of X-ray equipment.

39       (5)    For the following categories of facilities registered to use X-ray tubes or  
40       X-ray equipment: hospitals and industrial radiography; two hundred  
41       seventy-five dollars (\$275.00) for the first X-ray tube or piece of X-ray  
42       equipment and thirty-five dollars (\$35.00) for each additional X-ray tube or  
43       piece of X-ray equipment.

44       **SECTION 13.3.(d)** Notwithstanding G.S. 104E-19, as amended by this section, the  
45       Department of Environment and Natural Resources shall impose the following annual fees  
46       during the 2010-2011 fiscal year on a person who is required to be registered or licensed to use  
47       sources of radiation under Chapter 104E of the General Statutes:

48       (1)    For tanning facilities: one hundred sixty-five dollars (\$165.00) for the first  
49       piece of tanning equipment and twenty-five dollars (\$25.00) for each  
50       additional piece of tanning equipment.

- 1 (2) For the following categories of facilities registered to use X-ray tubes or  
 2 X-ray equipment: educational, government, and veterinarians; one hundred  
 3 twenty dollars (\$120.00) for the first X-ray tube or piece of X-ray equipment  
 4 and twenty dollars (\$20.00) for each additional X-ray tube or piece of X-ray  
 5 equipment.
- 6 (3) For the following categories of facilities registered to use X-ray tubes or  
 7 X-ray equipment: chiropractors, dentists, podiatrists, industrial, physicians,  
 8 and other; one hundred sixty-five dollars (\$165.00) for the first X-ray tube or  
 9 piece of X-ray equipment and twenty-two dollars (\$22.00) for each  
 10 additional X-ray tube or piece of X-ray equipment.
- 11 (4) For the following categories of facilities registered to use X-ray tubes or  
 12 X-ray equipment: industrial medical, health departments, and service; two  
 13 hundred forty dollars (\$240.00) for the first X-ray tube or piece of X-ray  
 14 equipment and, for industrial medical and health departments, thirty dollars  
 15 (\$30.00) for each additional X-ray tube or piece of X-ray equipment.
- 16 (5) For the following categories of facilities registered to use X-ray tubes or  
 17 X-ray equipment: hospitals and industrial radiography; three hundred sixty  
 18 dollars (\$360.00) for the first X-ray tube or piece of X-ray equipment and  
 19 forty dollars (\$40.00) for each additional X-ray tube or piece of X-ray  
 20 equipment.

21 **SECTION 13.3.(e)** The annual fees under subsection (c) and subsection (d) of this  
 22 section shall provide revenue to offset the Department's costs in performing its duties under  
 23 Chapter 104E of the General Statutes during the 2009-2011 fiscal biennium. The Department of  
 24 Environment and Natural Resources shall delay collecting the annual fees under subsection (c)  
 25 of this section that are due July 1, 2009, until August 1, 2009.

26  
 27 **EXPAND PERMISSIBLE USES OF THE SOLID WASTE MANAGEMENT TRUST**  
 28 **FUND**

29 **SECTION 13.3A.** G.S.130A-309.12(a) is amended by adding a new subdivision to  
 30 read:

- 31 "(6) Providing funding for the activities of the Division of Pollution Prevention  
 32 and Environmental Assistance."

33  
 34 **CHANGE DISTRIBUTION OF SCRAP TIRE NET TAX PROCEEDS**

35 **SECTION 13.3B.** G.S. 105-187.19(b) reads as rewritten:

36 "(b) Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to  
 37 the Solid Waste Management Trust Fund and shall credit ~~twenty two percent (22%) of the net~~  
 38 ~~tax proceeds to the Scrap Tire Disposal Account Fund,~~ seventeen percent (17%) of the net tax  
 39 proceeds to the Scrap Tire Disposal Account, two and one-half percent (2.5%) of the net tax  
 40 proceeds to the Inactive Hazardous Sites Cleanup Fund, and two and one-half percent (2.5%) of  
 41 the net tax proceeds to the Bernard Allen Memorial Emergency Drinking Water Fund. The  
 42 Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among  
 43 the counties on a per capita basis according to the most recent annual population estimates  
 44 certified to the Secretary by the State Budget Officer."

45  
 46 **INCREASE CAP FOR VOLUNTARY REMEDIAL ACTIONS AT INACTIVE**  
 47 **HAZARDOUS DISPOSAL SITES/DENR MONITORING FEE**

48 **SECTION 13.3C.(a)** G.S. 130A-310.9(a) reads as rewritten:

49 "(a) No one owner, operator, or other responsible party who voluntarily participates in  
 50 the implementation of a remedial action program under G.S. 130A-310.3 or G.S. 130A-310.5  
 51 may be required to pay in excess of ~~three million dollars (\$3,000,000)~~ five million dollars

1 (\$5,000,000) for the cost of implementing a remedial action program at a single inactive  
2 hazardous substance or waste disposal site. The owner, operator, or other responsible party who  
3 voluntarily participates in the implementation of a remedial action program under  
4 G.S. 130A-310.3 or G.S. 130A-310.5 shall be required to pay in addition to the cost of  
5 implementing the remedial action program a fee of one thousand dollars (\$1,000) to be used for  
6 the Department's cost of monitoring and enforcing the remedial action program. The limitation  
7 of liability contained in this section-subsection applies only to the cost of implementation  
8 of implementing the program and does not apply to the cost of the development of the remedial  
9 action plan. to the fee under this subsection. The limitation of liability contained in this  
10 subsection does not apply to the cost of developing the remedial action plan."

11 **SECTION 13.3C.(b)** This section applies to any voluntary remedial action  
12 program that is developed or implemented on or after the effective date of this section and also  
13 applies to any voluntary remedial action program that is pending as of the effective date of this  
14 section.

### 15 **FERRYMON PROGRAM FUNDS**

16 **SECTION 13.3D.** Of the funds appropriated in this act to the Department of  
17 Environment and Natural Resources for the Oyster Reef Program, the one million dollar  
18 (\$1,000,000) reduction is increased by the sum of two hundred fifty thousand dollars  
19 (\$250,000) to the sum of one million two hundred fifty thousand dollars (\$1,250,000) for the  
20 2009-2010 fiscal year, and the Department of Environment and Natural Resources shall use the  
21 sum of two hundred fifty thousand dollars (\$250,000) for the 2009-2010 fiscal year to provide  
22 funds for the FerryMon Program, which evaluates water quality in the Pamlico Sound and its  
23 tributary rivers using equipment attached to ferry vessels.

### 24 **NEW LEASE PURCHASE/INSTALLMENT CONTRACTS FOR FORESTRY** 25 **EQUIPMENT**

26 **SECTION 13.6.** Prior to the Division of Forest Resources of the Department of  
27 Environment and Natural Resources entering into either a new lease purchase contract for the  
28 purchase of forestry equipment or a new installment contract for the purchase of forestry  
29 equipment, the Division of Forest Resources shall submit a detailed list of the forestry  
30 equipment to be purchased under the contract to the Joint Legislative Commission on  
31 Governmental Operations and the Fiscal Research Division. Prior to the Department of  
32 Administration entering into either a new lease purchase contract for the purchase of forestry  
33 equipment or a new installment contract for the purchase of forestry equipment on behalf of the  
34 Division of Forest Resources, the Department of Administration shall submit a detailed list of  
35 the forestry equipment to be purchased under the contract to the Joint Legislative Commission  
36 on Governmental Operations and the Fiscal Research Division. If a list is modified after it is  
37 submitted under this section, the modified list shall be submitted to the Joint Legislative  
38 Commission on Governmental Operations and the Fiscal Research Division prior to entering  
39 into the contract.  
40  
41  
42

### 43 **GRASSROOTS SCIENCE PROGRAM**

44 **SECTION 13.7.(a)** Of the funds appropriated in this act to the Department of  
45 Environment and Natural Resources for the Grassroots Science Program, the sum of three  
46 million three hundred forty-two thousand eighty-six dollars (\$3,342,086) for the 2009-2010  
47 fiscal year and the sum of three million two hundred seventy-two thousand four hundred  
48 fifty-nine dollars (\$3,272,459) for the 2010-2011 fiscal year is allocated as grants-in-aid for  
49 each fiscal year as follows:

50 2009-2010

2010-2011



1	Aurora Fossil Museum	\$56,695	\$55,514
2	Cape Fear Museum	\$154,567	\$151,347
3	Carolina Raptor Center	\$107,687	\$105,444
4	Catawba Science Center	\$140,502	\$137,575
5	Colburn Earth Science Museum, Inc.	\$71,563	\$70,072
6	Core Sound Waterfowl Museum	\$48,000	\$47,000
7	Discovery Place	\$636,350	\$623,093
8	Eastern NC Regional Science Center	\$48,000	\$47,000
9	Fascinate-U	\$77,829	\$76,208
10	Granville County Museum Commission,		
11	Inc.–Harris Gallery	\$54,165	\$53,037
12	Greensboro Children's Museum	\$129,673	\$126,971
13	The Health Adventure Museum of Pack		
14	Place Education, Arts and		
15	Science Center, Inc.	\$149,387	\$146,274
16	Highlands Nature Center	\$76,097	\$74,512
17	Imagination Station	\$82,593	\$80,871
18	The Iredell Museums, Inc.	\$58,854	\$57,628
19	Kidsenses	\$78,031	\$76,405
20	Museum of Coastal Carolina	\$74,899	\$73,339
21	The Natural Science Center		
22	of Greensboro, Inc.	\$178,900	\$175,173
23	North Carolina Museum of Life		
24	and Science	\$364,633	\$357,036
25	Pisgah Astronomical Research Institute	\$48,000	\$47,000
26	Port Discover: Northeastern		
27	North Carolina's Center for		
28	Hands-On Science, Inc.	\$48,000	\$47,000
29	Rocky Mount Children's Museum	\$69,364	\$67,919
30	Schiele Museum of Natural History		
31	and Planetarium, Inc.	\$220,365	\$215,774
32	Sci Works Science Center and		
33	Environmental Park of Forsyth County	\$140,639	\$137,709
34	Sylvan Heights Waterfowl Park		
35	and Eco-Center	\$48,000	\$47,000
36	Western North Carolina Nature Center	\$108,363	\$106,106
37	Wilmington Children's Museum	\$70,930	\$69,452
38			
39	Total	\$3,342,086	\$3,272,459.

40 **SECTION 13.7.(b)** No later than March 1, 2010, the Department of Environment  
41 and Natural Resources shall report to the Fiscal Research Division all of the following  
42 information for each museum that receives funds under this section:

- 43 (1) The actual operating budget for the 2008-2009 fiscal year.
- 44 (2) The proposed operating budget for the 2009-2010 fiscal year.
- 45 (3) The total attendance at the museum during the 2009 calendar year.

46 **SECTION 13.7.(c)** No later than March 1, 2011, the Department of Environment  
47 and Natural Resources shall report to the Fiscal Research Division all of the following  
48 information for each museum that receives funds under this section:

- 49 (1) The actual operating budget for the 2009-2010 fiscal year.
- 50 (2) The proposed operating budget for the 2010-2011 fiscal year.
- 51 (3) The total attendance at the museum during the 2010 calendar year.

1           **SECTION 13.7.(d)** As a condition for qualifying to receive funding under this  
2 section, all of the following documentation shall, no later than November 1 of each year of the  
3 2009-2011 biennium, be submitted for each museum under this section to the Department of  
4 Environment and Natural Resources for fiscal years ending between July 1, 2007, and June 30,  
5 2008, and only those costs that are properly documented under this subsection are allowed by  
6 the Department in calculating the distribution of funds under this section:

- 7           (1) Each museum under this section shall submit its IRS (Internal Revenue  
8 Service) Form 990 to show its annual operating expenses, its annual report,  
9 and a reconciliation that explains any differences between expenses as  
10 shown on the IRS Form 990 and the annual report.
- 11           (2) Each friends association of a museum under this section shall submit its IRS  
12 Form 990 to show its reported expenses for the museum, its annual report,  
13 and a reconciliation that explains any differences between expenses as  
14 shown on the IRS Form 990 and the annual report, unless the association  
15 does not have both an IRS Form 990 and an annual report available, in  
16 which case, it shall submit either an IRS Form 990 or an annual report.
- 17           (3) The chief financial officer of each county or municipal government that  
18 provides funds for the benefit of the museum shall submit a detailed signed  
19 statement of documented costs spent for the benefit of the museum that  
20 includes documentation of the name, address, title, and telephone number of  
21 the person making the assertion that the museum receives funds from the  
22 county or municipality for the benefit of the museum.
- 23           (4) The chief financial officer of each county or municipal government or each  
24 friends association that provides indirect or allocable costs that are not  
25 directly charged to a museum under this section but that benefit the museum  
26 shall submit in the form of a detailed statement enumerating each cost by  
27 type and amount that is verified by the financial officer responsible for the  
28 completion of the documentation and that includes the name, address, title,  
29 and telephone number of the person making the assertion that the county,  
30 municipality, or association provides indirect or allocable costs to the  
31 museum.

32           **SECTION 13.7.(e)** As used in subsection (d) of this section, "friends association"  
33 means a nonprofit corporation established for the purpose of supporting and assisting a  
34 museum that receives funding under this section.

35           **SECTION 13.7.(f)** The Department of Environment and Natural Resources shall  
36 study the advisability of the Department developing for museums that are members of the  
37 Grassroots collaborative, a competitive and need-based grant program for operating expense  
38 support, to be implemented and administered by the Office of Environmental Education within  
39 the Department, and shall study the advisability of using this competitive and need-based grant  
40 program for the 2011-2012 fiscal year and thereafter for specific museums that are members of  
41 the Grassroots collaborative in lieu of the allocations provided in subsection (a) of this section.  
42 In conducting this study, the Department shall, in consultation with the Fiscal Research  
43 Division and the Grassroots collaborative, consider establishing a process for applying for these  
44 grants, criteria for evaluating applications, and a process for allocating grants. The process and  
45 criteria should include giving special consideration to small museums and to the variation in  
46 access to development staff. No later than May 1, 2010, the Department shall submit a report to  
47 the Joint Legislative Commission on Governmental Operations, the House and Senate  
48 Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research  
49 Division on the results of its study under this section, including its findings, recommendations,  
50 and any legislative or administrative proposals.

**FOREST DEVELOPMENT FUND/FOREST PRODUCTS ASSESSMENT RATES**

**SECTION 13.9.(a)** G.S. 113A-193(b) is amended by adding a new subdivision to read:

"(6) Determine the appropriate assessment to be levied on primary forest products in accordance with G.S. 113A-194."

**SECTION 13.9.(b)** G.S. 113A-194(b) reads as rewritten:

"(b) The assessment levied on primary forest products shall ~~be at~~not exceed the following rates:

- (1) ~~Fifty cents (50¢)~~One dollar (\$1.00) per thousand board feet for softwood sawtimber, veneer logs and bolts, and all other softwood products normally measured in board ~~feet;~~feet.
- (2) ~~Forty cents (40¢)~~Eighty cents (80¢) per thousand board feet for hardwood and bald cypress sawtimber, veneer, and all other hardwood and bald cypress products normally measured in board ~~feet;~~feet.
- (3) ~~Twenty cents (20¢)~~Forty cents (40¢) per cord for softwood pulpwood and other softwood products normally measured in ~~ords;~~ords.
- (4) ~~Twelve cents (12¢)~~Twenty-four cents (24¢) per cord for hardwood pulpwood and other hardwood and bald cypress products normally measured in ~~ords;~~ords.
- (5) All material harvested within North Carolina for shipment outside the State for primary processing will be assessed at a percentage of the invoice value. This percentage will be established to yield rates equal to those if the material were processed within the State."

**CONTINUATION REVIEW OF FOREST RESOURCES YOUNG OFFENDERS FOREST CONSERVATION PROGRAM (BRIDGE)**

**SECTION 13.9A.(a)** In furtherance of the Continuation Review Program set forth under Section 6.7 of S.L. 2008-107, the Appropriations Committees of the House of Representatives and the Senate may review the Young Offenders Forest Conservation Program (BRIDGE) administered and supported by the Division of Forest Resources of the Department of Environment and Natural Resources and shall determine whether to continue, reduce, or eliminate funding for this program. The Fiscal Research Division may issue instructions to the Department regarding the expected content and format of the report required by this section. No later than December 1, 2009, the Division of Forest Resources shall report to the Fiscal Research Division. This report shall include the following information:

- (1) A description of the Young Offenders Forest Conservation Program (BRIDGE) mission, goals, and objectives.
- (2) The statutory objectives for the BRIDGE Program and the problem or need addressed.
- (3) The extent to which the BRIDGE Program's objectives have been achieved.
- (4) The BRIDGE Program's functions or programs performed without specific statutory authority.
- (5) The performance measures for the BRIDGE Program and the process by which the performance measures determine efficiency and effectiveness.
- (6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
- (7) The consequences of discontinuing funding.
- (8) Recommendations for improving services or reducing costs or duplication.
- (9) The identification of policy issues that should be brought to the attention of the General Assembly.

1 (10) Other information necessary to fully support the General Assembly's  
2 Continuation Review Program along with any information included in  
3 instructions from the Fiscal Research Division.

4 **SECTION 13.9A.(b)** The Division of Forest Resources of the Department of  
5 Environment and Natural Resources shall submit a final report that complies with subsection  
6 (a) of this section to the General Assembly by March 1, 2010.

#### 7 8 **DEVELOP PLAN TO CHARGE PARKING FEES AT STATE PARKS**

9 **SECTION 13.9B.** The Division of Parks and Recreation of the Department of  
10 Environment and Natural Resources in consultation with the Fiscal Research Division shall  
11 study the costs and benefits of charging parking fees for parking at any or all State parks within  
12 the State Parks System. In the study, the Division shall consider each State park separately  
13 when determining the advisability of charging parking fees and the amount of any such parking  
14 fees. The Division also shall consider charging a separate parking fee for parking on a daily,  
15 weekly, monthly, and annual basis. The Division shall evaluate various mechanisms for  
16 collecting the parking fees and determine the collection method that is most reliable, efficient,  
17 and convenient to the public for each parking fee. No later than March 1, 2010, the Division  
18 shall report the results of the study to the Joint Legislative Commission on Governmental  
19 Operations, the House and Senate Appropriations Subcommittees on Natural and Economic  
20 Resources, and the Fiscal Research Division. This report shall include the date by which the  
21 Division should begin to collect parking fees under this section, the amount of revenue that the  
22 Division expects to raise on average in parking fees for any fiscal year, and the expected cost of  
23 collecting this revenue.

#### 24 25 **BEAVER DAMAGE CONTROL PROGRAM FUNDS**

26 **SECTION 13.10.** G.S. 113-291.10(f) reads as rewritten:

27 "(f) Each county that volunteers to participate in this program for a given fiscal year  
28 shall provide written notification of its wish to participate no later than September 30 of that  
29 year and shall commit the sum of four thousand dollars (\$4,000) in local funds no later than  
30 September 30 of that year. At least three hundred forty-nine thousand dollars (\$349,000) each  
31 fiscal year of the biennium shall be paid from funds available to the Wildlife Resources  
32 Commission to provide the State share necessary to support this program, provided the sum of  
33 at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of  
34 the biennium to provide the federal share."

#### 35 36 **FUNDS FOR WILDLIFE RESOURCES COMMISSION OPERATING BUDGET**

37 **SECTION 13.11.(a)** Notwithstanding G.S. 105-164.44B, the Secretary of Revenue  
38 shall transfer no funds from the State sales and use tax net collections received by the  
39 Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State  
40 Treasurer for the Wildlife Resources Fund during the 2009-2010 fiscal year and the 2010-2011  
41 fiscal year.

42 **SECTION 13.11.(b)** G.S. 105-164.44B reads as rewritten:

43 "**§ 105-164.44B. Transfer to Wildlife Resources Fund of taxes on hunting and fishing**  
44 **supplies and equipment.**

45 (a) Each fiscal year, the Secretary of Revenue ~~shall~~ shall, subject to subsection (b) of  
46 this section, transfer at the end of each quarter from the State sales and use tax net collections  
47 received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes  
48 to the State Treasurer for the Wildlife Resources Fund, one fourth of the amount transferred the  
49 preceding fiscal year plus or minus the percentage of that amount by which the total collection  
50 of State sales and use taxes increased or decreased during the preceding fiscal year.

1       (b) Each odd-numbered year, the House and Senate Appropriations Subcommittees on  
2 Natural and Economic Resources shall review the amount of the State sales and use tax net  
3 collections to be transferred during the upcoming biennium according to the formula set forth  
4 in subsection (a) of this section and may recommend lowering as necessary the amount of this  
5 transfer during the upcoming biennium. If lowered for any fiscal year under this subsection, the  
6 amount of the transfer of the State sales and use tax net collections shall be included in the  
7 current operations appropriation act for that biennium."

## 8 9 **PART XIV. DEPARTMENT OF COMMERCE**

### 10 11 **ONE NORTH CAROLINA FUND**

12       **SECTION 14.1.** Of the funds appropriated in this act to the One North Carolina  
13 Fund for the 2009-2010 fiscal year, the Department of Commerce may use up to three hundred  
14 thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina  
15 Fund and other economic development incentive grant programs during the 2009-2010 fiscal  
16 year.

### 17 18 **ECONOMIC DEVELOPMENT FUNDS/REPORTING REQUIREMENTS**

19       **SECTION 14.1A.(a)** G.S. 143B-437.02(k) reads as rewritten:

20       "(k) Monitoring and Reports. – The Department is responsible for monitoring  
21 compliance with the performance criteria under each site development agreement and for  
22 administering the repayment in case of default. The Department shall pay for the cost of this  
23 monitoring from funds appropriated to it for that purpose or for other economic development  
24 purposes.

25       ~~Within two months after the end of each calendar quarter,~~ On September 1 of each year until  
26 all funds have been expended, the Department shall report to the Joint Legislative Commission  
27 on Governmental Operations regarding the Site Infrastructure Development Program. This  
28 report shall include a listing of each agreement negotiated and entered into during the preceding  
29 ~~quarter,~~ year, including the name of the business, the cost/benefit analysis conducted by the  
30 Committee during the application process, a description of the project, and the amount of the  
31 site development incentive expected to be paid under the agreement during the current fiscal  
32 year. The report shall also include detailed information about any defaults and repayment  
33 during the preceding ~~quarter,~~ year. The Department shall publish this report on its web site and  
34 shall make printed copies available upon request."

35       **SECTION 14.1A.(b)** G.S. 143B-437.012(m) reads as rewritten:

36       "(m) Monitoring and Reports. – The Department is responsible for monitoring  
37 compliance with the performance criteria under each grant agreement and for administering the  
38 repayment in case of default. The Department shall pay for the cost of this monitoring from  
39 funds appropriated to it for that purpose or for other economic development purposes.

40       ~~Within two months after the end of each calendar quarter,~~ On September 1 of each year  
41 until all funds have been expended, the Department shall report to the Joint Legislative  
42 Commission on Governmental Operations regarding the Job Maintenance and Capital  
43 Development Fund. This report shall include a listing of each grant awarded and each  
44 agreement entered into under this section during the preceding ~~quarter,~~ year, including the name  
45 of the business, the cost/benefit analysis conducted by the Committee during the application  
46 process, a description of the project, and the amount of the grant expected to be paid under the  
47 agreement during the current fiscal year. The report shall also include detailed information  
48 about any defaults and repayment during the preceding ~~quarter,~~ year. The Department shall  
49 publish this report on its Web site and shall make printed copies available upon request."

50       **SECTION 14.1A.(c)** G.S. 143B-437.83 reads as rewritten:

51       "**§ 143B-437.83. Reports.**

1 The Department of Commerce shall publish a report on the use of funds in the One North  
2 Carolina Small Business Account ~~at the end of each fiscal quarter on September 1 of each year~~  
3 until all funds have been expended. The report shall contain information on the disbursement  
4 and use of funds allocated under the One North Carolina Small Business Program. The report is  
5 ~~due no later than one month after the end of the fiscal quarter and must be submitted to the~~  
6 following:

- 7 (1) The Joint Legislative Commission on Governmental Operations.
- 8 (2) The chairs of the House of Representatives and Senate Finance Committees.
- 9 (3) The chairs of the House of Representatives and Senate Appropriations  
10 Committees.
- 11 (4) The Fiscal Research Division of the General Assembly."

12 **SECTION 14.1A.(d)** G.S. 143B-438.13(d) is repealed.

13 **SECTION 14.1A.(e)** 143B-438.17 reads as rewritten:

14 "**§ 143B-438.17. Reporting.**

15 (a) ~~Beginning July 1, 2005, the Department of Commerce, in conjunction with the~~  
16 ~~Employment Security Commission and the Community Colleges System Office, shall publish a~~  
17 ~~monthly written report on the Trade Jobs for Success (TJS) initiative. The monthly report shall~~  
18 ~~provide information on the commitment, disbursement, and use of funds and the status of any~~  
19 ~~grant proposals or waivers requested on behalf of the Trade Jobs for Success initiative. The~~  
20 ~~monthly report shall be submitted to the Governor and to the Fiscal Research Division of the~~  
21 ~~General Assembly.~~

22 (b) ~~Beginning October 1, 2005, the Department of Commerce, in conjunction with the~~  
23 ~~Employment Security Commission and the Community Colleges System Office, shall publish a~~  
24 ~~quarterly written report on the Trade Jobs for Success initiative. The quarterly report shall~~  
25 ~~include legislative proposals and recommendations regarding statutory changes needed to~~  
26 ~~maximize the effectiveness and flexibility of the TJS initiative. Copies of the quarterly report~~  
27 ~~shall be provided to the Joint Legislative Commission on Governmental Operations, to the~~  
28 ~~chairs of the Senate and House of Representatives Appropriations Committees, and to the~~  
29 ~~Fiscal Research Division of the General Assembly.~~

30 (c) Beginning January 1, 2006, the Department of Commerce, in conjunction with the  
31 Employment Security Commission and the Community Colleges System Office, shall publish a  
32 comprehensive annual written report on the Trade Jobs for Success initiative. The annual report  
33 shall include a detailed explanation of outcomes and future planning for the TJS  
34 initiative. initiative and legislative proposals and recommendations regarding statutory changes  
35 needed to maximize the effectiveness and flexibility of the TJS initiative. Copies of the annual  
36 report shall be provided to the Governor, to the Joint Legislative Commission on Governmental  
37 Operations, to the chairs of the Senate and House of Representatives Appropriations  
38 Committees, and to the Fiscal Research Division of the General Assembly."

39 **SECTION 14.1A.(f)** Part 15 of Article 10 of Chapter 143B of the General Statutes  
40 is repealed.

41 **SECTION 14.1A.(g)** G.S. 143B-472.80(5) is repealed.

42  
43 **STUDY STATE AIRCRAFT FLEETS**

44 **SECTION 14.1B.** The Program Evaluation Division of the General Assembly  
45 (Division) shall study the number, use, and effectiveness of the State's aircraft fleets. The study  
46 shall consider ways to achieve efficiency savings and whether it is desirable or feasible to sell  
47 any of the aircraft or to transfer any of the aircraft to another State agency. No later than May  
48 30, 2010, the Division shall prepare a report of the findings and recommendations of the study  
49 and submit it to the House of Representatives and Senate Appropriations Subcommittees on  
50 Natural and Economic Resources and the Fiscal Research Division.  
51

**EXECUTIVE AIRCRAFT/USE FOR ECONOMIC DEVELOPMENT PRIORITY**

**SECTION 14.1C.** G.S. 143B-437.011 reads as rewritten:

**"§ 143B-437.011. Executive aircraft used for economic development; other uses.**

The use of executive aircraft by the Department of Commerce for economic development purposes shall take precedence over all other uses. The Department of Commerce shall annually review the rates charged for the use of executive 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 executive aircraft is not being used by the Department of Commerce for economic development purposes, priority of use shall be given first to the Governor, second to the Council of State, and third to other State officials 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 executive 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."

**NER BLOCK GRANTS**

**SECTION 14.5.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2010, according to the following schedule:

**COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$ 1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	13,200,000
04. Economic Development	8,710,000
05. Small Business/Entrepreneurship	1,000,000
06. Community Revitalization	13,000,000
07. State Technical Assistance	450,000
08. Housing Development	1,500,000
09. Infrastructure	5,140,000
<b>TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2009 Program Year</b>	<b>\$ 45,000,000</b>

**SECTION 14.5.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

**SECTION 14.5.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each

1 program category under the Community Development Block Grant shall be increased by the  
2 same percentage as the increase in federal funds.

3 **SECTION 14.5.(d)** Limitations on Community Development Block Grant Funds. –  
4 Of the funds appropriated in this section for the Community Development Block Grant, the  
5 following shall be allocated in each category for each program year: up to one million dollars  
6 (\$1,000,000) may be used for State Administration; not less than one million dollars  
7 (\$1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two  
8 hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; eight million  
9 seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; up  
10 to one million dollars (\$1,000,000) may be used for Small Business/Entrepreneurship; not less  
11 than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization; up to  
12 four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up  
13 to one million five hundred thousand dollars (\$1,500,000) may be used for Housing  
14 Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used  
15 for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the  
16 United States after the effective date of this act, then these reductions or increases shall be  
17 allocated in accordance with subsection (b) or (c) of this section, as applicable.

18 **SECTION 14.5.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to  
19 nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in  
20 partnership with units of local government is an eligible activity under any program category in  
21 accordance with federal regulations. Capacity building grants may be made from funds  
22 available within program categories, program income, or unobligated funds.

23 **SECTION 14.5.(f)** The Department of Commerce shall consult with the Joint  
24 Legislative Commission on Governmental Operations prior to reallocating Community  
25 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
26 the Director of the Budget finds that:

- 27 (1) A reallocation is required because of an emergency that poses an imminent  
28 threat to public health or public safety, the Director of the Budget may  
29 authorize the reallocation without consulting the Commission. The  
30 Department of Commerce shall report to the Commission on the reallocation  
31 no later than 30 days after it was authorized and shall identify in the report  
32 the emergency, the type of action taken, and how it was related to the  
33 emergency.
- 34 (2) The State will lose federal block grant funds or receive less federal block  
35 grant funds in the next fiscal year unless a reallocation is made. The  
36 Department of Commerce shall provide a written report to the Commission  
37 on the proposed reallocation and shall identify the reason that failure to take  
38 action will result in the loss of federal funds. If the Commission does not  
39 hear the issue within 30 days of receipt of the report, the Department may  
40 take the action without consulting the Commission.

41 **SECTION 14.5.(g)** By September 1, 2009, the Division of Community Assistance,  
42 Department of Commerce, shall report to the Joint Legislative Commission on Governmental  
43 Operations and the Fiscal Research Division on the use of Community Development Block  
44 Grant Funds appropriated in the prior fiscal year.

#### 45 **NER CDBG/AMERICAN RECOVERY AND REINVESTMENT ACT 2009**

46 **SECTION 14.5A.(a)** Appropriations from federal block grant funds are made for  
47 the 2009-2010 fiscal year, according to the following schedule:

#### 48 **COMMUNITY DEVELOPMENT BLOCK GRANT**

- 49  
50  
51 01. Administration:



1	State	\$	604,030.50
2	Local Governments		604,030.50
3			
4	02. Infrastructure		5,872,553
5			
6	03. Housing		3,000,000
7			
8	04. Special Projects		2,000,000
9			

10 **TOTAL COMMUNITY DEVELOPMENT**

11 **BLOCK GRANT – Recovery**

12 2009-2010 Fiscal Year \$ 12,080,614

13 **SECTION 14.5A.(b)** Limitations on Community Development Block Grant Funds.  
 14 – Of the funds appropriated in this section for the Community Development Block Grant, the  
 15 following shall be allocated: up to one million two hundred eight thousand and sixty-one  
 16 dollars (\$1,208,061) may be used for Administration; up to five million eight hundred  
 17 seventy-two thousand five hundred fifty-three dollars (\$5,872,553) may be used for  
 18 Infrastructure; up to three million dollars (\$3,000,000) may be used for Housing; and up to two  
 19 million dollars (\$2,000,000) may be used for Special Projects.

20 **SECTION 14.5A.(c)** The Department of Commerce shall consult with the Joint  
 21 Legislative Commission on Governmental Operations prior to reallocating Community  
 22 Development Block Grant Recovery Funds appropriated under this section.

23  
 24 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

25 **SECTION 14.7.** The North Carolina Industrial Commission may retain the  
 26 additional revenue generated as a result of an increase in the fee charged to parties for the filing  
 27 of compromised settlements. These funds shall be used for the purpose of replacing existing  
 28 computer hardware and software used for the operations of the Commission. These funds may  
 29 also be used to prepare any assessment of hardware and software needs prior to purchase and to  
 30 develop and administer the needed databases and new Electronic Case Management System,  
 31 including the establishment of two time-limited positions for application development and  
 32 support and mainframe migration. The Commission may not retain any fees under this section  
 33 unless they are in excess of the former two-hundred-dollar (\$200.00) fee charged by the  
 34 Commission for filing a compromised settlement.

35  
 36 **INDUSTRIAL COMMISSION/SAFETY EDUCATION SECTION**

37 **SECTION 14.8.** G.S. 97-73 reads as rewritten:

38 "**§ 97-73. Fees.**

39 (a) Claims. – The Industrial Commission may establish by rule a schedule of fees for  
 40 examinations conducted, reports made, documents filed, and agreements reviewed under this  
 41 Article. The fees shall be collected in accordance with rules adopted by the Industrial  
 42 Commission.

43 (b), (c) Repealed by Session Laws 2003-284, s. 10.33(d), effective July 1, 2003.

44 (d) Safety. – A fee in the amount set by the Industrial Commission is imposed on an  
 45 employer for whom the Industrial Commission provides an educational training program on  
 46 how to prevent or reduce accidents or injuries that result in workers' compensation claims or a  
 47 person for whom the Industrial Commission provides other educational services. The fees are  
 48 departmental receipts."

49  
 50 **EMPLOYMENT SECURITY COMMISSION FUNDS**

1           **SECTION 14.9.(a)** Funds from the Employment Security Commission Reserve  
2 Fund shall be available to the Employment Security Commission of North Carolina to use as  
3 collateral to secure federal funds and to pay the administrative costs associated with the  
4 collection of the Employment Security Commission Reserve Fund surcharge. The total  
5 administrative costs paid with funds from the Reserve in the 2009-2010 fiscal year shall not  
6 exceed two million five hundred thousand dollars (\$2,500,000).

7           **SECTION 14.9.(b)** There is appropriated from the Employment Security  
8 Commission Reserve Fund to the Employment Security Commission of North Carolina the sum  
9 of twenty million dollars (\$20,000,000) for the 2009-2010 fiscal year to be used for the  
10 following purposes:

- 11           (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the  
12 operation and support of local Employment Security Commission offices.
- 13           (2) Two hundred thousand dollars (\$200,000) for the State Occupational  
14 Information Coordinating Committee to develop and operate an interagency  
15 system to track former participants in State education and training programs.
- 16           (3) Three hundred thousand dollars (\$300,000) to maintain compliance with  
17 Chapter 96 of the General Statutes, which directs the Commission to employ  
18 the Common Follow-Up Management Information System to evaluate the  
19 effectiveness of the State's job training, education, and placement programs.

20           **SECTION 14.9.(c)** There is appropriated from the Employment Security  
21 Commission Reserve Fund to the Employment Security Commission of North Carolina an  
22 amount not to exceed one million dollars (\$1,000,000) for the 2009-2010 fiscal year to fund  
23 State initiatives not currently funded through federal grants.

24           **SECTION 14.9.(d)** There is appropriated from the Employment Security  
25 Commission Reserve Fund to the Employment Security Commission of North Carolina an  
26 amount not to exceed one million five hundred thousand dollars (\$1,500,000) for the  
27 2009-2010 fiscal year to fund a system upgrade to the Common Follow-Up Management  
28 Information System.

## 29 30 **EMPLOYMENT SECURITY COMMISSION/AMERICAN RECOVERY AND** 31 **REINVESTMENT ACT 2009**

32           **SECTION 14.10.** Of the funds credited to and held in the State of North Carolina's  
33 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States  
34 pursuant to and in accordance with section 903 of the Social Security Act, the Employment  
35 Security Commission of North Carolina may expend the sum of fourteen million six hundred  
36 forty-seven thousand three hundred ninety-seven dollars (\$14,647,397) for the 2009-2011 fiscal  
37 biennium for the following purposes:

- 38           (1) Implementing and administering the provisions of State law that qualify the  
39 State for the incentive payments.
- 40           (2) Improved outreach to individuals who might be eligible by virtue of these  
41 provisions.
- 42           (3) The improvement of unemployment benefits and tax operations, including  
43 responding to increased demand for unemployment benefits.
- 44           (4) Staff-assisted reemployment services for unemployment claimants.

## 45 46 **COMMERCE/ENTERPRISE FUNDS AND SPECIAL FUNDS**

47           **SECTION 14.10A.(a)** The Office of State Budget and Management, in conjunction  
48 with the Office of the State Controller and the Department of Commerce, shall close the  
49 following special funds and transfer the remaining fund balances to the General Fund:

- 50           (1) 24600-2241 – Rural Electrification Authority Administration
- 51           (2) 24600-2553 – North Carolina Grape Growers Council

- 1 (3) 24600-2821 – Credit Union Supervision
- 2 (4) 24600-2851 – Cemetery Commission
- 3 (5) 54600-5211 – Utilities – Commission Staff
- 4 (6) 54600-5217 – Utilities – Gas Pipeline Safety
- 5 (7) 54600-5221 – Utilities – Public Staff
- 6 (8) 54600-5811 – State Banking Commission
- 7 (9) 54600-5881 – ABC Commission
- 8 (10) 54600-5882 – ABC Warehouse
- 9 (11) 64605 Commerce – Utilities Commission – Public Staff
- 10 (12) 64612 Commerce – North Carolina Rural Electrification Authority
- 11 (13) 64613 Commerce – Utilities Commission – Natural Gas

12 **SECTION 14.10A.(b)** The Office of State Budget and Management, in  
 13 conjunction with the Office of the State Controller and the Department of Commerce, shall  
 14 transfer the following fund codes from Budget Code 24600 – Commerce Special Funds to  
 15 Budget Code 24609 – Commerce Special Fund General Fund:

- 16 (1) 2533 – One North Carolina Fund
- 17 (2) 2534 – One North Carolina Small Business Account
- 18 (3) 2581 – JDIG Fees
- 19 (4) 2582 – JDIG Special Revenue Fund
- 20 (5) 2711 – Industrial Development Fund
- 21 (6) 2712 – Industrial Development Utility Account

22 **SECTION 14.10A.(c)** G.S. 18B-208 reads as rewritten:

23 **"§ 18B-208. ABC Commission bonds and funds.**

24 (a) Issuance of Bonds. – As a means of raising the funds needed from time to time in  
 25 the design, acquisition, construction, equipping, maintenance and operation of a warehouse  
 26 under G.S. 18B-204(a)(3), the Commission may, with the approval of the Governor, at one  
 27 time or from time to time issue negotiable revenue bonds of the Commission. The issuance of  
 28 revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to  
 29 pledge any form of taxation or to make any appropriation for their payment. Revenue bonds  
 30 issued pursuant to this subsection shall be repaid from the bailment surcharge as provided in  
 31 subsection (b). These bonds and the income from them are exempt from all taxation within the  
 32 State.

33 (b) ~~Special Fund.~~— ~~A special fund in the office of the State Treasurer, the ABC~~  
 34 ~~Commission Fund, is created. On and after November 1, 1982, all~~All moneys derived from the  
 35 collection of bailment charges and bailment surcharges shall be deposited in the ABC  
 36 ~~Commission Fund for the purpose of carrying out the provisions of this Chapter. The ABC~~  
 37 ~~Commission Fund shall be subject to the provisions of the State Budget Act except that no~~  
 38 ~~unexpended surplus of this fund shall revert to the General Fund~~General Fund. The  
 39 Commission shall fix the level of the bailment surcharges at an amount calculated to cover  
 40 operating expenses of the Commission and the retirement of bonds issued for construction of a  
 41 Commission warehouse and offices. Upon payment of the bonds issued pursuant to this section,  
 42 the Commission shall reduce the bailment surcharge to an amount no greater than necessary to  
 43 pay operating expenses of the Commission as authorized by the General Assembly.

44 ~~All moneys credited to the ABC Commission Fund shall be used to carry out the intent and~~  
 45 ~~purposes of the ABC law in accordance with plans approved by the North Carolina ABC~~  
 46 ~~Commission and the Director of the Budget, and all these funds are appropriated, reserved, set~~  
 47 ~~aside, and made available until expended for the administration of the ABC law."~~

48 **SECTION 14.10A.(d)** G.S. 53-122(e) reads as rewritten:

49 "(e) In the first half of each calendar year, the State Banking Commission shall review  
 50 the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal  
 51 year. If the estimated fees and assessments provided for under this section shall exceed the

1 estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year,  
2 then the State Banking Commission may reduce by uniform percentage the fees and  
3 assessments provided for in this section. If the estimated fees and assessments provided for  
4 under this section shall be less than the estimated cost of maintaining the office of the  
5 Commissioner of Banks for the next fiscal year, then the State Banking Commission may  
6 increase by uniform percentage the fees and assessments provided for in this section to an  
7 amount which will increase the amount of the fees and assessments to be collected to an  
8 amount at least equal to the estimated cost of maintaining the office of the Commissioner of  
9 Banks for the next fiscal year. ~~In no event shall any surplus at the end of any fiscal year~~  
10 ~~resulting from the collection of fees and assessments pursuant to this section revert to the~~  
11 ~~general fund.~~ The State Banking Commission shall report to the Joint Legislative Commission  
12 on Governmental Operations its conclusion that the estimated fees and assessments should be  
13 reduced or increased. Any reduction or increase of estimated fees and assessments provided for  
14 under this section shall become effective July 1 of the next fiscal year. All fees and assessments  
15 collected under this section shall be deposited in the General Fund."

16 **SECTION 14.10A.(e)** G.S. 54-109.14 reads as rewritten:

17 **"§ 54-109.14. Fees.**

18 (a) Each credit union subject to supervision and examination by the Administrator of  
19 Credit Unions, including credit unions in process of voluntary liquidation, shall pay into the  
20 office of the Administrator of Credit Unions twice each year, in the months of January and  
21 July, supervision fees, except those credit unions which liquidate or convert its charter shall pay  
22 into the office of the Administrator of Credit Unions, to the date of dissolution, pro rata  
23 supervision fees. Examination fees shall be paid promptly upon receipt of the examination  
24 report and invoice.

25 The Administrator of Credit Unions, subject to the advice and consent of the Credit Union  
26 Commission, shall, on or before December 1 of each year, determine and fix the scale of  
27 supervisory and examination fees to be assessed during the next calendar year.

28 No credit union shall be required to pay any supervisory fee until the expiration of 12  
29 months from the date of the issuance of a certificate of incorporation to such credit union.

30 (b) ~~Moneys collected under this section shall be deposited with the State Treasurer of~~  
31 ~~North Carolina and expended, under the terms of the Executive Budget Act, to defray expenses~~  
32 ~~incurred by the office of the Administrator of Credit Unions in carrying out its supervisory and~~  
33 ~~auditing functions in the General Fund.~~

34 (e) ~~All revenue derived from fees will be placed into a special account to be~~  
35 ~~administered solely for the operation of the Credit Union Division."~~

36 **SECTION 14.10A.(f)** G.S. 54B-57 reads as rewritten:

37 **"§ 54B-57. Supervision and examination fees.**

38 (a) Every State association, including associations in process of voluntary liquidation or  
39 savings and loan holding company, shall pay into the office of the Commissioner of Banks each  
40 July a supervisory fee. Examination fees shall be paid promptly upon an association's receipt of  
41 the examination billing. The Commissioner of Banks, subject to the advice and consent of the  
42 Commission, shall, on or before June 1 of each year:

43 (1) Determine and fix the scale of supervisory and examination fees to be  
44 assessed and collected during the next fiscal year;

45 (2) Determine and fix the amount of the fee and set the fee collection schedule  
46 for the fees to be assessed to and collected from applicants to defray the cost  
47 of processing their charter, branch, merger, conversion, location change,  
48 savings and loan holding company acquisition, and name change  
49 applications.

50 (b) All funds and revenue collected by the Division under the provisions of this section  
51 and the provisions of all other sections of this Chapter which authorize the collection of fees

1 and other funds shall be deposited ~~with the State Treasurer of North Carolina and expended~~  
2 ~~under the terms of the Executive Budget Act, solely to defray expenses incurred by the office~~  
3 ~~of the Commissioner of Banks in carrying out its supervisory and auditing functions in the~~  
4 General Fund.

5 (c) Notwithstanding any of the provisions of subsections (a) and (b) of this section,  
6 whenever the Commissioner of Banks under the provisions of G.S. 54B-56 appoints a suitable  
7 and competent person, other than a person employed by the Commissioner of Banks' office, to  
8 make an examination and investigation of the business of a State association, all costs and  
9 expenses relative to such examination and investigation shall be paid by such association."

10 **SECTION 14.10A.(g)** G.S. 54B-74 reads as rewritten:

11 **"§ 54B-74. Annual license fees.**

12 All State associations shall pay an annual license fee set by the Commissioner of Banks,  
13 subject to the advice and consent of the Commission. ~~Such license fee shall be used to defray~~  
14 ~~the expenses incurred by the Division in supervising State associations.~~ The Commissioner of  
15 Banks may license each State association upon receipt of the license fee and filing of an  
16 application in such form as the Commissioner of Banks may prescribe."

17 **SECTION 14.10A.(h)** G.S. 54B-75 reads as rewritten:

18 **"§ 54B-75. Statement; fees.**

19 Every State association shall file in the office of the Commissioner of Banks, on or before  
20 the first day of February in each year, in such form as the Commissioner of Banks shall  
21 prescribe, a statement of the business standing and financial condition of such association on  
22 the preceding 31st day of December. This statement shall be signed and sworn to by the  
23 secretary or other officer duly authorized by the board of directors of the association before a  
24 notary public. The statement shall be accompanied by a filing fee set by the Commissioner of  
25 Banks, subject to the advice and consent of the Commission. ~~The filing fees shall be used to~~  
26 ~~defray the expenses incurred by the Division in supervising State associations."~~

27 **SECTION 14.10A.(i)** G.S. 54C-55 reads as rewritten:

28 **"§ 54C-55. Supervision and examination fees authorized; use of funds collected under**  
29 **Chapter.**

30 (a) Every State savings bank, including savings banks in process of voluntary  
31 liquidation, or a holding company thereof, shall pay into the office of the Commissioner of  
32 Banks each July a supervisory fee. Examination fees shall be paid promptly upon an  
33 association's receipt of the examination billing. The Commissioner of Banks, subject to the  
34 advice and consent of the Commission, shall, on or before June 1 of each year:

- 35 (1) Determine and fix the scale of supervisory and examination fees to be  
36 assessed and collected during the next fiscal year; and
- 37 (2) Determine and fix the amount of the fee and set the fee collection schedule  
38 for the fees to be assessed to and collected from applicants to defray the cost  
39 of processing their charter, branch, merger, conversion, holding company  
40 acquisition, and name change applications.

41 (b) All funds and revenue collected by the Division under this section and all other  
42 sections of this Chapter that authorize the collection of fees and other funds shall be deposited  
43 ~~with the State Treasurer and expended under the terms of the Executive Budget Act, solely to~~  
44 ~~defray expenses incurred by the office of the Commissioner of Banks in carrying out its~~  
45 supervisory and auditing functions in the General Fund.

46 (c) Notwithstanding subsections (a) and (b) of this section, whenever the Commissioner  
47 of Banks under G.S. 54C-54 appoints a suitable and competent person, other than a person  
48 employed by the Commissioner of Banks' office, to make an examination and investigation of  
49 the business of a State savings bank, the savings bank shall pay all costs and expenses relative  
50 to the examination and investigation."

51 **SECTION 14.10A.(j)** G.S. 54C-61 reads as rewritten:

1 **"§ 54C-61. Annual license fees.**

2 A state savings bank shall pay an annual license fee set by the Commissioner of Banks,  
3 subject to the advice and consent of the Commission. ~~The license fee shall be used to defray the~~  
4 ~~expenses incurred by the Division in supervising State savings banks.~~ The Commissioner of  
5 Banks may license each State savings bank upon receipt of the license fee and filing of an  
6 application in the form prescribed by the Commissioner of Banks."

7 **SECTION 14.10A.(k)** G.S. 54C-62 reads as rewritten:

8 **"§ 54C-62. Statement filed by savings bank; fees.**

9 A State savings bank shall file in the office of the Commissioner of Banks, on or before the  
10 first day of February in each year, in the form prescribed by the Commissioner of Banks, a  
11 statement of the business standing and financial condition of the savings bank on the preceding  
12 31st day of December, signed and sworn to by the secretary or other officer duly authorized by  
13 the board of directors of the savings bank before a notary public. The statement shall be  
14 accompanied by a filing fee set by the Commissioner of Banks, subject to the advice and  
15 consent of the Commission. ~~The filing fees shall be used to defray the expenses incurred by the~~  
16 ~~Division in supervising State savings banks."~~

17 **SECTION 14.10A.(l)** G.S. 62-302 reads as rewritten:

18 **"§ 62-302. Regulatory fee.**

19 (a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair  
20 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of  
21 regulating public utilities is a burden incident to the privilege of operating as a public utility.  
22 Therefore, for the purpose of defraying the cost of regulating public utilities, every public  
23 utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in  
24 addition to all other fees and taxes, as provided in this section. ~~The fees collected shall be used~~  
25 ~~only to pay the expenses of the Commission and the Public Staff in regulating public utilities in~~  
26 ~~the interest of the public.~~

27 It is also the policy of the State to provide limited oversight of certain electric membership  
28 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of  
29 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each  
30 electric membership corporation whose principal purpose is to furnish or cause to be furnished  
31 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as  
32 provided in this section.

33 (b) Public Utility Rate. –

34 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

35 (2) The public utility regulatory fee for each fiscal year shall be the greater of (i)  
36 a percentage rate, established by the General Assembly, of each public  
37 utility's North Carolina jurisdictional revenues for each quarter or (ii) six  
38 dollars and twenty-five cents (\$6.25) each quarter.

39 When the Commission prepares its budget request for the upcoming  
40 fiscal year, the Commission shall propose a percentage rate of the public  
41 utility regulatory fee. For fiscal years beginning in an odd-numbered year,  
42 that proposed rate shall be included in the budget message the Governor  
43 submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years  
44 beginning in an even-numbered year, that proposed rate shall be included in  
45 a special budget message the Governor shall submit to the General  
46 Assembly. The General Assembly shall set the percentage rate of the public  
47 utility regulatory fee by law.

48 The percentage rate may not exceed the amount necessary to generate  
49 funds sufficient to defray the estimated cost of the operations of the  
50 Commission and the Public Staff for the upcoming fiscal year, including a  
51 reasonable margin for a reserve fund. The amount of the reserve may not

1 exceed the estimated cost of operating the Commission and the Public Staff  
2 for the upcoming fiscal year. In calculating the amount of the reserve, the  
3 General Assembly shall consider all relevant factors that may affect the cost  
4 of operating the Commission or the Public Staff or a possible unanticipated  
5 increase or decrease in North Carolina jurisdictional revenues.

6 (3) If the Commission, the Public Staff, or both experience a revenue shortfall,  
7 the Commission shall implement a temporary public utility regulatory fee  
8 surcharge to avert the deficiency that would otherwise occur. In no event  
9 may the total percentage rate of the public utility regulatory fee plus any  
10 surcharge established by the Commission exceed twenty-five hundredths  
11 percent (0.25%).

12 (4) As used in this section, the term "North Carolina jurisdictional revenues"  
13 means all revenues derived or realized from intrastate tariffs, rates, and  
14 charges approved or allowed by the Commission or collected pursuant to  
15 Commission order or rule, but not including tap-on fees or any other form of  
16 contributions in aid of construction.

17 (b1) Electric Membership Corporation Rate. – The electric membership corporation  
18 regulatory fee for each fiscal year shall be a dollar amount as established by the General  
19 Assembly by law.

20 When the Commission prepares its budget request for the upcoming fiscal year, the  
21 Commission shall propose the amount of the electric membership corporation regulatory fee.  
22 For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in  
23 the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5.  
24 For fiscal years beginning in an even-numbered year, the proposed amount shall be included in  
25 a special budget message the Governor shall submit to the General Assembly.

26 The amount of the electric membership corporation regulatory fee proposed by the  
27 Commission may not exceed the amount necessary to defray the estimated cost of the  
28 operations of the Commission and the Public Staff for the regulation of the electric membership  
29 corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The  
30 amount of the reserve may not exceed the estimated cost of the Commission and the Public  
31 Staff for the regulation of the electric membership corporations for the upcoming fiscal year.

32 (c) When Due. – The electric membership corporation regulatory fee imposed under  
33 this section shall be paid in quarterly installments. The fee is due and payable to the  
34 Commission on or before the 15th day of the second month following the end of each quarter.

35 The public utility regulatory fee imposed under this section is due and payable to the  
36 Commission on or before the 15th day of the second month following the end of each quarter.  
37 Every public utility subject to the public utility regulatory fee shall, on or before the date the  
38 fee is due for each quarter, prepare and render a report on a form prescribed by the  
39 Commission. The report shall state the public utility's total North Carolina jurisdictional  
40 revenues for the preceding quarter and shall be accompanied by any supporting documentation  
41 that the Commission may by rule require. Receipts shall be reported on an accrual basis.

42 If a public utility's report for the first quarter of any fiscal year shows that application of the  
43 percentage rate would yield a quarterly fee of twenty-five dollars (\$25.00) or less, the public  
44 utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars  
45 (\$25.00). If, after payment of the estimated fee, the public utility's subsequent returns show that  
46 application of the percentage rate would yield quarterly fees that total more than twenty-five  
47 dollars (\$25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of  
48 the fee resulting from application of the percentage rate, to the extent it exceeds the amount of  
49 fees, other than any surcharge, previously paid.

50 (d) Use of Proceeds. – ~~A special fund in the office of State Treasurer, the Utilities~~  
51 ~~Commission and Public Staff Fund, is created.~~ The fees collected pursuant to this section and all

1 other funds received by the Commission or the Public Staff, except for the clear proceeds of  
2 civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited  
3 pursuant to G.S. 62-310(a), shall be deposited in the ~~Utilities Commission and Public Staff~~  
4 ~~Fund. The Fund shall be placed in an interest bearing account and any interest or other income~~  
5 ~~derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent~~  
6 ~~pursuant to appropriation by the General Assembly. General Fund.~~

7 ~~The Utilities Commission and Public Staff Fund shall be subject to the provisions of the~~  
8 ~~State Budget Act except that no unexpended surplus of the Fund shall revert to the General~~  
9 ~~Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only~~  
10 ~~to pay the expenses of the Commission and the Public Staff in regulating public utilities in the~~  
11 ~~interest of the public as provided by this Chapter and in regulating electric membership~~  
12 ~~corporations as provided in G.S. 117-18.1.~~

13 The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear  
14 proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil Penalty and  
15 Forfeiture Fund in accordance with G.S. 115C-457.2."

16 **SECTION 14.10A.(m)** G.S. 105-113.81A is repealed.

17 **SECTION 14.10A.(n)** G.S. 117-3.1 reads as rewritten:

18 "**§ 117-3.1. Regulatory fee.**

19 (a) Fee imposed. – It is the policy of the State of North Carolina to provide fair  
20 regulation of electric and telephone membership corporations in the interest of the public. The  
21 cost of regulating electric and telephone membership corporations is a burden incident to the  
22 privilege of operating as an electric or telephone membership corporation. Therefore, for the  
23 purpose of defraying the cost of regulating electric and telephone membership corporations,  
24 every electric and telephone membership corporation subject to the jurisdiction of the Authority  
25 shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this  
26 section. ~~The fees collected shall be used only to pay the expenses of the Authority in regulating~~  
27 ~~electric and telephone membership corporations in the interest of the public.~~

28 (b) Rate. – For each fiscal year, the regulatory fee shall be the greater of the following:

- 29 (1) The rate established by the General Assembly for that year for each electric  
30 membership corporation's North Carolina meter connected for service and  
31 each telephone membership corporation's North Carolina access line  
32 connected for service for each quarter of the year.
- 33 (2) Four cents (4¢) for each electric membership corporation's North Carolina  
34 meter connected for service and for each telephone membership  
35 corporation's North Carolina access line connected for service for each  
36 quarter of the year.

37 When the Authority prepares its budget request for the upcoming fiscal year, the Authority  
38 shall propose a rate for the regulatory fee. For fiscal years beginning in an odd-numbered year,  
39 that proposed rate shall be included in the budget message the Governor submits to the General  
40 Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year,  
41 that proposed rate shall be included in a special budget message the Governor shall submit to  
42 the General Assembly. If the General Assembly decides to set the regulatory fee at a rate higher  
43 than the rate in subdivision (2) of this subsection, it shall set the regulatory fee by law.

44 The regulatory fee may not exceed the amount necessary to generate funds sufficient to  
45 defray the estimated cost of the operations of the Authority for the upcoming fiscal year,  
46 including a reasonable margin for a reserve fund. The amount of the reserve may not exceed  
47 the estimated cost of operating the Authority for the upcoming fiscal year. In calculating the  
48 amount of the reserve, the General Assembly shall consider all relevant factors that may affect  
49 the cost of operating the Authority or a possible unanticipated increase or decrease in North  
50 Carolina electric meters and North Carolina telephone access lines.



1 (c) When Due. – The regulatory fee imposed under this section is due and payable to  
2 the Authority on or before the 15th day of the second month following the end of each quarter.  
3 Every electric and telephone membership corporation subject to the regulatory fee shall, on or  
4 before the date the fee is due for each quarter, prepare and render a report on a form prescribed  
5 by the Authority. The report shall state the electric or telephone membership corporation's total  
6 North Carolina electric meters or North Carolina telephone access lines connected for service  
7 for the preceding quarter and shall be accompanied by any supporting documentation that the  
8 Authority may by rule require.

9 (d) Use of Proceeds. – ~~A special fund in the office of the State Treasurer, the North~~  
10 ~~Carolina Rural Electrification Authority Fund (NCREA Fund), is created.~~ The fees collected  
11 pursuant to this section and all other funds received by the Authority shall be deposited in the  
12 ~~NCREA Fund. The NCREA Fund shall be placed in an interest bearing account and any~~  
13 ~~interest or other income derived from the NCREA Fund shall be credited to the NCREA Fund.~~  
14 ~~Moneys in the NCREA Fund shall only be spent pursuant to an appropriation by the General~~  
15 ~~Assembly.~~ General Fund.

16 ~~The NCREA Fund shall be subject to the provisions of the State Budget Act except that no~~  
17 ~~unexpended surplus of the NCREA Fund shall revert to the General Fund. All funds credited to~~  
18 ~~the NCREA Fund shall be used only to pay the expenses of the Authority in regulating electric~~  
19 ~~and telephone membership corporations in the interest of the public as provided by this~~  
20 ~~Chapter."~~

## 21

## 22 STATE BANKING COMMISSION/FEEES & ASSESSMENT CHANGES EFFECTIVE

## 23 JULY 1

### 24 SECTION 14.10B. G.S. 53-122(e) reads as rewritten:

25 "(e) In the first half of each calendar year, the State Banking Commission shall review  
26 the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal  
27 year. If the estimated fees and assessments provided for under this section shall exceed the  
28 estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year,  
29 then the State Banking Commission may reduce by uniform percentage the fees and  
30 assessments provided for in this section. If the estimated fees and assessments provided for  
31 under this section shall be less than the estimated cost of maintaining the office of the  
32 Commissioner of Banks for the next fiscal year, then the State Banking Commission may  
33 increase by uniform percentage the fees and assessments provided for in this section to an  
34 amount which will increase the amount of the fees and assessments to be collected to an  
35 amount at least equal to the estimated cost of maintaining the office of the Commissioner of  
36 Banks for the next fiscal year. Any reduction or increase of estimated fees and assessments  
37 provided for under this section shall become effective July 1 of the next fiscal year. In no event  
38 shall any surplus at the end of any fiscal year resulting from the collection of fees and  
39 assessments pursuant to this section revert to the general fund."  
40

## 41 COUNCIL OF GOVERNMENT FUNDS

42 SECTION 14.11.(a) Of the funds appropriated in this act to the Department of  
43 Commerce, the sum of four hundred twenty-five thousand dollars (\$425,000) for the 2009-2010  
44 fiscal year and the sum of four hundred twenty-five thousand dollars (\$425,000) for the  
45 2010-2011 fiscal year shall only be used as provided by this section. Each regional council of  
46 government or lead regional organization is allocated up to twenty-five thousand dollars  
47 (\$25,000) for the 2009-2010 and the 2010-2011 fiscal years.

48 SECTION 14.11.(b) A regional council of government may use funds allocated to  
49 it by this section only to assist local governments in grant applications, economic development,  
50 community development, support of local industrial development activities, and other activities  
51 as deemed appropriate by the member governments.

1           **SECTION 14.11.(c)** Funds allocated by this section shall be paid by electronic  
2 transfer in two equal installments. Upon receipt of the report required by subsection (e) of this  
3 section, the first installment shall be paid no later than September 15, 2009.

4           **SECTION 14.11.(d)** Funds allocated by this section shall not be used for payment  
5 of dues or assessments by the member governments and shall not supplant funds appropriated  
6 by the member governments.

7           **SECTION 14.11.(e)** By September 1 of each year, and more frequently as  
8 requested, each council of government or lead regional organization shall report to the Joint  
9 Legislative Commission on Governmental Operations and the Fiscal Research Division of the  
10 General Assembly on prior State fiscal year program activities, objectives, and  
11 accomplishments, and prior State fiscal year itemized expenditures and fund sources. Each  
12 council of government or lead regional organization shall provide to the Fiscal Research  
13 Division of the General Assembly a copy of the organization's annual audited financial  
14 statement within 30 days of issuance of the statement.

#### 15 16 **STATE-AID REPORTING REQUIREMENTS**

17           **SECTION 14.12.(a)** The North Carolina Institute of Minority Economic  
18 Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center,  
19 North Carolina Community Development Initiative, Inc., North Carolina Association of  
20 Community Development Corporations, Inc., North Carolina Biotechnology Center, North  
21 Carolina Center for Automotive Research, Inc., High Point Market Authority, and Partnership  
22 for the Sounds, Inc., shall do the following:

- 23           (1) By September 1 of each year, and more frequently as requested, report to the  
24 Joint Legislative Commission on Governmental Operations and the Fiscal  
25 Research Division on prior State fiscal year program activities, objectives,  
26 and accomplishments, and prior State fiscal year itemized expenditures and  
27 fund sources.
- 28           (2) Provide to the Fiscal Research Division a copy of the organization's annual  
29 audited financial statement within 30 days of issuance of the statement.

30           **SECTION 14.12.(b)** Remaining allotments after September 1 shall not be released  
31 to any nonprofit organization that does not satisfy the reporting requirements provided in  
32 subsection (a) of this section.

#### 33 34 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

35           **SECTION 14.13.(a)** Funds appropriated in this act to the Department of  
36 Commerce for regional economic development commissions shall be allocated to the following  
37 commissions in accordance with subsection (b) of this section: Western North Carolina  
38 Regional Economic Development Commission, Research Triangle Regional Partnership,  
39 Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad  
40 Partnership, Northeastern North Carolina Regional Economic Development Commission,  
41 North Carolina's Eastern Region Economic Development Partnership, and Carolinas  
42 Partnership, Inc.

43           **SECTION 14.13.(b)** Funds appropriated pursuant to subsection (a) of this section  
44 shall be allocated to each regional economic development commission as follows:

- 45           (1) First, the Department shall establish each commission's allocation by  
46 determining the sum of allocations to each county that is a member of that  
47 commission. Each county's allocation shall be determined by dividing the  
48 county's development factor by the sum of the development factors for  
49 eligible counties and multiplying the resulting percentage by the amount of  
50 the appropriation. As used in this subdivision, the term "development factor"

means a county's development factor as calculated under G.S. 143B-437.08; and

(2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of three hundred eight thousand six hundred sixty-six dollars (\$308,666) in the 2009-2010 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance of seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of three hundred eight thousand six hundred sixty-six dollars (\$308,666) in the 2009-2010 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

**SECTION 14.13.(c)** No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

**SECTION 14.13.(d)** The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

**SET REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 14.14.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2009.

**SECTION 14.14.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2009-2010 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 14.14.(c)** This section becomes effective July 1, 2009.

**RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 14.15.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million six hundred two thousand four hundred thirty-six dollars (\$4,602,436) for the 2009-2010 fiscal year and the sum of four million five hundred twenty-seven thousand four hundred thirty-six dollars (\$4,527,436) for the 2010-2011 fiscal year shall be allocated as follows:

	2009-2010	2010-2011
Center Administration, Technical Assistance, & Oversight	\$1,555,000	\$1,523,000
Research and Demonstration Grants	\$351,000	\$344,000
Institute for Rural Entrepreneurship	\$136,000	\$134,000

1	Community Development Grants	\$987,436	\$987,436
2	Microenterprise Loan Program	\$185,000	\$182,000
3	Water/Sewer/Business Development		
4	Matching Grants	\$840,000	\$821,000
5	Statewide Water/Sewer Database	\$ 95,000	\$ 93,000
6	Agricultural Advancement Consortium	\$110,000	\$107,000

7           **SECTION 14.15.(b)** Funds allocated in subsection (a) of this section for  
8 community development grants shall support development projects and activities within the  
9 State's minority communities. Any new or previously funded community development  
10 corporation, as that term is defined in subsection (c) of this section, is eligible to apply for  
11 community development grant funds. However, no community development grant funds shall  
12 be released to a community development corporation unless the corporation can demonstrate  
13 that there are no outstanding or proposed assessments or other collection actions against the  
14 corporation for any State or federal taxes, including related penalties, interest, and fees.

15           **SECTION 14.15.(c)** For purposes of this section, the term "community  
16 development corporation" means a nonprofit corporation:

- 17           (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 18           (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of  
19 1986;
- 20           (3) Whose primary mission is to develop and improve low-income communities  
21 and neighborhoods through economic and related development;
- 22           (4) Whose activities and decisions are initiated, managed, and controlled by the  
23 constituents of those local communities; and
- 24           (5) Whose primary function is to act as deal maker and packager of projects and  
25 activities that will increase their constituencies' opportunities to become  
26 owners, managers, and producers of small businesses, affordable housing,  
27 and jobs designed to produce positive cash flow and curb blight in the  
28 targeted community.

29           **SECTION 14.15.(d)** The Rural Center shall provide a report containing detailed  
30 budget, personnel, and salary information to the Office of State Budget and Management in the  
31 same manner as State departments and agencies in preparation for biennium budget requests.

32           **SECTION 14.15.(e)** By September 1 of each year, and more frequently as  
33 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
34 Operations and the Fiscal Research Division on prior State fiscal year program activities,  
35 objectives, and accomplishments and prior State fiscal year itemized expenditures and fund  
36 sources.

### 37 38 **RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

39           **SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina  
40 Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million three  
41 hundred five thousand dollars (\$19,305,000) for the 2009-2010 fiscal year and the sum of  
42 nineteen million three hundred five thousand dollars (\$19,305,000) for the 2010-2011 fiscal  
43 year shall be allocated as follows:

- 44           (1) To continue the North Carolina Infrastructure Program. The purpose of the  
45 Program is to provide grants to local governments to construct critical water  
46 and wastewater facilities and to provide other infrastructure needs, including  
47 technology needs, to sites where these facilities will generate private  
48 job-creating investment. At least fifteen million dollars (\$15,000,000) of the  
49 funds appropriated in this act for each year of the biennium must be used to  
50 provide grants under this Program.

1 (2) To provide matching grants to local governments in distressed areas and  
2 equity investments in public-private ventures that will productively reuse  
3 vacant buildings and properties, with priority given to towns or communities  
4 with populations of less than 5,000.

5 (3) To provide economic development research and demonstration grants.

6 **SECTION 14.16.(b)** The Rural Center may contract with other State agencies,  
7 constituent institutions of The University of North Carolina, and colleges within the North  
8 Carolina Community College System for certain aspects of the North Carolina Infrastructure  
9 Program, including design of Program guidelines and evaluation of Program results.

10 **SECTION 14.16.(c)** During each year of the 2009-2011 biennium, the Rural  
11 Center may use up to three hundred eighty-five thousand dollars (\$385,000) of the funds  
12 appropriated in this act to cover its expenses in administering the North Carolina Economic  
13 Infrastructure Program.

14 **SECTION 14.16.(d)** Of the funds appropriated in subsection (a) of this section to  
15 the Rural Center for the 2009-2010 fiscal year, the sum of one million five hundred forty-four  
16 thousand four hundred dollars (\$1,544,400) shall be transferred to the Department of  
17 Environment and Natural Resources to be used to provide the State match to draw down  
18 maximum federal funds for the Clean Water State Revolving Loan Fund.

19 **SECTION 14.16.(e)** By September 1 of each year, and more frequently as  
20 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
21 Operations and the Fiscal Research Division concerning the progress of the North Carolina  
22 Economic Infrastructure Program in the prior State fiscal year.

#### 23 24 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

25 **SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina  
26 Rural Economic Development Center, Inc. (Rural Center), the sum of three hundred forty-three  
27 thousand dollars (\$343,000) for the 2009-2010 fiscal year and the sum of three hundred  
28 thirty-six thousand dollars (\$336,000) for the 2010-2011 fiscal year shall be equally distributed  
29 among the certified Opportunities Industrialization Centers (OI Centers).

30 **SECTION 14.17.(b)** By September 1 of each year, and more frequently as  
31 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
32 Operations and the Fiscal Research Division on OI Centers receiving funds pursuant to  
33 subsection (a) of this section. The report shall include data for each OI Center on all itemized  
34 expenditures and all fund sources for the prior State fiscal year. The report shall also contain a  
35 written narrative on prior fiscal year program activities, objectives, and accomplishments that  
36 were funded with funds appropriated in subsection (a) of this section.

37 **SECTION 14.17.(c)** The Rural Center shall ensure that each OI Center files  
38 annually with the State Auditor a financial statement in the form and on the schedule prescribed  
39 by the State Auditor.

40 **SECTION 14.17.(d)** No funds appropriated under this act shall be released to an  
41 OI Center listed in subsection (a) of this section if the OI Center has any overdue tax debts, as  
42 that term is defined in G.S. 105-243.1, at the federal or State level.

#### 43 44 **RURAL ECONOMIC DEVELOPMENT CENTER/CLEAN WATER PARTNERS** 45 **FUNDING**

46 **SECTION 14.18.** By September 1 of each year, and more frequently as requested,  
47 the North Carolina Rural Economic Development Center, Inc., shall report to the Joint  
48 Legislative Commission on Governmental Operations and the Fiscal Research Division  
49 concerning the progress of the water/sewer improvement grants (commonly referred to as  
50 funding for Clean Water Partners) as appropriated in Section 13.13A of S.L. 2007-323 and  
51 Section 13.8 of S.L. 2008-107. Each report shall include a list of grants made since the last

1 report, the total amount contracted, and the amount of funds remaining. This reporting  
2 requirement shall replace all previous reporting requirements and shall remain in effect until all  
3 funds from this program are expended.

4  
5 **RURAL ECONOMIC DEVELOPMENT CENTER/AMERICAN RECOVERY AND**  
6 **REINVESTMENT ACT FUNDS**

7 **SECTION 14.19.** If the North Carolina Rural Economic Development Center, Inc.,  
8 (Rural Center) finds that North Carolina will not maximize the amount of funding for water and  
9 wastewater projects the State could receive under the American Recovery and Reinvestment  
10 Act of 2009, the Rural Center shall use funds appropriated to the Rural Center in this act to  
11 maximize such funding.

12  
13 **RURAL CENTER/PROVIDE ASSISTANCE TO RURAL COMMUNITIES TO**  
14 **ACCESS FEDERAL FUNDS**

15 **SECTION 14.20.** The North Carolina Rural Economic Development Center, Inc.  
16 (Rural Center), shall provide assistance to rural communities in applying for funds under the  
17 American Recovery and Reinvestment Act of 2009. The assistance shall include, but not be  
18 limited to, advice on writing grants, applying for funds, and reviewing grant proposals.

19  
20 **PART XV. JUDICIAL DEPARTMENT**

21  
22 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

23 **SECTION 15.1.** Funds appropriated to the Judicial Department in the 2009-2011  
24 fiscal biennium for equipment and supplies shall be certified in a reserve account. The  
25 Administrative Office of the Courts may transfer these funds to the appropriate programs and  
26 between programs as the equipment priorities and supply consumptions occur during the  
27 operating year. These funds shall not be expended for any other purpose.

28  
29 **DEATH PENALTY LITIGATION FUNDS**

30 **SECTION 15.3.** Of the funds appropriated in this act to the Office of Indigent  
31 Defense Services for the 2009-2011 fiscal biennium, the Office may use up to the sum of four  
32 hundred seventy-six thousand four hundred twenty-five dollars (\$476,425) for the 2009-2010  
33 fiscal year and up to the sum of four hundred seventy-six thousand four hundred twenty-five  
34 dollars (\$476,425) for the 2010-2011 fiscal year to contract with the Center for Death Penalty  
35 Litigation to provide training, consultation, brief banking, and other assistance to attorneys  
36 representing indigent capital defendants. The Office of Indigent Defense Services shall report  
37 by February 1 of each year in the biennium to the Chairs of the House of Representatives and  
38 Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by  
39 this section.

40  
41 **REPORT ON BUSINESS COURTS**

42 **SECTION 15.4.** The Administrative Office of the Courts shall report to the Chairs  
43 of the House of Representatives and Senate Appropriations Committees and the Chairs of the  
44 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
45 Safety by March 1 of each year on the activities of each North Carolina Business Court site,  
46 including the number of new, closed, and pending cases, average age of pending cases, and  
47 annual expenditures for the prior fiscal year.

48  
49 **COLLECTION OF WORTHLESS CHECK FUNDS**

50 **SECTION 15.5.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial  
51 Department may use any balance remaining in the Collection of Worthless Checks Fund on

1 June 30, 2009, for the purchase or repair of office or information technology equipment during  
2 the 2009-2010 fiscal year. Prior to using any funds under this section, the Judicial Department  
3 shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of  
4 the House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
5 Safety on the equipment to be purchased or repaired and the reasons for the purchases.

#### 6 7 **DISPUTE RESOLUTION FEES**

8 **SECTION 15.6.** Notwithstanding the provisions of G.S. 143C-1-2(b), certification  
9 and renewal fees collected by the Dispute Resolution Commission are nonreverting and are  
10 only to be used at the direction of the Commission.

#### 11 12 **REIMBURSEMENT FOR USE OF PERSONAL VEHICLES**

13 **SECTION 15.7.** Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial  
14 Department, during the 2009-2011 fiscal biennium, may elect to establish a per-mile  
15 reimbursement rate for transportation by privately owned vehicles at a rate less than the  
16 business standard mileage rate set by the Internal Revenue Service.

#### 17 18 **GUIDELINES FOR MAXIMIZING EFFICIENCY OF PROCEEDINGS**

19 **SECTION 15.9.** By December 1, 2009, the Administrative Office of the Courts  
20 shall develop guidelines to be applied to maximize efficient use of the time of probation  
21 officers and court personnel participating in probation revocation proceedings. The  
22 Administrative Office of the Courts may also adopt guidelines for maximizing the efficient use  
23 of the time of law enforcement personnel participating in the Criminal District Courts.

#### 24 25 **WEEKLY MILEAGE REIMBURSEMENT FOR SUPERIOR COURT JUDGES**

26 **SECTION 15.10.** G.S. 7A-44(a) reads as rewritten:

27 "(a) A judge of the superior court, regular or special, shall receive the annual salary set  
28 forth in the Current Operations Appropriations Act, and in addition a regular superior court  
29 judge shall be paid a weekly mileage reimbursement for each week or fraction of a week that  
30 court is in regular or extra session. The amount of the weekly mileage reimbursement for  
31 regular judges shall be calculated for each judge by multiplying the actual round-trip mileage  
32 for one round-trip from that judge's home to the seat of court by the rate per mile, which is the  
33 business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51,  
34 December 27, 1993. A special superior court judge shall be paid the same travel allowance as  
35 State employees generally by G.S. 138-6(a)(1) and (2), provided that no travel allowance be  
36 paid for travel within his the judge's county of residence. In addition, a judge of the superior  
37 court shall be allowed seven thousand dollars (\$7,000) per year, payable monthly, in lieu of  
38 necessary subsistence expenses while attending court or transacting official business at a place  
39 other than in the county of his residence and in lieu of other professional expenses incurred in  
40 the discharge of his official duties. The Administrative Officer of the Courts may also  
41 reimburse superior court judges, in addition to the above funds for travel and subsistence, for  
42 travel and subsistence expenses incurred for professional education."

#### 43 44 **CLARIFY THAT DWI TREATMENT COURTS ARE A TYPE OF DRUG** 45 **TREATMENT COURT UNDER THE DRUG TREATMENT COURT ACT**

46 **SECTION 15.11.** G.S. 7A-791 reads as rewritten:

47 **"§ 7A-791. Purpose.**

48 The General Assembly recognizes that a critical need exists in this State for judicial  
49 programs that will reduce the incidence of alcohol and other drug abuse or dependence and  
50 crimes, including the offense of driving while impaired, delinquent acts, and child abuse and  
51 neglect committed as a result of alcohol and other drug abuse or dependence, and child abuse

1 and neglect where alcohol and other drug abuse or dependence are significant factors in the  
2 child abuse and neglect. It is the intent of the General Assembly by this Article to create a  
3 program to facilitate the creation of local drug treatment court ~~programs.~~ programs and driving  
4 while impaired (DWI) treatment court programs."

#### 6 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

7 **SECTION 15.12.** The Judicial Department, Office of Indigent Defense Services,  
8 may use up to the sum of two million five hundred one thousand one hundred fifty dollars  
9 (\$2,501,150) in appropriated funds during the 2009-2010 fiscal year and up to the sum of two  
10 million four hundred thirty-three thousand seven hundred dollars (\$2,433,700) in appropriated  
11 funds during the 2010-2011 fiscal year for the expansion of existing public defender offices  
12 currently providing legal services to the indigent population under the oversight of the Office of  
13 Indigent Defense Services, or for the creation of new public defender offices within existing  
14 public defender districts currently providing those services, by creating up to 20 new attorney  
15 positions and 10 new support staff positions. These funds may be used for salaries, benefits,  
16 equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent  
17 Defense Services shall report to the Chairs of the House of Representatives and the Senate  
18 Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

#### 20 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

21 **SECTION 15.13.(a)** The Office of Indigent Defense Services shall report to the  
22 Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs  
23 of the House of Representatives and Senate Appropriations Subcommittees on Justice and  
24 Public Safety by March 1 of each year on:

- 25 (1) The volume and cost of cases handled in each district by assigned counsel or  
26 public defenders;
- 27 (2) Actions taken by the Office to improve the cost-effectiveness and quality of  
28 indigent defense, including the capital case program;
- 29 (3) Plans for changes in rules, standards, or regulations in the upcoming year;  
30 and
- 31 (4) Any recommended changes in law or funding procedures that would assist  
32 the Office in improving the management of funds expended for indigent  
33 defense services, including any recommendations concerning the feasibility  
34 and desirability of establishing regional public defender offices.

35 **SECTION 15.13.(b)** In its March 1, 2010 report, the Office of Indigent Defense  
36 Services shall provide a progress report on the pilot program for alternative scheduling  
37 authorized by Section 14.1 of S.L. 2008-107. In its March 1, 2011 report, the Office of Indigent  
38 Defense Services shall provide a final report on that pilot program.

39 **SECTION 15.13.(c)** In its March 1, 2010 report, the Office of Indigent Defense  
40 Services shall provide a progress report on the feasibility study directed by Section 14.7 of S.L.  
41 2008-107 on developing a statewide system for obtaining indigent case information when  
42 counsel is first appointed. In its March 1, 2011 report, the Office of Indigent Defense Services  
43 shall provide a final report on that feasibility study.

#### 45 **STUDY STRATEGIES TO REDUCE DEMAND FOR SERVICES OF OFFICE OF** 46 **INDIGENT DEFENSE SERVICES**

47 **SECTION 15.17.** The Office of Indigent Defense Services shall consult with the  
48 Administrative Office of the Courts, the Conference of District Attorneys, the North Carolina  
49 Sentencing and Policy Advisory Commission, and other court system actors in formulating  
50 proposals aimed at reducing future costs, including the possibility of decriminalizing minor  
51 misdemeanor offenses for which jail sentences are rarely or never imposed and improving the



manner in which potentially capital cases are screened and processed. The Office shall include any proposals in its reports during the 2009-2011 fiscal biennium.

#### **ABOLISH SPECIAL SUPERIOR COURT JUDGESHIPS**

**SECTION 15.17A.** G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, except as to those three seats designated as of May 31, 2009, under G.S. 7A-45.3 as business court judges, effective on and after the date this subsection becomes law, any seat established by this section is abolished when any of the following first occurs prior to July 1, 2011:

- (1) Retirement of the incumbent judge.
- (2) Resignation of the incumbent judge.
- (3) Removal from office of the incumbent judge.
- (4) Death of the incumbent judge.
- (5) Expiration of the term of office of the incumbent judge.

The three special superior court judgeships not abolished under the preceding paragraph of this subsection may be used only to hear and decide complex business cases as provided by G.S. 7A-45.3."

#### **TRAVEL EXPENSES FOR DISTRICT COURT JUDGES, DISTRICT ATTORNEYS, ASSISTANT DISTRICT ATTORNEYS, PUBLIC DEFENDERS, AND ASSISTANT PUBLIC DEFENDERS**

**SECTION 15.17B.(a)** G.S. 7A-144(a) reads as rewritten:

"(a) Each judge shall receive the annual salary provided in the Current Operations Appropriations Act, and reimbursement on the same basis as State employees generally, for his or her necessary ~~travel and~~ subsistence ~~expenses.~~ expenses and for travel expenses when on official business outside the judge's county of residence."

**SECTION 15.17B.(b)** G.S. 7A-65(a) reads as rewritten:

"(a) The annual salary of:

- (1) District attorneys shall be as provided in the Current Operations Appropriations Act.
- (2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his or her subsistence ~~and travel~~ expenses to the same extent as State employees generally. When traveling on official business outside his or her county of residence, each district attorney and assistant district attorney is entitled to reimbursement for travel expenses to the same extent as State employees generally."

**SECTION 15.17B.(c)** G.S. 7A-498.7 is amended by adding a new subsection to read:

"(c1) When traveling on official business, each public defender and assistant public defender is entitled to reimbursement for his or her subsistence expenses to the same extent as State employees generally. When traveling on official business outside his or her county of residence, each public defender and assistant public defender is entitled to reimbursement for travel expenses to the same extent as State employees generally."

#### **DIVIDE PROSECUTORIAL DISTRICT 11 INTO DISTRICTS 11A AND 11B**

**SECTION 15.17E.(a)** G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

No. of Full-Time

1	Prosecutorial		Asst. District
2	District	Counties	Attorneys
3	...		
4	<del>11A</del> 11A	Harnett, Johnston, Lee	<del>19</del> 9
5	11B	Johnston	10
6	...."		

7           **SECTION 15.17E.(b)** The district attorney position established for District 11B by  
 8 subsection (a) of this section shall be filled by the district attorney currently serving District 11  
 9 who resides in Johnston County. A district attorney for District 11A shall be elected in the 2010  
 10 election for a four-year term commencing January 1, 2011.

11           **SECTION 15.17E.(c)** This section becomes effective January 1, 2011.

12  
 13 **MANDATORY APPOINTMENT FEE IN CRIMINAL CASES/REPORT ON**  
 14 **COLLECTION OF INDIGENT APPOINTMENT FEES**

15           **SECTION 15.17I.(a)** G.S 7A-455.1 reads as rewritten:

16 **"§ 7A-455.1. Appointment fee in criminal cases.**

17           (a) ~~Each person for whom~~ In every criminal case in which counsel is appointed ~~in a~~  
 18 ~~criminal case at the trial level shall~~ at the trial level, the judge shall order the defendant to pay  
 19 to the clerk of court an appointment fee of fifty dollars (\$50.00). No fee shall be due unless the  
 20 person is convicted.

21           (b) The mandatory fifty-dollar (\$50.00) fee may not be remitted or revoked by the court  
 22 and shall be added to any amounts the court determines to be owed for the value of legal  
 23 services rendered to the defendant and shall be collected in the same manner as attorneys' fees  
 24 are collected for such representation.

25           (c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

26           (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for  
 27 denying appointment of counsel, for withdrawal of counsel, or for contempt.

28           (e) The appointment fee required by this section shall be assessed only once for each  
 29 attorney appointment, regardless of the number of cases to which the attorney was assigned. An  
 30 additional appointment fee shall not be assessed if the charges for which an attorney was  
 31 appointed were reassigned to a different attorney.

32           (f) Of each appointment fee collected under this section, the sum of forty-five dollars  
 33 (\$45.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five  
 34 dollars (\$5.00) shall be credited to the Court Information Technology Fund under  
 35 G.S. 7A-343.2. These fees shall not revert.

36           (g) The Office of Indigent Defense Services shall adopt rules and develop forms to  
 37 govern implementation of this section."

38           **SECTION 15.17I.(b)** The Administrative Office of the Courts shall monitor the  
 39 collection of indigent appointment fees under G.S. 7A-455.1 and the recoupment rates for each  
 40 office of the clerk of superior court and shall report quarterly on its findings to the Joint  
 41 Legislative Commission on Governmental Operations.

42  
 43 **NEW FEE FOR COSTS OF SHERIFFS' EDUCATION AND TRAINING STANDARDS**  
 44 **COMMISSION AND THE CRIMINAL JUSTICE EDUCATION AND TRAINING**  
 45 **STANDARDS COMMISSION**

46           **SECTION 15.18.** G.S. 7A-304(a) is amended by adding a new subdivision to read:

47           **"(3b)** For the services, staffing, and operations of the Criminal Justice Education and  
 48 Standards Commission and the Sheriffs' Education and Training Standards Commission, the  
 49 sum of two dollars (\$2.00) to be remitted to the Department of Justice. One dollar and  
 50 sixty-five cents (\$1.65) of this sum shall be used exclusively for the Criminal Justice Education

1 and Standards Commission, and thirty-five cents (35¢) shall be used exclusively for the  
2 Sheriffs' Education and Training Standards Commission."

### 4 **INCREASE CONVICTED CRIMINAL LAB ANALYSIS FEE**

5 **SECTION 15.19.(a)** G.S. 7A-304(a)(7) reads as rewritten:

6 "(7) For the services of the State Bureau of Investigation laboratory facilities, the  
7 district or superior court judge shall, upon conviction, order payment of the  
8 sum of ~~three hundred dollars (\$300.00)~~ six hundred dollars (\$600.00) to be  
9 remitted to the Department of Justice for support of the State Bureau of  
10 Investigation. This cost shall be assessed only in cases in which, as part of  
11 the investigation leading to the defendant's conviction, the laboratories have  
12 performed DNA analysis of the crime, tests of bodily fluids of the defendant  
13 for the presence of alcohol or controlled substances, or analysis of any  
14 controlled substance possessed by the defendant or the defendant's agent.  
15 The court may waive or reduce the amount of the payment required by this  
16 subdivision upon a finding of just cause to grant such a waiver or reduction."

17 **SECTION 15.19.(b)** G.S. 7A-304(a)(8) reads as rewritten:

18 "(8) For the services of any crime laboratory facility operated by a local  
19 government or group of local governments, the district or superior court  
20 judge shall, upon conviction, order payment of the sum of ~~three hundred~~  
21 ~~dollars (\$300.00)~~ six hundred dollars (\$600.00) to be remitted to the general  
22 fund of the local governmental unit that operates the laboratory to be used  
23 for law enforcement purposes. The cost shall be assessed only in cases in  
24 which, as part of the investigation leading to the defendant's conviction, the  
25 laboratory has performed DNA analysis of the crime, test of bodily fluids of  
26 the defendant for the presence of alcohol or controlled substances, or  
27 analysis of any controlled substance possessed by the defendant or the  
28 defendant's agent. The costs shall be assessed only if the court finds that the  
29 work performed at the local government's laboratory is the equivalent of the  
30 same kind of work performed by the State Bureau of Investigation under  
31 subdivision (7) of this subsection. The court may waive or reduce the  
32 amount of the payment required by this subdivision upon a finding of just  
33 cause to grant such a waiver or reduction."

### 35 **INCREASE CERTAIN COURT FEES**

36 **SECTION 15.20.(a)** G.S. 7A-304(a) reads as rewritten:

37 "(a) In every criminal case in the superior or district court, wherein the defendant is  
38 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
39 prosecuting witness, the following costs shall be assessed and collected, except that when the  
40 judgment imposes an active prison sentence, costs shall be assessed and collected only when  
41 the judgment specifically so provides, and that no costs may be assessed when a case is  
42 dismissed.

- 43 (1) For each arrest or personal service of criminal process, including citations  
44 and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county  
45 wherein the arrest was made or process was served, except that in those  
46 cases in which the arrest was made or process served by a law-enforcement  
47 officer employed by a municipality, the fee shall be paid to the municipality  
48 employing the officer.
- 49 (2) For the use of the courtroom and related judicial facilities, the sum of twelve  
50 dollars (\$12.00) in the district court, including cases before a magistrate, and  
51 the sum of thirty dollars (\$30.00) in superior court, to be remitted to the

1 county in which the judgment is rendered. In all cases where the judgment is  
2 rendered in facilities provided by a municipality, the facilities fee shall be  
3 paid to the municipality. Funds derived from the facilities fees shall be used  
4 exclusively by the county or municipality for providing, maintaining, and  
5 constructing adequate courtroom and related judicial facilities, including:  
6 adequate space and furniture for judges, district attorneys, public defenders  
7 and other personnel of the Office of Indigent Defense Services, magistrates,  
8 juries, and other court related personnel; office space, furniture and vaults  
9 for the clerk; jail and juvenile detention facilities; free parking for jurors; and  
10 a law library (including books) if one has heretofore been established or if  
11 the governing body hereafter decides to establish one. In the event the funds  
12 derived from the facilities fees exceed what is needed for these purposes, the  
13 county or municipality may, with the approval of the Administrative Officer  
14 of the Courts as to the amount, use any or all of the excess to retire  
15 outstanding indebtedness incurred in the construction of the facilities, or to  
16 reimburse the county or municipality for funds expended in constructing or  
17 renovating the facilities (without incurring any indebtedness) within a period  
18 of two years before or after the date a district court is established in such  
19 county, or to supplement the operations of the General Court of Justice in the  
20 county.

21 (2a) For the upgrade, maintenance, and operation of the judicial and county  
22 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars  
23 (\$3.00), to be credited to the Court Information Technology Fund.

24 (3) For the retirement and insurance benefits of both State and local government  
25 law-enforcement officers, the sum of six dollars and twenty-five cents  
26 (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum  
27 shall be administered as is provided in Article 12C of Chapter 143 of the  
28 General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum  
29 shall be administered as is provided in Article 12E of Chapter 143 of the  
30 General Statutes, with one dollar and twenty-five cents (\$1.25) being  
31 administered in accordance with the provisions of G.S. 143-166.50(e).

32 (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar  
33 twenty-five cents (\$1.25) to be remitted to the Department of Justice and  
34 administered under the provisions of Article 12G of Chapter 143 of the  
35 General Statutes.

36 (4) For support of the General Court of Justice, the sum of ~~ninety-five dollars~~  
37 ~~and fifty cents (\$95.50)~~ one hundred three dollars and fifty cents (\$103.50)  
38 in the district court, including cases before a magistrate, and the sum of ~~one~~  
39 ~~hundred two dollars and fifty cents (\$102.50)~~ one hundred fifteen dollars and  
40 fifty cents (\$115.50) in the superior court, to be remitted to the State  
41 Treasurer. For a person convicted of a felony in superior court who has made  
42 a first appearance in district court, both the district court and superior court  
43 fees shall be assessed. The State Treasurer shall remit the sum of two dollars  
44 and five cents (\$2.05) of each fee collected under this subdivision to the  
45 North Carolina State Bar for the provision of services described in  
46 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this  
47 subdivision to the North Carolina State Bar for the provision of services  
48 described in G.S. 7A-474.19.

49 (4a) For support of the General Court of Justice, the sum of five dollars (\$5.00)  
50 for all offenses arising under Chapter 20 of the General Statutes, to be  
51 remitted to the State Treasurer.

- 1 (5) For using pretrial release services, the district or superior court judge shall,  
2 upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to  
3 the county providing the pretrial release services. This cost shall be assessed  
4 and collected only if the defendant had been accepted and released to the  
5 supervision of the agency providing the pretrial release services.
- 6 (6) For support of the General Court of Justice, the sum of ~~one hundred dollars~~  
7 ~~(\$100.00)~~ two hundred dollars (\$200.00) is payable by a defendant who fails  
8 to appear to answer the charge as scheduled, unless within 20 days after the  
9 scheduled appearance, the person either appears in court to answer the  
10 charge or disposes of the charge pursuant to ~~G.S. 7A-146~~. G.S. 7A-146, and  
11 the sum of fifty dollars (\$50.00) is payable by a defendant who fails to pay a  
12 fine, penalty, or costs within 20 days of the date specified in the court's  
13 judgment. Upon a showing to the court that the defendant failed to appear  
14 because of an error or omission of a judicial official, a prosecutor, or a  
15 law-enforcement officer, the court shall waive this fee. This fee shall be  
16 remitted to the State Treasurer.
- 17 (7) For the services of the State Bureau of Investigation laboratory facilities, the  
18 district or superior court judge shall, upon conviction, order payment of the  
19 sum of three hundred dollars (\$300.00) to be remitted to the Department of  
20 Justice for support of the State Bureau of Investigation. This cost shall be  
21 assessed only in cases in which, as part of the investigation leading to the  
22 defendant's conviction, the laboratories have performed DNA analysis of the  
23 crime, tests of bodily fluids of the defendant for the presence of alcohol or  
24 controlled substances, or analysis of any controlled substance possessed by  
25 the defendant or the defendant's agent. The court may waive or reduce the  
26 amount of the payment required by this subdivision upon a finding of just  
27 cause to grant such a waiver or reduction.
- 28 (8) For the services of any crime laboratory facility operated by a local  
29 government or group of local governments, the district or superior court  
30 judge shall, upon conviction, order payment of the sum of three hundred  
31 dollars (\$300.00) to be remitted to the general fund of the local  
32 governmental unit that operates the laboratory to be used for law  
33 enforcement purposes. The cost shall be assessed only in cases in which, as  
34 part of the investigation leading to the defendant's conviction, the laboratory  
35 has performed DNA analysis of the crime, test of bodily fluids of the  
36 defendant for the presence of alcohol or controlled substances, or analysis of  
37 any controlled substance possessed by the defendant or the defendant's  
38 agent. The costs shall be assessed only if the court finds that the work  
39 performed at the local government's laboratory is the equivalent of the same  
40 kind of work performed by the State Bureau of Investigation under  
41 subdivision (7) of this subsection. The court may waive or reduce the  
42 amount of the payment required by this subdivision upon a finding of just  
43 cause to grant such a waiver or reduction."

44 **SECTION 15.20.(b)** Effective July 1, 2010, G.S. 7A-304(a), as rewritten by  
45 subsection (a) of this section, reads as rewritten:

46 "(a) In every criminal case in the superior or district court, wherein the defendant is  
47 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
48 prosecuting witness, the following costs shall be assessed and collected, except that when the  
49 judgment imposes an active prison sentence, costs shall be assessed and collected only when  
50 the judgment specifically so provides, and that no costs may be assessed when a case is  
51 dismissed.

- 1 (1) For each arrest or personal service of criminal process, including citations  
2 and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county  
3 wherein the arrest was made or process was served, except that in those  
4 cases in which the arrest was made or process served by a law-enforcement  
5 officer employed by a municipality, the fee shall be paid to the municipality  
6 employing the officer.
- 7 (2) For the use of the courtroom and related judicial facilities, the sum of twelve  
8 dollars (\$12.00) in the district court, including cases before a magistrate, and  
9 the sum of thirty dollars (\$30.00) in superior court, to be remitted to the  
10 county in which the judgment is rendered. In all cases where the judgment is  
11 rendered in facilities provided by a municipality, the facilities fee shall be  
12 paid to the municipality. Funds derived from the facilities fees shall be used  
13 exclusively by the county or municipality for providing, maintaining, and  
14 constructing adequate courtroom and related judicial facilities, including:  
15 adequate space and furniture for judges, district attorneys, public defenders  
16 and other personnel of the Office of Indigent Defense Services, magistrates,  
17 juries, and other court related personnel; office space, furniture and vaults  
18 for the clerk; jail and juvenile detention facilities; free parking for jurors; and  
19 a law library (including books) if one has heretofore been established or if  
20 the governing body hereafter decides to establish one. In the event the funds  
21 derived from the facilities fees exceed what is needed for these purposes, the  
22 county or municipality may, with the approval of the Administrative Officer  
23 of the Courts as to the amount, use any or all of the excess to retire  
24 outstanding indebtedness incurred in the construction of the facilities, or to  
25 reimburse the county or municipality for funds expended in constructing or  
26 renovating the facilities (without incurring any indebtedness) within a period  
27 of two years before or after the date a district court is established in such  
28 county, or to supplement the operations of the General Court of Justice in the  
29 county.
- 30 (2a) For the upgrade, maintenance, and operation of the judicial and county  
31 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars  
32 (\$4.00), to be credited to the Court Information Technology Fund.
- 33 (3) For the retirement and insurance benefits of both State and local government  
34 law-enforcement officers, the sum of six dollars and twenty-five cents  
35 (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum  
36 shall be administered as is provided in Article 12C of Chapter 143 of the  
37 General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum  
38 shall be administered as is provided in Article 12E of Chapter 143 of the  
39 General Statutes, with one dollar and twenty-five cents (\$1.25) being  
40 administered in accordance with the provisions of G.S. 143-166.50(e).
- 41 (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar  
42 twenty-five cents (\$1.25) to be remitted to the Department of Justice and  
43 administered under the provisions of Article 12G of Chapter 143 of the  
44 General Statutes.
- 45 (4) For support of the General Court of Justice, the sum of ~~one hundred three~~  
46 ~~dollars and fifty cents (\$103.50)~~ one hundred five dollars and fifty cents  
47 (\$105.50) in the district court, including cases before a magistrate, and the  
48 ~~sum of one hundred fifteen dollars and fifty cents (\$115.50)~~ one hundred  
49 thirty-five dollars and fifty cents (\$135.50) in the superior court, to be  
50 remitted to the State Treasurer. For a person convicted of a felony in  
51 superior court who has made a first appearance in district court, both the

- 1 district court and superior court fees shall be assessed. The State Treasurer  
2 shall remit the sum of two dollars and five cents (\$2.05) of each fee  
3 collected under this subdivision to the North Carolina State Bar for the  
4 provision of services described in G.S. 7A-474.4, and ninety-five cents  
5 (\$.95) of each fee collected under this subdivision to the North Carolina  
6 State Bar for the provision of services described in G.S. 7A-474.19.
- 7 (4a) For support of the General Court of Justice, the sum of ~~five dollars (\$5.00)~~  
8 ten dollars (\$10.00) for all offenses arising under Chapter 20 of the General  
9 Statutes, to be remitted to the State Treasurer.
- 10 (5) For using pretrial release services, the district or superior court judge shall,  
11 upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to  
12 the county providing the pretrial release services. This cost shall be assessed  
13 and collected only if the defendant had been accepted and released to the  
14 supervision of the agency providing the pretrial release services.
- 15 (6) For support of the General Court of Justice, the sum of two hundred dollars  
16 (\$200.00) is payable by a defendant who fails to appear to answer the charge  
17 as scheduled, unless within 20 days after the scheduled appearance, the  
18 person either appears in court to answer the charge or disposes of the charge  
19 pursuant to G.S. 7A-146, and the sum of fifty dollars (\$50.00) is payable by  
20 a defendant who fails to pay a fine, penalty, or costs within 20 days of the  
21 date specified in the court's judgment. Upon a showing to the court that the  
22 defendant failed to appear because of an error or omission of a judicial  
23 official, a prosecutor, or a law-enforcement officer, the court shall waive this  
24 fee. This fee shall be remitted to the State Treasurer.
- 25 (7) For the services of the State Bureau of Investigation laboratory facilities, the  
26 district or superior court judge shall, upon conviction, order payment of the  
27 sum of three hundred dollars (\$300.00) to be remitted to the Department of  
28 Justice for support of the State Bureau of Investigation. This cost shall be  
29 assessed only in cases in which, as part of the investigation leading to the  
30 defendant's conviction, the laboratories have performed DNA analysis of the  
31 crime, tests of bodily fluids of the defendant for the presence of alcohol or  
32 controlled substances, or analysis of any controlled substance possessed by  
33 the defendant or the defendant's agent. The court may waive or reduce the  
34 amount of the payment required by this subdivision upon a finding of just  
35 cause to grant such a waiver or reduction.
- 36 (8) For the services of any crime laboratory facility operated by a local  
37 government or group of local governments, the district or superior court  
38 judge shall, upon conviction, order payment of the sum of three hundred  
39 dollars (\$300.00) to be remitted to the general fund of the local  
40 governmental unit that operates the laboratory to be used for law  
41 enforcement purposes. The cost shall be assessed only in cases in which, as  
42 part of the investigation leading to the defendant's conviction, the laboratory  
43 has performed DNA analysis of the crime, test of bodily fluids of the  
44 defendant for the presence of alcohol or controlled substances, or analysis of  
45 any controlled substance possessed by the defendant or the defendant's  
46 agent. The costs shall be assessed only if the court finds that the work  
47 performed at the local government's laboratory is the equivalent of the same  
48 kind of work performed by the State Bureau of Investigation under  
49 subdivision (7) of this subsection. The court may waive or reduce the  
50 amount of the payment required by this subdivision upon a finding of just  
51 cause to grant such a waiver or reduction."

1           **SECTION 15.20.(c)** G.S. 7A-304 is amended by adding a new subsection to read:  
2           "(f) Defendants owing costs under this section may either make payment in full when  
3 costs are assessed or may make payment on an installment plan arranged with the court.  
4 Defendants making use of an installment plan shall pay a onetime setup fee of twenty dollars  
5 (\$20.00) to cover the additional costs to the court of receiving and disbursing installment  
6 payments. Notwithstanding the provisions of G.S. 7A-304(d)(1), the setup fee authorized by  
7 this subsection shall be paid prior to the disbursement of funds for any other purpose. Fees  
8 collected under this section shall be remitted to the State Treasurer for support of the General  
9 Court of Justice."

10           **SECTION 15.20.(d)** G.S. 7A-305(a) reads as rewritten:

11           "(a) In every civil action in the superior or district court, except for actions brought  
12 under Chapter 50B of the General Statutes, shall be assessed:

13           (1) For the use of the courtroom and related judicial facilities, the sum of twelve  
14 dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen  
15 dollars (\$16.00) in district and superior court, to be remitted to the county in  
16 which the judgment is rendered, except that in all cases in which the  
17 judgment is rendered in facilities provided by a municipality, the facilities  
18 fee shall be paid to the municipality. Funds derived from the facilities fees  
19 shall be used in the same manner, for the same purposes, and subject to the  
20 same restrictions, as facilities fees assessed in criminal actions.

21           (1a) For the upgrade, maintenance, and operation of the judicial and county  
22 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars  
23 (\$3.00), to be credited to the Court Information Technology Fund.

24           (2) For support of the General Court of Justice, the sum of ~~ninety three dollars~~  
25 ~~(\$93.00)~~ one hundred thirty dollars (\$130.00) in the superior court, except  
26 that if a case is assigned to a special superior court judge as a complex  
27 business case under G.S. 7A-45.3, an additional ~~two hundred dollars~~  
28 ~~(\$200.00)~~ one thousand dollars (\$1,000) shall be paid upon its assignment,  
29 and the sum of ~~seventy three dollars (\$73.00)~~ seventy-eight dollars (\$78.00)  
30 in the district court except that if the case is assigned to a magistrate the sum  
31 shall be ~~sixty three dollars (\$63.00)~~, fifty-five dollars (\$55.00). Sums  
32 collected under this subdivision shall be remitted to the State Treasurer. The  
33 State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of  
34 each fee collected under this subdivision to the North Carolina State Bar for  
35 the provision of services described in G.S. 7A-474.4, and ninety-five cents  
36 (\$.95) of each fee collected under this subdivision to the North Carolina  
37 State Bar for the provision of services described in G.S. 7A-474.19."

38           ...

39           **SECTION 15.20.(d1)** G.S. 7A-305 is amended by adding a new subsection to  
40 read:

41           "(a5) A cost of twenty dollars (\$20.00) shall be assessed against a party filing a motion  
42 for summary judgment pursuant to G.S. 1A-1, Rule 56."

43           **SECTION 15.20.(e)** Effective July 1, 2010, G.S. 7A-305(a), as rewritten by  
44 subsection (d) of this section, reads as rewritten:

45           "(a) In every civil action in the superior or district court, except for actions brought  
46 under Chapter 50B of the General Statutes, shall be assessed:

47           (1) For the use of the courtroom and related judicial facilities, the sum of twelve  
48 dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen  
49 dollars (\$16.00) in district and superior court, to be remitted to the county in  
50 which the judgment is rendered, except that in all cases in which the  
51 judgment is rendered in facilities provided by a municipality, the facilities



1 fee shall be paid to the municipality. Funds derived from the facilities fees  
2 shall be used in the same manner, for the same purposes, and subject to the  
3 same restrictions, as facilities fees assessed in criminal actions.

4 (1a) For the upgrade, maintenance, and operation of the judicial and county  
5 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars  
6 (\$4.00), to be credited to the Court Information Technology Fund.

7 (2) For support of the General Court of Justice, the sum of ~~one hundred thirty~~  
8 ~~dollars (\$130.00)~~ one hundred forty dollars (\$140.00) in the superior court,  
9 except that if a case is assigned to a special superior court judge as a  
10 complex business case under G.S. 7A-45.3, an additional one thousand  
11 dollars (\$1,000) shall be paid upon its assignment, and the sum of  
12 ~~seventy eight dollars (\$78.00)~~ eighty dollars (\$80.00) in the district court  
13 except that if the case is assigned to a magistrate the sum shall be fifty-five  
14 dollars (\$55.00). Sums collected under this subdivision shall be remitted to  
15 the State Treasurer. The State Treasurer shall remit the sum of two dollars  
16 and five cents (\$2.05) of each fee collected under this subdivision to the  
17 North Carolina State Bar for the provision of services described in  
18 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this  
19 subdivision to the North Carolina State Bar for the provision of services  
20 described in G.S. 7A-474.19."

21 **SECTION 15.20.(f)** G.S. 7A-306(a) reads as rewritten:

22 "(a) In every special proceeding in the superior court, the following costs shall be  
23 assessed:

24 ...

25 (1a) For the upgrade, maintenance, and operation of the judicial and county  
26 courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars  
27 (\$3.00), to be credited to the Court Information Technology Fund.

28 (2) For support of the General Court of Justice the sum of ~~forty dollars (\$40.00)~~.  
29 seventy-five dollars (\$75.00). In addition, in proceedings involving land,  
30 except boundary disputes, if the fair market value of the land involved is  
31 over one hundred dollars (\$100.00), there shall be an additional sum of thirty  
32 cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction  
33 thereof, not to exceed a maximum additional sum of two hundred dollars  
34 (\$200.00). Fair market value is determined by the sale price if there is a sale,  
35 the appraiser's valuation if there is no sale, or the appraised value from the  
36 property tax records if there is neither a sale nor an appraiser's valuation.  
37 Sums collected under this subdivision shall be remitted to the State  
38 Treasurer. The State Treasurer shall remit the sum of two dollars and five  
39 cents (\$2.05) of each forty-dollar (\$40.00) General Court of Justice fee  
40 collected under this subdivision to the North Carolina State Bar for the  
41 provision of services described in G.S. 7A-474.4."

42 **SECTION 15.20.(g)** Effective July 1, 2010, G.S. 7A-306(a)(1a), as amended by  
43 subsection (f) of this section, reads as rewritten:

44 "(1a) For the upgrade, maintenance, and operation of the judicial and county  
45 courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars  
46 (\$4.00), to be credited to the Court Information Technology Fund."

47 **SECTION 15.20.(h)** G.S. 7A-307 reads as rewritten:

48 "**§ 7A-307. Costs in administration of estates.**

49 (a) In the administration of the estates of decedents, minors, incompetents, of missing  
50 persons, and of trusts under wills and under powers of attorney, in trust proceedings under

G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

- ...
  - (1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of ~~one dollar (\$1.00)~~, three dollars (\$3.00), to be credited to the Court Information Technology Fund.
  - (2) For support of the General Court of Justice, the sum of ~~fifty dollars (\$50.00)~~, seventy-five dollars (\$75.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars (\$6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). 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 fifty-dollar (\$50.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

- ...
  - (b1) The clerk shall assess the following miscellaneous fees:
    - (1) Filing and indexing a will with no probate
      - first page..... \$ 1.00
      - each additional page or fraction thereof..... .25
    - (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
    - (3) Inventory of safe deposits of a decedent, per box, per day ..... 15.00
    - (4) Taking a deposition..... 10.00
    - (5) Docketing and indexing a will probated in another county in the State
      - first page..... 6.00
      - each additional page or fraction thereof..... .25
    - (6) Hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, and allotting the same ..... 8.00
    - (7) Assignment of title ..... 10.00

SECTION 15.20.(i) Effective July 1, 2010, G.S. 7A-307(a)(1a), as amended by subsection (h) of this section, reads as rewritten:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of ~~three dollars (\$3.00)~~, four dollars (\$4.00), to be credited to the Court Information Technology Fund."

SECTION 15.20.(j) G.S. 20-135.2A(e) reads as rewritten:

"(e) Any driver or front seat passenger who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a penalty of twenty-five dollars and

1 fifty cents (~~\$25.00~~)(~~\$25.50~~) plus the following court costs in the sum of seventy-five dollars  
2 (~~\$75.00~~). costs: the General Court of Justice fee provided for in G.S. 7A-304(a)(4), the  
3 telephone facilities fee provided for in G.S. 7A-304(a)(2a), and the law enforcement training  
4 and certification fee provided for in G.S. 7A-304(a)(3b). Any rear seat occupant of a vehicle  
5 who fails to wear a seat belt as required by this section shall have committed an infraction and  
6 shall pay a penalty of ten dollars (\$10.00) and no court costs. Court costs assessed under this  
7 section are for the support of the General Court of Justice and shall be remitted to the State  
8 Treasurer. Conviction of an infraction under this section has no other consequence."

9 **SECTION 15.20.(k)** G.S. 20-140.4 reads as rewritten:

10 **"§ 20-140.4. Special provisions for motorcycles and mopeds.**

11 (a) No person shall operate a motorcycle or moped upon a highway or public vehicular  
12 area:

- 13 (1) When the number of persons upon such motorcycle or moped, including the  
14 operator, shall exceed the number of persons which it was designed to carry.
- 15 (2) Unless the operator and all passengers thereon wear on their heads, with a  
16 retention strap properly secured, safety helmets of a type that complies with  
17 Federal Motor Vehicle Safety Standard (FMVSS) 218.

18 (b) Violation of any provision of this section shall not be considered negligence per se  
19 or contributory negligence per se in any civil action.

20 (c) Any person convicted of violating this section shall have committed an infraction  
21 and shall ~~be fined according to G.S. 20-135.2A(e) and (f).~~ pay a penalty of twenty-five dollars  
22 and fifty cents (\$25.50) plus the following court costs: the General Court of Justice fee  
23 provided for in G.S. 7A-304(a)(4), the telephone facilities fee provided for in  
24 G.S. 7A-304(a)(2a), and the law enforcement training and certification fee provided for in  
25 G.S. 7A-304(a)(3b). Conviction of an infraction under this section has no other consequence.

26 (d) No drivers license points or insurance surcharge shall be assessed on account of  
27 violation of this section."

28 **SECTION 15.20.(l)** G.S. 7A-305(a2) reads as rewritten:

29 "(a2) In every action for absolute divorce filed in the district court, a cost of ~~seventy-five~~  
30 ~~dollars (~~\$75.00~~)~~one hundred fifty dollars (\$150.00) shall be assessed against the person filing  
31 the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to  
32 the State Treasurer, who shall deposit fifty-five dollars (\$55.00) to the North Carolina Fund for  
33 Displaced Homemakers established under G.S. 143B-394.10 and twenty dollars (\$20.00) to the  
34 Domestic Violence Center Fund established under G.S. 50B-9. The remainder shall be  
35 deposited in the General Fund as a nontax revenue. Costs assessed under this subsection shall  
36 be in addition to any other costs assessed under this section."

37 **SECTION 15.20.(m)** G.S. 7A-308(a) reads as rewritten:

38 "(a) The following miscellaneous fees and commissions shall be collected by the clerk of  
39 superior court and remitted to the State for the support of the General Court of Justice:

- 40 (1) Foreclosure under power of sale in deed of trust or mortgage.. ~~\$75.00~~\$150.00  
41 If the property is sold under the power of sale, an additional  
42 amount will be charged, determined by the following formula:  
43 forty-five cents (.45) per one hundred dollars (\$100.00), or major  
44 fraction thereof, of the final sale price. If the amount determined  
45 by the formula is less than ten dollars (\$10.00), a minimum ten  
46 dollar (\$10.00) fee will be collected. If the amount determined by  
47 the formula is more than five hundred dollars (\$500.00), a  
48 maximum five hundred-dollar (\$500.00) fee will be collected.

- 49 ...
- 50 (3) Confession of judgment ..... ~~25.00~~50.00
- 51 ...

- 1 (6) Notice of resumption of former name ..... ~~10.00~~20.00
- 2 ...
- 3 (17) Criminal record search except if search is requested by an agency
- 4 of the State or any of its political subdivisions or by an agency of
- 5 the United States or by a petitioner in a proceeding under Article 2
- 6 of General Statutes Chapter 20 ..... ~~15.00~~25.00

7 ...."

8 **SECTION 15.20.(n)** G.S. 7A-321 reads as rewritten:

9 "**7A-321. Collection of offender fines and fees assessed by the ~~court~~court; collection**

10 **assistance fee.**

11 ...

12 (c) Should the Judicial Department use any method listed in subdivision (b)(1) or (2) of

13 this section to collect ~~fines, fees, and costs~~ fines owed by offenders not sentenced to supervised

14 probation, the department may not charge any additional cost of collection pursuant to

15 G.S. 115C-437.

16 (d) The court shall retain a collection assistance fee in the amount of ten percent (10%)

17 of any cost or fee collected by the Department pursuant to this Article or Chapter 20 of the

18 General Statutes and remitted to an agency of the State or any of its political subdivisions, other

19 than a cost or fee listed in this subsection. The court shall remit the collection assistance fee to

20 the State Treasurer for the support of the General Court of Justice. The collection assistance fee

21 shall not be retained from the following:

22 (1) Costs and fees designated by law for remission to or use by an agency or

23 program of the Judicial Department or for support of the General Court of

24 Justice.

25 (2) Costs and fees designated by law for remission to the General Fund."

26 **SECTION 15.20.(o)** Subsections (a), (j), and (k) of this section become effective

27 July 1, 2009, and apply to all costs assessed or collected on or after that date, except that in

28 misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver

29 of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4)

30 or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date,

31 the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a)

32 of this section, or those specified in the notice portion of the defendant's or respondent's copy of

33 the citation or other criminal process, if any costs are specified in that notice.

34 Subsection (b) of this section becomes effective July 1, 2010, and applies to all costs

35 assessed or collected on or after that date, except that in misdemeanor or infraction cases

36 disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of

37 guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the

38 citation or other criminal process was issued before that date, the cost shall be the lesser of

39 those specified in G.S. 7A-304(a), as amended by subsection (b) of this section, or those

40 specified in the notice portion of the defendant's or respondent's copy of the citation or other

41 criminal process, if any costs are specified in that notice.

42 Subsections (e), (g), and (i) of this section become effective July 1, 2010, and apply

43 to fees assessed or collected on or after that date. Subsection (n) becomes effective July 1,

44 2009. The remainder of this section becomes effective July 1, 2009, and applies to fees

45 assessed or collected on or after that date.

46 **SAFE ROADS FINE**

47 **SECTION 15.21.(a)** G.S. 20-141(p) reads as rewritten:

48 "(p) A driver charged with speeding in excess of 25 miles per hour over the posted speed

49 limit shall be ineligible for a disposition of prayer for judgment continued. A driver convicted

50 of speeding in excess of 25 miles per hour over the posted speed limit shall pay a fine of three

51 times the amount of the fine assessed for the speeding offense."

1 hundred fifty dollars (\$350.00). This penalty shall be imposed in addition to those penalties  
2 established in this Chapter."

3 **SECTION 15.21.(b)** Chapter 20 of the General Statutes is amended by adding a  
4 new section to read:

5 **"§ 20-179.5. Additional fine for impaired driving convictions.**

6 In addition to any other fine or penalty assessed by the court, a defendant who is convicted  
7 of an offense involving impaired driving as defined in G.S. 20-4.01(24a) shall pay a fine of  
8 three hundred fifty dollars (\$350.00)."

9 **SECTION 15.21.(c)** This act becomes effective July 1, 2009, and applies to  
10 offenses committed on or after that date.

## 11 **INCREASE FINES FOR WAIVABLE OFFENSES**

12 **SECTION 15.22.(a)** Notwithstanding any other provision of law, the chief district  
13 judges of the various district court districts shall increase by twenty-five dollars (\$25.00) each  
14 amount listed on the schedule of penalties or fines adopted by the Conference of Chief District  
15 Court Judges on October 1, 2008, for the uniform schedule of offenses required under  
16 G.S. 7A-148 for the types of offenses specified in G.S. 7A-273(2) and G.S. 7A-273(2a).

17 **SECTION 15.22.(b)** Notwithstanding any other provision of law, the chief district  
18 judges of the various district court districts shall increase by ten dollars (\$10.00) each amount  
19 listed on the schedule of penalties or fines adopted pursuant to subsection (a) of this section for  
20 the uniform schedule of offenses required under G.S. 7A-148 for the types of offenses specified  
21 in G.S. 7A-273(2) and G.S. 7A-273(2a).

22 **SECTION 15.22.(c)** G.S. 20-141 reads as rewritten:

23 **"§ 20-141. Speed restrictions.**

24 ...

25 (e1) Local authorities within their respective jurisdictions may authorize, by ordinance,  
26 lower speed limits than those set in subsection (b) of this section on school property. If the  
27 lower speed limit is being set on the grounds of a public school, the local school administrative  
28 unit must request or consent to the lower speed limit. If the lower speed limit is being set on the  
29 grounds of a private school, the governing body of the school must request or consent to the  
30 lower speed limit. Speed limits established pursuant to this subsection shall become effective  
31 when appropriate signs giving notice of the speed limit are erected upon affected property. A  
32 person who drives a motor vehicle on school property at a speed greater than the speed limit set  
33 and posted under this subsection is responsible for an infraction and is required to pay a penalty  
34 of not less than ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00).

35 ...

36 (j2) A person who drives a motor vehicle in a highway work zone at a speed greater than  
37 the speed limit set and posted under this section shall be required to pay a penalty of ~~two~~  
38 ~~hundred fifty dollars (\$250.00)~~ two hundred seventy-five dollars (\$275.00). This penalty shall  
39 be imposed in addition to those penalties established in this Chapter. A "highway work zone" is  
40 the area between the first sign that informs motorists of the existence of a work zone on a  
41 highway and the last sign that informs motorists of the end of the work zone. This subsection  
42 applies only if a sign posted at the beginning of the highway work zone states the penalty for  
43 speeding in the work zone. The Secretary shall ensure that work zones shall only be posted  
44 with penalty signs if the Secretary determines, after engineering review, that the posting is  
45 necessary to ensure the safety of the traveling public due to a hazardous condition.

46 A law enforcement officer issuing a citation for a violation of this section while in a  
47 highway work zone shall indicate the vehicle speed and speed limit posted in the work zone.  
48 Upon an individual's conviction of a violation of this section while in a highway work zone, the  
49 clerk of court shall report that the vehicle was in a work zone at the time of the violation, the  
50 vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles."  
51

1           **SECTION 15.22.(d)** G.S. 20-141.1 reads as rewritten:

2   "**§ 20-141.1. Speed limits in school zones.**

3       The Board of Transportation or local authorities within their respective jurisdictions may,  
4 by ordinance, set speed limits lower than those designated in G.S. 20-141 for areas adjacent to  
5 or near a public, private or parochial school. Limits set pursuant to this section shall become  
6 effective when signs are erected giving notice of the school zone, the authorized speed limit,  
7 and the days and hours when the lower limit is effective, or by erecting signs giving notice of  
8 the school zone, the authorized speed limit and which indicate the days and hours the lower  
9 limit is effective by an electronic flasher operated with a time clock. Limits set pursuant to this  
10 section may be enforced only on days when school is in session, and no speed limit below 20  
11 miles per hour may be set under the authority of this section. A person who drives a motor  
12 vehicle in a school zone at a speed greater than the speed limit set and posted under this section  
13 is responsible for an infraction and is required to pay a penalty of not less than ~~twenty-five~~  
14 ~~dollars (\$25.00)-fifty dollars (\$50.00).~~"

15           **SECTION 15.22.(e)** G.S. 20-11(l) reads as rewritten:

16       "(l)   Violations. – It is unlawful for the holder of a limited learner's permit, a temporary  
17 permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions  
18 that apply to the permit or license. Failure to comply with a restriction concerning the time of  
19 driving or the presence of a supervising driver in the vehicle constitutes operating a motor  
20 vehicle without a license. Failure to comply with the restriction regarding the use of a mobile  
21 telephone while operating a motor vehicle is an infraction punishable by a fine of ~~twenty-five~~  
22 ~~dollars (\$25.00)-fifty dollars (\$50.00).~~ Failure to comply with any other restriction, including  
23 seating and passenger limitations, is an infraction punishable by a monetary penalty as provided  
24 in G.S. 20-176. Failure to comply with the provisions of subsections (e) and (g) of this section  
25 shall not constitute negligence per se or contributory negligence by the driver or passenger in  
26 any action for the recovery of damages arising out of the operation, ownership or maintenance  
27 of a motor vehicle. Any evidence of failure to comply with the provisions of subdivisions (1),  
28 (2), (3), (4), and (5) of subsection (e) of this section shall not be admissible in any criminal or  
29 civil trial, action, or proceeding except in an action based on a violation of this section. No  
30 drivers license points or insurance surcharge shall be assessed for failure to comply with  
31 seating and occupancy limitations in subsection (e) of this section. No drivers license points or  
32 insurance surcharge shall be assessed for failure to comply with subsection (e) or (g) of this  
33 section regarding the use of a mobile telephone while operating a motor vehicle."

34           **SECTION 15.22.(f)** G.S. 20-37.6(f) reads as rewritten:

35       "(f)   Penalties for Violation. –

36       (1)   A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a  
37 penalty of at least ~~one hundred dollars (\$100.00)~~one hundred twenty-five  
38 dollars (\$125.00) but not more than two hundred fifty dollars (\$250.00) and  
39 whenever evidence shall be presented in any court of the fact that any  
40 automobile, truck, or other vehicle was found to be parked in a properly  
41 designated handicapped parking space in violation of the provisions of this  
42 section, it shall be prima facie evidence in any court in the State of North  
43 Carolina that the vehicle was parked and left in the space by the person,  
44 firm, or corporation in whose name the vehicle is registered and licensed  
45 according to the records of the Division. No evidence tendered or presented  
46 under this authorization shall be admissible or competent in any respect in  
47 any court or tribunal except in cases concerned solely with a violation of this  
48 section.

49       (2)   A violation of G.S. 20-37.6(e)(4) is an infraction which carries a penalty of  
50 at least ~~one hundred dollars (\$100.00)~~one hundred twenty-five dollars  
51 (\$125.00) but not more than two hundred fifty dollars (\$250.00) and

1 whenever evidence shall be presented in any court of the fact that a  
 2 nonconforming sign is being used it shall be prima facie evidence in any  
 3 court in the State of North Carolina that the person, firm, or corporation with  
 4 ownership of the property where the nonconforming sign is located is  
 5 responsible for violation of this section. Building inspectors and others  
 6 responsible for North Carolina State Building Code violations specified in  
 7 G.S. 143-138(h) where such signs are required by the Handicapped Section  
 8 of the North Carolina State Building Code, may cause a citation to be issued  
 9 for this violation and may also initiate any appropriate action or proceeding  
 10 to correct such violation.

11 ...."

12 **SECTION 15.22.(g)** G.S. 20-79(e)(1) reads as rewritten:

13 "(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a  
 14 dealer license plate is driven in violation of the restrictions on the use of the plate:

15 (1) The individual driving the motor vehicle is responsible for an infraction and  
 16 is subject to a penalty of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00)."

17 **SECTION 15.22.(h)** G.S. 20-129(a)(4) reads as rewritten:

18 "(a) When Vehicles Must Be Equipped. – Every vehicle upon a highway within this  
 19 State shall be equipped with lighted headlamps and rear lamps as required for different classes  
 20 of vehicles, and subject to exemption with reference to lights on parked vehicles as declared in  
 21 G.S. 20-134:

22 ...

23 (4) At any other time when windshield wipers are in use as a result of smoke,  
 24 fog, rain, sleet, or snow, or when inclement weather or environmental factors  
 25 severely reduce the ability to clearly discern persons and vehicles on the  
 26 street and highway at a distance of 500 feet ahead, provided, however, the  
 27 provisions of this subdivision shall not apply to instances when windshield  
 28 wipers are used intermittently in misting rain, sleet, or snow. Any person  
 29 violating this subdivision during the period from October 1, 1990, through  
 30 December 31, 1991, shall be given a warning of the violation only.  
 31 Thereafter, any person violating this subdivision shall have committed an  
 32 infraction and shall pay a fine of ~~five dollars (\$5.00)~~ thirty dollars (\$30.00)  
 33 and shall not be assessed court costs. No drivers license points, insurance  
 34 points or premium surcharge shall be assessed on account of violation of this  
 35 subdivision and no negligence or liability shall be assessed on or imputed to  
 36 any party on account of a violation of this subdivision. The Commissioner of  
 37 Motor Vehicles and the Superintendent of Public Instruction shall  
 38 incorporate into driver education programs and driver licensing programs  
 39 instruction designed to encourage compliance with this subdivision as an  
 40 important means of reducing accidents by making vehicles more discernible  
 41 during periods of limited visibility."

42 **SECTION 15.22.(i)** G.S. 20-181 reads as rewritten:

43 "**§ 20-181. Penalty for failure to dim, etc., beams of headlamps.**

44 Any person operating a motor vehicle on the highways of this State, who shall fail to shift,  
 45 depress, deflect, tilt or dim the beams of the headlamps thereon whenever another vehicle is  
 46 met on such highways or when following another vehicle at a distance of less than 200 feet,  
 47 except when engaged in the act of overtaking and passing may, upon a determination of  
 48 responsibility for the offense, be required to pay a penalty of not more than ~~ten dollars~~  
 49 ~~(\$10.00)~~ thirty-five dollars (\$35.00)."

50 **SECTION 15.22.(j)** G.S. 20-135.2A(e) reads as rewritten:

1 "(e) Any driver or front seat passenger who fails to wear a seat belt as required by this  
2 section shall have committed an infraction and shall pay a penalty of ~~twenty-five dollars~~  
3 ~~(\$25.00)~~fifty dollars (\$50.00) plus court costs in the sum of seventy-five dollars (\$75.00). Any  
4 rear seat occupant of a vehicle who fails to wear a seat belt as required by this section shall  
5 have committed an infraction and shall pay a penalty of ~~ten dollars (\$10.00)~~thirty-five dollars  
6 (\$35.00) and no court costs. Court costs assessed under this section are for the support of the  
7 General Court of Justice and shall be remitted to the State Treasurer. Conviction of an  
8 infraction under this section has no other consequence."

9 **SECTION 15.22.(k)** G.S. 20-135.2B(c) reads as rewritten:

10 "(c) Any person violating this section shall have committed an infraction and shall pay a  
11 penalty of not more than ~~twenty-five dollars (\$25.00)~~fifty dollars (\$50.00), even if more than  
12 one child less than 16 years of age is riding in the open bed or open cargo area of a vehicle. A  
13 person found responsible for a violation of this section may not be assessed court costs."

14 **SECTION 15.22.(l)** G.S. 20-137.1(c) reads as rewritten:

15 "(c) Any driver found responsible for a violation of this section may be punished by a  
16 penalty not to exceed ~~twenty-five dollars (\$25.00)~~fifty dollars (\$50.00), even when more than  
17 one child less than 16 years of age was not properly secured in a restraint system. No driver  
18 charged under this section for failure to have a child under eight years of age properly secured  
19 in a restraint system shall be convicted if he produces at the time of his trial proof satisfactory  
20 to the court that he has subsequently acquired an approved child passenger restraint system for  
21 a vehicle in which the child is normally transported."

22 **SECTION 15.22.(m)** G.S. 20-137.3(e) reads as rewritten:

23 "(e) Penalty. – Any person violating this section shall have committed an infraction and  
24 shall pay a fine of ~~twenty-five dollars (\$25.00)~~fifty dollars (\$50.00). This offense is an offense  
25 for which a defendant may waive the right to a hearing or trial and admit responsibility for the  
26 infraction pursuant to G.S. 7A-148. No drivers license points, insurance surcharge, or court  
27 costs shall be assessed as a result of a violation of this section."

28 **SECTION 15.22.(n)** G.S. 20-157(g) reads as rewritten:

29 "(g) Except as provided in subsections (a), (h), and (i) of this section, violation of this  
30 section shall be an infraction punishable by a fine of ~~two hundred fifty dollars (\$250.00)~~two  
31 hundred seventy-five dollars (\$275.00)."

32 **SECTION 15.22.(o)** G.S. 20-158(b)(2)c. reads as rewritten:

33 "(b) Control of Vehicles at Intersections. –

34 ...

35 (2) a. When a traffic signal is emitting a steady red circular light  
36 controlling traffic approaching an intersection, an approaching  
37 vehicle facing the red light shall come to a stop and shall not enter  
38 the intersection. After coming to a complete stop and unless  
39 prohibited by an appropriate sign, that approaching vehicle may  
40 make a right turn.

41 ...

42 c. Failure to yield to a pedestrian under this subdivision shall be an  
43 infraction, and the court may assess a penalty of not more than five  
44 hundred dollars (\$500.00) and not less than ~~one hundred dollars~~  
45 ~~(\$100.00)~~one hundred twenty-five dollars (\$125.00)."

46 **SECTION 15.22.(p)** G.S. 20-171.9(d) reads as rewritten:

47 "(d) Violation of this section shall be an infraction. Except as provided in subsection (e)  
48 of this section, any parent or guardian found responsible for violation of this section may be  
49 ordered to pay a civil fine of up to ~~ten dollars (\$10.00)~~thirty-five dollars (\$35.00), inclusive of  
50 all penalty assessments and court costs."

51 **SECTION 15.22.(q)** G.S. 20-183.8(a) reads as rewritten:



1       "(a)    Infractions. – A person who does any of the following commits an infraction and, if  
2 found responsible, is liable for a penalty of up to ~~fifty dollars (\$50.00);~~seventy-five dollars  
3 (\$75.00);

4       ...."

5               **SECTION 15.22.(r)** G.S. 20-384 reads as rewritten:

6       "**§ 20-384. Penalty for certain violations.**

7       A motor carrier who fails to conduct a safety inspection of a vehicle as required by Part 396  
8 of the federal safety regulations or who fails to mark a vehicle that has been inspected as  
9 required by that Part commits an infraction and, if found responsible, is liable for a penalty of  
10 up to ~~fifty dollars (\$50.00);~~seventy-five dollars (\$75.00)."

11               **SECTION 15.22.(s)** G.S. 14-399(c) and (c1) read as rewritten:

12       "(c)    Any person who violates subsection (a) of this section in an amount not exceeding  
13 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a  
14 fine of not less than two hundred ~~fifty-seventy-five~~ dollars (\$250.00)(275.00) nor more than  
15 one thousand dollars (\$1,000) for the first offense. In addition, the court may require the  
16 violator to perform community service of not less than eight hours nor more than 24 hours. The  
17 community service required shall be to pick up litter if feasible, and if not feasible, to perform  
18 other labor commensurate with the offense committed. Any second or subsequent violation of  
19 subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial  
20 purposes within three years after the date of a prior violation is a Class 3 misdemeanor  
21 punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand  
22 dollars (\$2,000). In addition, the court may require the violator to perform community service  
23 of not less than 16 hours nor more than 50 hours. The community service required shall be to  
24 pick up litter if feasible, and if not feasible, to perform other labor commensurate with the  
25 offense committed.

26       (c1)   Any person who violates subsection (a1) of this section in an amount not exceeding  
27 15 pounds is guilty of an infraction punishable by a fine of not more than one hundred  
28 twenty-five ~~dollars (\$100.00);~~dollars (\$125.00). In addition, the court may require the violator to  
29 perform community service of not less than four hours nor more than 12 hours. The community  
30 service required shall be to pick up litter if feasible, and if not feasible, to perform other labor  
31 commensurate with the offense committed. Any second or subsequent violation of subsection  
32 (a1) of this section in an amount not exceeding 15 pounds within three years after the date of a  
33 prior violation is an infraction punishable by a fine of not more than two hundred dollars  
34 (\$200.00). In addition, the court may require the violator to perform community service of not  
35 less than eight hours nor more than 24 hours. The community service required shall be to pick  
36 up litter if feasible, and if not feasible, to perform other labor commensurate with the offense  
37 committed. For purposes of this subsection, the term "litter" shall not include nontoxic and  
38 biodegradable agricultural or garden products or supplies, including mulch, tree bark, and wood  
39 chips."

40               **SECTION 15.22.(t)** G.S. 113-291.8(b) reads as rewritten:

41       "(b)    Any person violating this section during the 1987 big game hunting season shall be  
42 given a warning of violation only. Thereafter, any person violating this section has committed  
43 an infraction and shall pay a fine of ~~twenty-five dollars (\$25.00);~~seventy-five dollars (\$75.00).  
44 An infraction is an unlawful act that is not a crime. The procedure for charging and trying an  
45 infraction is the same as for a misdemeanor, but conviction of an infraction has no consequence  
46 other than payment of a fine. A person convicted of an infraction may not be assessed court  
47 costs.

48       Wildlife Enforcement Officers are authorized to charge persons with the infraction created  
49 by this section."

50               **SECTION 15.22.(u)** G.S. 113-135.1(a) reads as rewritten:

1       "(a) To prevent unsuspecting members of the public from being subject to harsh criminal  
2 penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for  
3 an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to  
4 a fine of ~~ten dollars (\$10.00)~~ seventy-five dollars (\$75.00) except as follows:

5           (1) Offenses set out in subsection (b) of this section are punishable as set forth  
6 in G.S. 113-135 or other sections of the General Statutes.

7           (2) A person who parks a vehicle in violation of a rule regulating the parking of  
8 vehicles at boating access or boating launch areas is responsible for an  
9 infraction and shall pay a fine of ~~fifty dollars (\$50.00)~~ seventy-five dollars  
10 (\$75.00)."

11       **SECTION 15.22.(v)** G.S. 20-141, as rewritten by subsection (c) of this section,  
12 reads as rewritten:

13       "**§ 20-141. Speed restrictions.**

14       ...

15       (e1) Local authorities within their respective jurisdictions may authorize, by ordinance,  
16 lower speed limits than those set in subsection (b) of this section on school property. If the  
17 lower speed limit is being set on the grounds of a public school, the local school administrative  
18 unit must request or consent to the lower speed limit. If the lower speed limit is being set on the  
19 grounds of a private school, the governing body of the school must request or consent to the  
20 lower speed limit. Speed limits established pursuant to this subsection shall become effective  
21 when appropriate signs giving notice of the speed limit are erected upon affected property. A  
22 person who drives a motor vehicle on school property at a speed greater than the speed limit set  
23 and posted under this subsection is responsible for an infraction and is required to pay a penalty  
24 of not less than ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00).

25       ...

26       (j2) A person who drives a motor vehicle in a highway work zone at a speed greater than  
27 the speed limit set and posted under this section shall be required to pay a penalty of two  
28 hundred ~~seventy-five~~ eighty-five dollars ~~(\$275.00)~~ (\$285.00). This penalty shall be imposed in  
29 addition to those penalties established in this Chapter. A "highway work zone" is the area  
30 between the first sign that informs motorists of the existence of a work zone on a highway and  
31 the last sign that informs motorists of the end of the work zone. This subsection applies only if  
32 a sign posted at the beginning of the highway work zone states the penalty for speeding in the  
33 work zone. The Secretary shall ensure that work zones shall only be posted with penalty signs  
34 if the Secretary determines, after engineering review, that the posting is necessary to ensure the  
35 safety of the traveling public due to a hazardous condition.

36       A law enforcement officer issuing a citation for a violation of this section while in a  
37 highway work zone shall indicate the vehicle speed and speed limit posted in the work zone.  
38 Upon an individual's conviction of a violation of this section while in a highway work zone, the  
39 clerk of court shall report that the vehicle was in a work zone at the time of the violation, the  
40 vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles."

41       **SECTION 15.22.(w)** G.S. 20-141.1, as rewritten by subsection (d) of this section,  
42 reads as rewritten:

43       "**§ 20-141.1. Speed limits in school zones.**

44       The Board of Transportation or local authorities within their respective jurisdictions may,  
45 by ordinance, set speed limits lower than those designated in G.S. 20-141 for areas adjacent to  
46 or near a public, private or parochial school. Limits set pursuant to this section shall become  
47 effective when signs are erected giving notice of the school zone, the authorized speed limit,  
48 and the days and hours when the lower limit is effective, or by erecting signs giving notice of  
49 the school zone, the authorized speed limit and which indicate the days and hours the lower  
50 limit is effective by an electronic flasher operated with a time clock. Limits set pursuant to this  
51 section may be enforced only on days when school is in session, and no speed limit below 20

1 miles per hour may be set under the authority of this section. A person who drives a motor  
2 vehicle in a school zone at a speed greater than the speed limit set and posted under this section  
3 is responsible for an infraction and is required to pay a penalty of not less than ~~fifty dollars~~  
4 ~~(\$50.00)-sixty dollars (\$60.00).~~"

5 **SECTION 15.22.(x)** G.S. 20-11(1), as rewritten by subsection (e) of this section,  
6 reads as rewritten:

7 "(1) Violations. – It is unlawful for the holder of a limited learner's permit, a temporary  
8 permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions  
9 that apply to the permit or license. Failure to comply with a restriction concerning the time of  
10 driving or the presence of a supervising driver in the vehicle constitutes operating a motor  
11 vehicle without a license. Failure to comply with the restriction regarding the use of a mobile  
12 telephone while operating a motor vehicle is an infraction punishable by a fine of ~~fifty dollars~~  
13 ~~(\$50.00)-sixty dollars (\$60.00).~~ Failure to comply with any other restriction, including seating  
14 and passenger limitations, is an infraction punishable by a monetary penalty as provided in  
15 G.S. 20-176. Failure to comply with the provisions of subsections (e) and (g) of this section  
16 shall not constitute negligence per se or contributory negligence by the driver or passenger in  
17 any action for the recovery of damages arising out of the operation, ownership or maintenance  
18 of a motor vehicle. Any evidence of failure to comply with the provisions of subdivisions (1),  
19 (2), (3), (4), and (5) of subsection (e) of this section shall not be admissible in any criminal or  
20 civil trial, action, or proceeding except in an action based on a violation of this section. No  
21 drivers license points or insurance surcharge shall be assessed for failure to comply with  
22 seating and occupancy limitations in subsection (e) of this section. No drivers license points or  
23 insurance surcharge shall be assessed for failure to comply with subsection (e) or (g) of this  
24 section regarding the use of a mobile telephone while operating a motor vehicle."

25 **SECTION 15.22.(y)** G.S. 20-37.6(f), as rewritten by subsection (f) of this section,  
26 reads as rewritten:

27 "(f) Penalties for Violation. –

28 (1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a  
29 penalty of at least one hundred ~~twenty-five~~thirty-five dollars  
30 ~~(\$125.00)~~(\$135.00) but not more than two hundred fifty dollars (\$250.00)  
31 and whenever evidence shall be presented in any court of the fact that any  
32 automobile, truck, or other vehicle was found to be parked in a properly  
33 designated handicapped parking space in violation of the provisions of this  
34 section, it shall be prima facie evidence in any court in the State of North  
35 Carolina that the vehicle was parked and left in the space by the person,  
36 firm, or corporation in whose name the vehicle is registered and licensed  
37 according to the records of the Division. No evidence tendered or presented  
38 under this authorization shall be admissible or competent in any respect in  
39 any court or tribunal except in cases concerned solely with a violation of this  
40 section.

41 (2) A violation of G.S. 20-37.6(e)(4) is an infraction which carries a penalty of  
42 at least one hundred ~~twenty-five~~thirty-five dollars ~~(\$125.00)~~(\$135.00) but  
43 not more than two hundred fifty dollars (\$250.00) and whenever evidence  
44 shall be presented in any court of the fact that a nonconforming sign is being  
45 used it shall be prima facie evidence in any court in the State of North  
46 Carolina that the person, firm, or corporation with ownership of the property  
47 where the nonconforming sign is located is responsible for violation of this  
48 section. Building inspectors and others responsible for North Carolina State  
49 Building Code violations specified in G.S. 143-138(h) where such signs are  
50 required by the Handicapped Section of the North Carolina State Building

Code, may cause a citation to be issued for this violation and may also initiate any appropriate action or proceeding to correct such violation.

...."

**SECTION 15.22.(z)** G.S. 20-79(e)(1), as rewritten by subsection (g) of this section, reads as rewritten:

"(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

(1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of ~~seventy-five~~eighty-five dollars (~~\$75.00~~)(\$85.00)."

**SECTION 15.22.(aa)** G.S. 20-129(a)(4), as rewritten by subsection (h) of this section, reads as rewritten:

"(a) When Vehicles Must Be Equipped. – Every vehicle upon a highway within this State shall be equipped with lighted headlamps and rear lamps as required for different classes of vehicles, and subject to exemption with reference to lights on parked vehicles as declared in G.S. 20-134:

...

(4) At any other time when windshield wipers are in use as a result of smoke, fog, rain, sleet, or snow, or when inclement weather or environmental factors severely reduce the ability to clearly discern persons and vehicles on the street and highway at a distance of 500 feet ahead, provided, however, the provisions of this subdivision shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow. Any person violating this subdivision during the period from October 1, 1990, through December 31, 1991, shall be given a warning of the violation only. Thereafter, any person violating this subdivision shall have committed an infraction and shall pay a fine of ~~thirty-four~~thirty-five dollars (~~\$30.00~~)(\$40.00) and shall not be assessed court costs. No drivers license points, insurance points or premium surcharge shall be assessed on account of violation of this subdivision and no negligence or liability shall be assessed on or imputed to any party on account of a violation of this subdivision. The Commissioner of Motor Vehicles and the Superintendent of Public Instruction shall incorporate into driver education programs and driver licensing programs instruction designed to encourage compliance with this subdivision as an important means of reducing accidents by making vehicles more discernible during periods of limited visibility."

**SECTION 15.22.(bb)** G.S. 20-181, as rewritten by subsection (i) of this section, reads as rewritten:

**"§ 20-181. Penalty for failure to dim, etc., beams of headlamps.**

Any person operating a motor vehicle on the highways of this State, who shall fail to shift, depress, deflect, tilt or dim the beams of the headlamps thereon whenever another vehicle is met on such highways or when following another vehicle at a distance of less than 200 feet, except when engaged in the act of overtaking and passing may, upon a determination of responsibility for the offense, be required to pay a penalty of not more than ~~thirty-five~~thirty-five dollars (~~\$35.00~~)(\$45.00)."

**SECTION 15.22.(cc)** G.S. 20-135.2A(e), as rewritten by subsection (j) of this section, reads as rewritten:

"(e) Any driver or front seat passenger who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a penalty of ~~thirty-five~~thirty-five dollars (~~\$35.00~~)(\$45.00) plus court costs in the sum of seventy-five dollars (\$75.00). Any rear seat occupant of a vehicle who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a penalty of ~~thirty-five~~thirty-five dollars (~~\$35.00~~)(\$45.00)

1 and no court costs. Court costs assessed under this section are for the support of the General  
2 Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction under  
3 this section has no other consequence."

4 **SECTION 15.22.(dd)** G.S. 20-135.2B(c), as rewritten by subsection (k) of this  
5 section, reads as rewritten:

6 "(c) Any person violating this section shall have committed an infraction and shall pay a  
7 penalty of not more than fifty-sixty dollars (~~\$50.00~~),(~~\$60.00~~), even if more than one child less  
8 than 16 years of age is riding in the open bed or open cargo area of a vehicle. A person found  
9 responsible for a violation of this section may not be assessed court costs."

10 **SECTION 15.22.(ee)** G.S. 20-137.1(c), as rewritten by subsection (l) of this  
11 section, reads as rewritten:

12 "(c) Any driver found responsible for a violation of this section may be punished by a  
13 penalty not to exceed fifty-sixty dollars (~~\$50.00~~),(~~\$60.00~~), even when more than one child less  
14 than 16 years of age was not properly secured in a restraint system. No driver charged under  
15 this section for failure to have a child under eight years of age properly secured in a restraint  
16 system shall be convicted if he produces at the time of his trial proof satisfactory to the court  
17 that he has subsequently acquired an approved child passenger restraint system for a vehicle in  
18 which the child is normally transported."

19 **SECTION 15.22.(ff)** G.S. 20-137.3(e), as rewritten by subsection (m) of this  
20 section, reads as rewritten:

21 "(e) Penalty. – Any person violating this section shall have committed an infraction and  
22 shall pay a fine of fifty-sixty dollars (~~\$50.00~~),(~~\$60.00~~). This offense is an offense for which a  
23 defendant may waive the right to a hearing or trial and admit responsibility for the infraction  
24 pursuant to G.S. 7A-148. No drivers license points, insurance surcharge, or court costs shall be  
25 assessed as a result of a violation of this section."

26 **SECTION 15.22.(gg)** G.S. 20-157(g), as rewritten by subsection (n) of this section,  
27 reads as rewritten:

28 "(g) Except as provided in subsections (a), (h), and (i) of this section, violation of this  
29 section shall be an infraction punishable by a fine of two hundred seventy-fiveeighty-five  
30 dollars (~~\$275.00~~),(~~\$285.00~~)."

31 **SECTION 15.22.(hh)** G.S. 20-158(b)(2)c., as rewritten by subsection (o) of this  
32 section, reads as rewritten:

33 "(b) Control of Vehicles at Intersections. –

34 ...

35 (2) a. When a traffic signal is emitting a steady red circular light  
36 controlling traffic approaching an intersection, an approaching  
37 vehicle facing the red light shall come to a stop and shall not enter  
38 the intersection. After coming to a complete stop and unless  
39 prohibited by an appropriate sign, that approaching vehicle may  
40 make a right turn.

41 ...

42 c. Failure to yield to a pedestrian under this subdivision shall be an  
43 infraction, and the court may assess a penalty of not more than five  
44 hundred dollars (\$500.00) and not less than one hundred  
45 twenty-fivethirty-five dollars (~~\$125.00~~),(~~\$135.00~~)."

46 **SECTION 15.22.(ii)** G.S. 20-171.9(d), as rewritten by subsection (p) of this  
47 section, reads as rewritten:

48 "(d) Violation of this section shall be an infraction. Except as provided in subsection (e)  
49 of this section, any parent or guardian found responsible for violation of this section may be  
50 ordered to pay a civil fine of up to thirty-five dollars (~~\$35.00~~)forty-five dollars (\$45.00)  
51 inclusive of all penalty assessments and court costs."

1           **SECTION 15.22.(jj)** G.S. 20-183.8(a), as rewritten by subsection (q) of this  
2 section, reads as rewritten:

3           "(a)    Infractions. – A person who does any of the following commits an infraction and, if  
4 found responsible, is liable for a penalty of up to ~~seventy five dollars (\$75.00)~~eighty-five  
5 dollars (\$85.00):

6           ...."

7           **SECTION 15.22.(kk)** G.S. 20-384, as rewritten by subsection (r) of this section,  
8 reads as rewritten:

9           "**§ 20-384. Penalty for certain violations.**

10          A motor carrier who fails to conduct a safety inspection of a vehicle as required by Part 396  
11 of the federal safety regulations or who fails to mark a vehicle that has been inspected as  
12 required by that Part commits an infraction and, if found responsible, is liable for a penalty of  
13 up to ~~seventy five dollars (\$75.00)~~eighty-five dollars (\$85.00)."

14           **SECTION 15.22.(ll)** G.S. 14-399(c) and (c1), as rewritten by subsection (s) of this  
15 section, read as rewritten:

16           "(c)    Any person who violates subsection (a) of this section in an amount not exceeding  
17 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a  
18 fine of not less than two hundred ~~seventy five~~eighty-five dollars (~~\$275.00~~)(\$285.00) nor more  
19 than one thousand dollars (\$1,000) for the first offense. In addition, the court may require the  
20 violator to perform community service of not less than eight hours nor more than 24 hours. The  
21 community service required shall be to pick up litter if feasible, and if not feasible, to perform  
22 other labor commensurate with the offense committed. Any second or subsequent violation of  
23 subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial  
24 purposes within three years after the date of a prior violation is a Class 3 misdemeanor  
25 punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand  
26 dollars (\$2,000). In addition, the court may require the violator to perform community service  
27 of not less than 16 hours nor more than 50 hours. The community service required shall be to  
28 pick up litter if feasible, and if not feasible, to perform other labor commensurate with the  
29 offense committed.

30           (c1)   Any person who violates subsection (a1) of this section in an amount not exceeding  
31 15 pounds is guilty of an infraction punishable by a fine of not more than one hundred  
32 ~~twenty five~~thirty-five dollars (~~\$125.00~~)(\$135.00). In addition, the court may require the  
33 violator to perform community service of not less than four hours nor more than 12 hours. The  
34 community service required shall be to pick up litter if feasible, and if not feasible, to perform  
35 other labor commensurate with the offense committed. Any second or subsequent violation of  
36 subsection (a1) of this section in an amount not exceeding 15 pounds within three years after  
37 the date of a prior violation is an infraction punishable by a fine of not more than two hundred  
38 dollars (\$200.00). In addition, the court may require the violator to perform community service  
39 of not less than eight hours nor more than 24 hours. The community service required shall be to  
40 pick up litter if feasible, and if not feasible, to perform other labor commensurate with the  
41 offense committed. For purposes of this subsection, the term "litter" shall not include nontoxic  
42 and biodegradable agricultural or garden products or supplies, including mulch, tree bark, and  
43 wood chips."

44           **SECTION 15.22.(mm)** G.S. 113-291.8(b), as rewritten by subsection (t) of this  
45 section, reads as rewritten:

46           "(b)    Any person violating this section during the 1987 big game hunting season shall be  
47 given a warning of violation only. Thereafter, any person violating this section has committed  
48 an infraction and shall pay a fine of ~~fifty eighty-five~~ dollars (~~\$50.00~~)(\$85.00). An infraction is  
49 an unlawful act that is not a crime. The procedure for charging and trying an infraction is the  
50 same as for a misdemeanor, but conviction of an infraction has no consequence other than  
51 payment of a fine. A person convicted of an infraction may not be assessed court costs.

1 Wildlife Enforcement Officers are authorized to charge persons with the infraction created  
2 by this section."

3 **SECTION 15.22.(nn)** G.S. 113-135.1(a), as rewritten by subsection (u) of this  
4 section, reads as rewritten:

5 "(a) To prevent unsuspecting members of the public from being subject to harsh criminal  
6 penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for  
7 an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to  
8 a fine of ~~thirty-five dollars (\$35.00)~~ eighty-five dollars (\$85.00) except as follows:

9 (1) Offenses set out in subsection (b) of this section are punishable as set forth  
10 in G.S. 113-135 or other sections of the General Statutes.

11 (2) A person who parks a vehicle in violation of a rule regulating the parking of  
12 vehicles at boating access or boating launch areas is responsible for an  
13 infraction and shall pay a fine of ~~seventy-five dollars (\$75.00)~~ eighty-five  
14 dollars (\$85.00)."

15 **SECTION 15.22.(oo)** Subsections (a) and (c)-(u) of this section become effective  
16 October 1, 2009, and apply to offenses committed on or after that date. Subsections (b) and  
17 (v)-(nn) of this section become effective October 1, 2010, and apply to offenses committed on  
18 or after that date. The remainder of this section is effective when it becomes law.

## 19 **BOND FORFEITURE SET ASIDE PROCESSING FEE**

20 **SECTION 15.23.(a)** G.S. 15A-544.5 reads as rewritten:

21 "**§ 15A-544.5. Setting aside forfeiture.**

22 ...

23 ...  
24 (c) Procedure When Failure to Appear Is Stricken. – If the court before which a  
25 defendant's appearance was secured by a bail bond enters an order striking the defendant's  
26 failure to appear and recalling any order for arrest issued for that failure to appear, that court  
27 may simultaneously enter an order setting aside any forfeiture of that bail bond. If the court  
28 enters an order setting aside a forfeiture of bail bond under this subsection, the court also shall  
29 assess a fee against the defendant pursuant to subsection (i) of this section. When an order  
30 setting aside a forfeiture is entered, the defendant's further appearances shall continue to be  
31 secured by that bail bond unless the court orders otherwise.

32 ...

33 (i) Fee. – If the court enters an order to set aside any forfeiture of bail bond pursuant to  
34 subsection (c) of this section, the court shall, upon conviction, impose a processing fee of fifty  
35 dollars (\$50.00) against the defendant, unless the court in its discretion remits the fee upon a  
36 finding of inadvertence or mistake. The fee shall be collected in addition to other costs as  
37 provided in G.S. 7A-304(c) and shall be remitted to the State Treasurer to be used for support  
38 of the General Court of Justice. The fifty-dollar (\$50.00) processing fee only applies when the  
39 forfeiture process has been initiated."

40 **SECTION 15.23.(b)** G.S. 7A-304(c) reads as rewritten:

41 "(c) Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-50.1(a),  
42 jail fees—fees, bail bond processing fees assessed pursuant to G.S. 15A-544.5(i), and cost of  
43 necessary trial transcripts shall be assessed as provided by law in addition to other costs set out  
44 in this section. Nothing in this section shall limit the power or discretion of the judge in  
45 imposing fines or forfeitures or ordering restitution."

46 **SECTION 15.23.(c)** This section becomes effective December 1, 2009, and applies  
47 to any bail bond set aside for a failure to appear pursuant to G.S. 15A-544.5 on or after that  
48 date.

## 49 **PART XVI. DEPARTMENT OF JUSTICE**

1 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS**  
2 **PAY FOR USE OF STATE FACILITIES AND SERVICES**

3 **SECTION 16.1.** The Private Protective Services and Alarm Systems Licensing  
4 Boards shall pay the appropriate State agency for the use of physical facilities and services  
5 provided to those Boards by the State.  
6

7 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

8 **SECTION 16.3.** Client departments, agencies, and boards shall reimburse the  
9 Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other  
10 costs directly related to litigation in which the Department of Justice is representing the  
11 department, agency, or board.  
12

13 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**  
14 **DISBURSED**

15 **SECTION 16.4.** The North Carolina Legal Education Assistance Foundation shall  
16 report by March 1 of each year to the Joint Legislative Commission on Governmental  
17 Operations and the Chairs of the House of Representatives and Senate Appropriations  
18 Subcommittees on Justice and Public Safety on the expenditure of State funds, the purpose of  
19 the expenditures, the number of attorneys receiving funds, the average award amount, the  
20 average student loan amount, the number of attorneys on the waiting list, and the average  
21 number of years for which attorneys receive loan assistance.  
22

23 **HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF**  
24 **INVESTIGATION**

25 **SECTION 16.5.** The Department of Justice may hire sworn personnel to fill vacant  
26 positions in the State Bureau of Investigation only in the following circumstances: (i) the  
27 position's regular responsibilities involve warrant executions, property searches, criminal  
28 investigations, or arrest activities that are consistent in frequency with the responsibilities of  
29 other sworn agents; (ii) the position is a promotion for a sworn agent who was employed at the  
30 State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist  
31 position which requires "responding to clandestine methamphetamine laboratories" as a  
32 primary duty; (iv) the position is a forensic impressions analyst position which requires  
33 "responding to clandestine methamphetamine laboratories" as a primary duty; or (v) the  
34 position primarily involves supervising sworn personnel.  
35

36 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**  
37

38 **STUDY CONSOLIDATION OF LAW ENFORCEMENT AGENCIES**

39 **SECTION 17.4.** The Office of State Budget and Management shall study the  
40 feasibility of consolidating the law enforcement agencies in the executive branch of State  
41 government for the purpose of coordinating the activities of these agencies, and reducing  
42 duplication and overlapping of law enforcement responsibilities, training, and technical  
43 assistance among State law enforcement agencies. The Office of State Budget and  
44 Management shall report its findings and recommendations by February 1, 2010, to the Joint  
45 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.  
46

47 **INCREASE CHARITABLE BINGO LICENSING FEE**

48 **SECTION 17.6.** G.S. 14-309.7(a) reads as rewritten:

49 "(a) An exempt organization may not operate a bingo game at a location without a  
50 license. Application for a bingo license shall be made to the Department of Crime Control and  
51 Public Safety on a form prescribed by the Department. The Department shall charge an annual



1 application fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) to defray the  
 2 cost of issuing bingo licenses and handling bingo audit reports. The fees collected shall be  
 3 deposited in the General Fund of the State. This license shall expire one year after the granting  
 4 of the license. This license may be renewed yearly, if the applicant pays the application fee and  
 5 files an audit with the Department pursuant to G.S. 14-309.11. A copy of the application and  
 6 license shall be furnished to the local law-enforcement agency in the county or municipality in  
 7 which the licensee intends to operate before bingo is conducted by the licensee."

8  
 9 **INCREASE FEES FOR LICENSING BOXERS AND FOR TICKETS SOLD AT**  
 10 **BOXING EVENTS**

11 **SECTION 17.7.(a)** G.S. 143-655(a) reads as rewritten:

12 "(a) License Fees. – The Division shall collect the following license fees:

13	Announcer	\$75.00
14	Contestant	<del>\$37.50</del> <u>\$50.00</u>
15	Judge	\$75.00
16	Manager	\$150.00
17	Matchmaker	\$300.00
18	Promoter	\$450.00
19	Referee	\$75.00
20	Timekeeper	\$75.00
21	Second	<del>\$37.50</del> <u>\$50.00.</u> "

22 **SECTION 17.7.(b)** G.S. 143-655(b1) reads as rewritten:

23 "(b1) Admission Fees. – The Division shall collect a fee in the amount of ~~one dollar and~~  
 24 ~~fifty cents (\$1.50)~~ two dollars (\$2.00) per each ticket sold to attend events regulated in this  
 25 Article."

26  
 27 **INCREASE REGISTRATION FEE FOR DEEDS OF TRUST AND MORTGAGES FOR**  
 28 **EMERGENCY MANAGEMENT DIVISION USE**

29 **SECTION 17.8.(a)** G.S. 161-10(a)(1a) reads as rewritten:

30 "(1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and  
 31 Mortgages. – For registering or filing any deed of trust or mortgage, whether  
 32 written, printed, or typewritten, the fee shall be ~~twenty-two dollars~~  
 33 ~~(\$22.00)~~ thirty-two dollars (\$32.00) for the first page plus three dollars  
 34 (\$3.00) for each additional page or fraction thereof.

35 When a deed of trust or mortgage is presented for registration that  
 36 contains one or more additional instruments, the fee shall be ten dollars  
 37 (\$10.00) for each additional instrument. A deed of trust or mortgage contains  
 38 one or more additional instruments if such additional instrument or  
 39 instruments has or have different legal consequences or intent, each of which  
 40 is separately executed and acknowledged and could be recorded alone.

41 For recording records of satisfaction, or the cancellation of record by any  
 42 other means, of deeds of trust or mortgages, there shall be no fee."

43 **SECTION 17.8.(b)** Article 1 of Chapter 161 of the General Statutes is amended by  
 44 adding a new section to read:

45 **"§ 161-11.5. Fees for emergency management.**

46 Nine dollars (\$9.00) of each fee collected by the register of deeds for registering or filing a  
 47 deed of trust or mortgage pursuant to G.S. 161-10(a)(1a) shall be remitted by the register of  
 48 deeds to the county finance officer, who shall remit the funds to the Department of Crime  
 49 Control and Public Safety to be credited to the Statewide Emergency Management Fund  
 50 established under G.S. 166A-6.03. The county finance officer shall remit the funds to the  
 51 Department on a monthly basis."

1           **SECTION 17.8.(c)** Article 1 of Chapter 166A of the General Statutes is amended  
2 by adding a new section to read:

3       "**§ 166A-6.03. Statewide Emergency Management Fund.**

4           The Statewide Emergency Management Fund is established as a special revenue fund. The  
5 Fund consists of the fees credited to it under G.S. 161-11.5. Revenue in the Fund shall be used  
6 to offset the Department's cost in performing its duties under this Chapter."

7           **SECTION 17.8.(d)** This section becomes effective October 1, 2009, and applies to  
8 deeds of trust and mortgages registered or filed on or after that date.

9  
10       **PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**  
11           **PREVENTION**

12  
13       **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

14           **SECTION 18.1.** The Department of Juvenile Justice and Delinquency Prevention  
15 shall conduct an evaluation of the Eckerd wilderness camp programs and of multipurpose  
16 group homes.

17           In conducting the evaluation of each of these programs, the Department shall  
18 consider whether participation in each program results in a reduction of court involvement  
19 among juveniles. The Department also shall identify whether the programs are achieving the  
20 goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall  
21 report the results of the evaluation to the Joint Legislative Corrections, Crime Control, and  
22 Juvenile Justice Oversight Committee, the chairs of the Senate and House of Representatives  
23 Appropriations Committees and the chairs of the Subcommittees on Justice and Public Safety  
24 of the Senate and House of Representatives Appropriations Committees by March 1 of each  
25 year.

26  
27       **PROJECT CHALLENGE NORTH CAROLINA/REPORTING REQUIREMENT**

28           **SECTION 18.2.** Project Challenge North Carolina, Inc., shall report to the  
29 Department of Juvenile Justice and Delinquency Prevention and the Chairs of the Senate and  
30 House of Representatives Appropriations Subcommittees on Justice and Public Safety by April  
31 1 each year on the operation and the effectiveness of its program in providing alternative  
32 dispositions and services to juveniles who have been adjudicated delinquent or undisciplined.  
33 The report shall include information on:

- 34           (1) The source of referrals for juveniles.  
35           (2) The types of offenses committed by juveniles participating in the program.  
36           (3) The amount of time those juveniles spend in the program.  
37           (4) The number of juveniles who successfully complete the program.  
38           (5) The number of juveniles who commit additional offenses after completing  
39 the program.  
40           (6) The program's budget and expenditures, including all funding sources.

41  
42       **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

43           **SECTION 18.3.** Funds appropriated in this act to the Department of Juvenile  
44 Justice and Delinquency Prevention for the 2009-2010 fiscal year may be used as matching  
45 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives  
46 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office  
47 of State Budget and Management and the Governor's Crime Commission shall consult with the  
48 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding  
49 federal funds. The Office of State Budget and Management, the Governor's Crime  
50 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report  
51 to the Appropriations Committees of the Senate and House of Representatives and the Joint

1 Legislative Commission on Governmental Operations prior to allocation of the federal funds.  
2 The report shall identify the amount of funds to be received for the 2009-2010 fiscal year, the  
3 amount of funds anticipated for the 2009-2010 fiscal year, and the allocation of funds by  
4 program and purpose.

5  
6 **ELIMINATE SUPPORT OUR STUDENTS PROGRAM**

7 **SECTION 18.6.** Part 5A of Article 3 of Chapter 143B of the General Statutes is  
8 repealed.

9  
10 **JUVENILE CRIME PREVENTION COUNCIL (JCPC) GRANT REPORTING AND**  
11 **CERTIFICATION**

12 **SECTION 18.7.** On or before October 1 of each year, the Department of Juvenile  
13 Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on  
14 Governmental Operations and the Appropriations Committees of the Senate and House of  
15 Representatives a list of the recipients of the grants awarded, or preapproved for award, from  
16 funds appropriated to the Department for local Juvenile Crime Prevention Council grants,  
17 including:

- 18 (1) The amount of the grant awarded.
- 19 (2) The membership of the local committee or council administering the award  
20 funds on the local level.
- 21 (3) The type of program funded.
- 22 (4) A short description of the local services, programs, or projects that will  
23 receive funds.
- 24 (5) Identification of any programs that received grant funds at one time but for  
25 which funding has been eliminated by the Department.
- 26 (6) The number of at-risk, diverted, and adjudicated juveniles served by each  
27 county.
- 28 (7) The Department's actions to ensure that county JCPCs prioritize funding for  
29 dispositions of intermediate and community-level sanctions for  
30 court-adjudicated juveniles under minimum standards adopted by the  
31 Department.
- 32 (8) The total cost for each funded program, including the cost per juvenile and  
33 the essential elements of the program.

34 A written copy of the list and other information regarding the projects shall also be  
35 sent to the Fiscal Research Division of the General Assembly.

36  
37 **ESTABLISHMENT OF A GANG PREVENTION AND INTERVENTION PILOT**  
38 **PROGRAM**

39 **SECTION 18.8.(a)** As part of the Governor's Comprehensive Gang Initiative, the  
40 Department of Juvenile Justice and Delinquency Prevention shall establish a two-year Gang  
41 Prevention and Intervention Pilot Program that will focus on youth at risk for gang involvement  
42 and those who are already associated with gangs and gang activity. The Department of  
43 Juvenile Justice and Delinquency Prevention shall:

- 44 (1) Ensure that measurable performance indicators and systems are put in place  
45 to evaluate the effectiveness of the pilot program, and
- 46 (2) Conduct both process- and outcome-focused evaluations of the pilot  
47 program to determine community and institutional impacts of the pilot  
48 program pertaining to gang behavior, desistance, and activities. These  
49 evaluations may consider the degree of successful implementation of the  
50 program and measurable changes in gang-related and gang-affiliated

1 behaviors noted in institutional, court system, communities, and related  
2 programs.

3 **SECTION 18.8.(b)** The Department of Juvenile Justice and Delinquency  
4 Prevention shall report to the Chairs of the Senate and House of Representatives  
5 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
6 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the implementation  
7 and continuing operation of the pilot program by April 1 each year. The report shall include  
8 information on the number of juveniles served and an evaluation of the effectiveness of the  
9 pilot program. In addition, the report shall include the information set out in subsection (a) of  
10 this section.

## 11 **PART XIX. DEPARTMENT OF CORRECTION**

### 12 **INMATE ROAD SQUADS AND LITTER CREWS**

13  
14 **SECTION 19.1.** Of the funds appropriated to the Department of Transportation in  
15 this act, the sum of nine million forty thousand dollars (\$9,040,000) per year shall be  
16 transferred by the Department to the Department of Correction during the 2009-2010 and  
17 2010-2011 fiscal years for the cost of operating medium custody inmate road squads, as  
18 authorized by G.S. 148-26.5, and minimum custody inmate litter crews. This transfer shall be  
19 made quarterly in the amount of two million two hundred sixty thousand dollars (\$2,260,000).  
20 The Department of Transportation may use funds appropriated in this act to pay an additional  
21 amount exceeding the nine million forty thousand dollars (\$9,040,000), but those payments  
22 shall be subject to negotiations among the Department of Transportation, the Department of  
23 Correction, and the Office of State Budget and Management prior to payment by the  
24 Department of Transportation.

25  
26 The Office of State Budget and Management shall conduct a study, in consultation  
27 with the Department of Correction and the Department of Transportation, to determine the  
28 actual cost and cost/benefit of operating medium custody road squads and minimum custody  
29 litter crews. The Office of State Budget and Management shall report the results of this study to  
30 the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee  
31 and to the Joint Legislative Transportation Oversight Committee by March 1, 2010. The study  
32 shall include a recommendation on whether or not the amount transferred from the Department  
33 of Transportation to the Department of Correction for this work is adequate.

### 34 **FEDERAL GRANT REPORTING**

35  
36 **SECTION 19.2.** The Department of Correction, the Department of Justice, the  
37 Department of Crime Control and Public Safety, the Judicial Department, and the Department  
38 of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint  
39 Legislative Commission on Governmental Operations, the Chairs of the House of  
40 Representatives and Senate Appropriations Committees, and the Chairs of the House of  
41 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on  
42 federal grant funds received or preapproved for receipt by those departments. The report shall  
43 include information on the amount of grant funds received or preapproved for receipt by each  
44 department, the use of the funds, the State match expended to receive the funds, and the period  
45 to be covered by each grant. If the department intends to continue the program beyond the end  
46 of the grant period, the department shall report on the proposed method for continuing the  
47 funding of the program at the end of the grant period. Each department shall also report on any  
48 information it may have indicating that the State will be requested to provide future funding for  
49 a program presently supported by a local grant.

1 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL**  
2 **COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES**  
3 **AWAITING TRANSFER TO STATE PRISON SYSTEM**

4 **SECTION 19.3.** Notwithstanding G.S. 143C-6-9, the Department of Correction  
5 may use funds available to the Department for the 2009-2011 biennium to pay the sum of forty  
6 dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted  
7 inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as  
8 provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative  
9 Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control,  
10 and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and  
11 Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate  
12 Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to  
13 reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail  
14 backlog.

15  
16 **USE OF CLOSED PRISON FACILITIES**

17 **SECTION 19.4.(a)** In conjunction with the closing of prison facilities, including  
18 small expensive prison units recommended for consolidation by the Government Performance  
19 Audit Committee, the Department of Correction shall consult with the county or municipality  
20 in which the unit is located, with the elected State and local officials, and with State and federal  
21 agencies about the possibility of converting that unit to other use. The Department may also  
22 consult with any private for-profit or nonprofit firm about the possibility of converting the unit  
23 to other use. In developing a proposal for future use of each unit, the Department shall give  
24 priority to converting the unit to other criminal justice use. Consistent with existing law and the  
25 future needs of the Department of Correction, the State may provide for the transfer or the lease  
26 of any of these units to counties, municipalities, State agencies, or private firms wishing to  
27 convert them to other use. The Department of Correction may also consider converting some of  
28 the units recommended for closing from one security custody level to another, where that  
29 conversion would be cost-effective. A prison unit under lease to a county pursuant to the  
30 provisions of this section for use as a jail is exempt for the period of the lease from any of the  
31 minimum standards adopted by the Secretary of Health and Human Services pursuant to  
32 G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater  
33 standards than those required of a unit of the State prison system.

34 Prior to any transfer or lease of these units, the Department of Correction shall  
35 report on the terms of the proposed transfer or lease to the Joint Legislative Commission on  
36 Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile  
37 Justice Oversight Committee. The Department of Correction also shall provide annual  
38 summary reports to the Joint Legislative Commission on Governmental Operations and the  
39 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the  
40 conversion of these units to other use and on all leases or transfers entered into pursuant to this  
41 section.

42 **SECTION 19.4.(b)** The Department of Correction shall study the feasibility of  
43 establishing probation revocation centers at closed prison facilities. The Department shall  
44 consult with counties to explore cost-sharing of these facilities. The Department shall report its  
45 findings to the Chairs of the Appropriations Subcommittees on Justice and Public Safety by  
46 February 1, 2010.

47  
48 **LIMIT USE OF OPERATIONAL FUNDS**

49 **SECTION 19.5.** Funds appropriated in this act to the Department of Correction for  
50 operational costs for additional facilities shall be used for personnel and operating expenses set  
51 forth in the budget approved by the General Assembly in this act. These funds shall not be

1 expended for any other purpose, except as provided for in this act, and shall not be expended  
2 for additional prison personnel positions until the new facilities are within 120 days of  
3 projected completion, except that the Department may establish critical positions prior to 120  
4 days of completion representing no more than twenty percent (20%) of the total estimated  
5 number of positions.

6  
7 **CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

8 **SECTION 19.6.** The Department of Correction may continue to contract with The  
9 Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison  
10 beds for minimum security female inmates during the 2009-2011 biennium. The Center for  
11 Community Transitions, Inc., shall report by February 1 of each year to the Joint Legislative  
12 Commission on Governmental Operations on the annual cost per inmate and the average daily  
13 inmate population compared to bed capacity using the same methodology as that used by the  
14 Department of Correction.

15  
16 **PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE**  
17 **PROGRAM/MEDICAL RELEASE PROGRAM**

18 **SECTION 19.8.(a)** The Post-Release Supervision and Parole Commission shall,  
19 with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the  
20 Department of Correction, analyze the amount of time each inmate who is eligible for parole on  
21 or before July 1, 2010, has served compared to the time served by offenders under Structured  
22 Sentencing for comparable crimes. The Commission shall determine if the person has served  
23 more time in custody than the person would have served if sentenced to the maximum sentence  
24 under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum  
25 sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of  
26 this section.

27 **SECTION 19.8.(b)** For the purposes of this section, the following rules apply for  
28 the calculation of the maximum sentence:

- 29 (1) The offense upon which the person was convicted shall be classified as the  
30 same felony class as the offense would have been classified if committed  
31 after the effective date of Article 81B of Chapter 15A of the General  
32 Statutes.
- 33 (2) The minimum sentence shall be the maximum number of months in the  
34 presumptive range of minimum durations in Prior Record Level VI of  
35 G.S. 15A-1340.17(c) for the felony class determined under subdivision (1)  
36 of this subsection. The maximum sentence shall be calculated using  
37 G.S. 15A-1340.17(d), (e), or (e1).
- 38 (3) If a person is serving sentences for two or more offenses that are concurrent  
39 in any respect, then the offense with the greater classification shall be used  
40 to determine a single maximum sentence for the concurrent offenses. The  
41 fact that the person has been convicted of multiple offenses may be  
42 considered by the Commission in making its determinations under  
43 subsection (a) of this section.

44 **SECTION 19.8.(c)** The Post-Release Supervision and Parole Commission shall  
45 report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
46 Committee and to the Chairs of the House of Representatives and Senate Appropriations  
47 Committees, and the Chairs of the House of Representatives and Senate Appropriations  
48 Subcommittees on Justice and Public Safety by April 1, 2010. The report shall include the  
49 following: the class of the offense for which each parole-eligible inmate was convicted and  
50 whether an inmate had multiple criminal convictions. The Commission shall reinstate the

1 parole review process for each offender who has served more time than that person would have  
2 under Structured Sentencing as provided by subsections (a) and (b) of this section.

3 The Commission shall also report on the number of parole-eligible inmates  
4 reconsidered in compliance with this section and the number who were actually paroled.

5 **SECTION 19.8.(d)** The Department of Correction and the Post-Release  
6 Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the  
7 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
8 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
9 Committee on the number of inmates enrolled in the mutual agreement parole program, the  
10 number completing the program and being paroled, and the number who enrolled but were  
11 terminated from the program. The information should be based on the previous calendar year.

12 **SECTION 19.8.(e)** The Department of Correction and the Post-Release  
13 Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the  
14 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
15 Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
16 Committee on the number of inmates proposed for release, considered for release, and granted  
17 release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical  
18 release of inmates who are either permanently and totally disabled, terminally ill, or geriatric.

## 19 **REPORTS ON NONPROFIT PROGRAMS**

20 **SECTION 19.10.(a)** Funds appropriated in this act to the Department of Correction  
21 to support the programs of Harriet's House may be used for program operating costs, the  
22 purchase of equipment, and the rental of real property to serve women released from prison  
23 with children in their custody. Harriet's House shall report by February 1 of each year to the  
24 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and  
25 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
26 Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of  
27 the program, including information on the number of clients served, the number of clients who  
28 successfully complete the Harriet's House program, and the number of clients who have been  
29 rearrested within three years of successfully completing the program. The report shall provide  
30 financial and program data for the complete fiscal year prior to the year in which the report is  
31 submitted. The financial report shall identify all funding sources and amounts.

32 **SECTION 19.10.(b)** Summit House shall report by February 1 of each year to the  
33 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and  
34 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
35 Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of  
36 the program, including information on the number of clients served, the number of clients who  
37 have had their probation revoked, the number of clients who successfully complete the program  
38 while housed at Summit House, and the number of clients who have been rearrested within  
39 three years of successfully completing the program. The report shall provide financial and  
40 program data for the complete fiscal year prior to the year in which the report is submitted. The  
41 financial report shall identify all funding sources and amounts.

42 **SECTION 19.10.(c)** Women at Risk shall report by February 1 of each year to the  
43 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and  
44 the Chairs of the House of Representatives and Senate Appropriations Subcommittees on  
45 Justice and Public Safety on the expenditure of State funds and on the effectiveness of the  
46 program, including information on the number of clients served, the number of clients who  
47 have had their probation revoked, the number of clients who have successfully completed the  
48 program, and the number of clients who have been rearrested within three years of successfully  
49 completing the program. The report shall provide financial and program data for the complete  
50

1 fiscal year prior to the year in which the report is submitted. The financial report shall identify  
2 all funding sources and amounts.

#### 4 **CRIMINAL JUSTICE PARTNERSHIP**

5 **SECTION 19.11.(a)** Notwithstanding any other provision of law, a county may use  
6 funds appropriated pursuant to the Criminal Justice Partnership Act, Article 6A of Chapter  
7 143B of the General Statutes, to provide more than one community-based corrections program.

8 **SECTION 19.11.(b)** Effective July 1, 2009, the Department of Correction shall  
9 recalculate the county allocation funding formula mandated under G.S. 143B-273.15 using  
10 updated data.

11 **SECTION 19.11.(c)** Notwithstanding the provisions of G.S. 143B-273.15  
12 specifying that grants to participating counties are for the full fiscal year and that unobligated  
13 funds are returned to the State-County Criminal Justice Partnership Account at the end of the  
14 grant period, the Department of Correction may reallocate unspent or unclaimed funds  
15 distributed to counties participating in the State-County Criminal Justice Partnership Program  
16 in an effort to maintain the level of services realized in previous fiscal years.

17 **SECTION 19.11.(d)** The Department of Correction may not deny funds to a  
18 county to support both a residential program and a day reporting center if the Department of  
19 Correction determines that the county has a demonstrated need and a fully developed plan for  
20 each type of sanction.

21 **SECTION 19.11.(e)** The Department of Correction shall report by March 1 of each  
22 year to the Chairs of the House of Representatives and Senate Appropriations Committees, the  
23 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
24 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
25 Committee on the status of the State-County Criminal Justice Partnership Program. The report  
26 shall include the following information:

- 27 (1) The amount of funds carried over from the prior fiscal year;
- 28 (2) The dollar amount and purpose of grants awarded to counties as  
29 discretionary grants for the current fiscal year;
- 30 (3) Any counties the Department anticipates will submit requests for new  
31 implementation grants;
- 32 (4) An update on efforts to ensure that all counties make use of the electronic  
33 reporting system, including the number of counties submitting offender  
34 participation data via the system;
- 35 (5) An analysis of offender participation data received, including data on each  
36 program's utilization and capacity;
- 37 (6) An analysis of comparable programs prepared by the Division of Research  
38 and Planning, Department of Correction, including a comparison of  
39 programs in each program type on selected outcome measures developed by  
40 the Division of Community Corrections in consultation with the Fiscal  
41 Research Division and the Division of Research and Planning, and a  
42 summary of the reports prepared by county Criminal Justice Partnerships  
43 Advisory Boards;
- 44 (7) A review of whether each sentenced offender program is meeting established  
45 program goals developed by the Division of Community Corrections in  
46 consultation with the Division of Research and Planning and the State  
47 Criminal Justice Partnership Advisory Board;
- 48 (8) The number of community offenders and intermediate offenders served by  
49 each county program;
- 50 (9) The amount of Criminal Justice Partnership funds spent on community  
51 offenders and intermediate offenders; and



- 1 (10) A short description of the services and programs provided by each  
2 partnership, including who the service providers are and the amount of funds  
3 each service provider receives.  
4

## 5 **REPORT ON PROBATION AND PAROLE CASELOADS**

6 **SECTION 19.12.(a)** The Department of Correction shall report by March 1 of each  
7 year to the chairs of the House of Representatives and Senate Appropriations Subcommittees  
8 on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile  
9 Justice Oversight Committee on caseload averages for probation and parole officers. The  
10 report shall include:

- 11 (1) Data on current caseload averages and district averages for probation/parole  
12 officer positions;  
13 (2) Data on current span of control for chief probation officers;  
14 (3) An analysis of the optimal caseloads for these officer classifications;  
15 (4) An assessment of the role of surveillance officers;  
16 (5) The number and role of paraprofessionals in supervising low-risk caseloads;  
17 (6) An update on the Department's implementation of the recommendations  
18 contained in the National Institute of Correction study conducted on the  
19 Division of Community Corrections in 2004 and 2008;  
20 (7) The process of assigning offenders to an appropriate supervision level based  
21 on a risk assessment and an examination of other existing resources for  
22 assessment and case planning, including the Sentencing Services Program in  
23 the Office of Indigent Defense Services and the range of screening and  
24 assessment services provided by the Division of Mental Health,  
25 Developmental Disability, and Substance Abuse Services in the Department  
26 of Health and Human Services; and  
27 (8) Data on cases supervised solely for the collection of court-ordered payments.

28 **SECTION 19.12.(b)** The Department of Correction shall conduct a study of  
29 probation/parole officer workload. The study shall include analysis of the type of offenders  
30 supervised, the distribution of the probation/parole officers' time by type of activity, the  
31 caseload carried by the officers, and comparisons to practices in other states. The study shall be  
32 used to determine whether the caseload goals established by the Structured Sentencing Act are  
33 still appropriate, based on the nature of the offenders supervised and the time required to  
34 supervise those offenders.

35 **SECTION 19.12.(c)** The Department of Correction shall report the results of the  
36 study and recommendations for any adjustments to caseload goals to the House of  
37 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by  
38 January 1, 2011.

39 **SECTION 19.12.(d)** The Department of Correction shall report by March 1 of  
40 each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the  
41 House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
42 Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight  
43 Committee on the following:

- 44 (1) The number of sex offenders enrolled on active and passive GPS monitoring.  
45 (2) The caseloads of probation officers assigned to GPS-monitored sex  
46 offenders.  
47 (3) The number of violations.  
48 (4) The number of absconders.  
49 (5) The projected number of offenders to be enrolled by the end of the  
50 2009-2010 fiscal year and the end of the 2010-2011 fiscal year.  
51 (6) The total cost of the program, including a per-offender cost.

**REPORT ON INMATE WELFARE AND CORRECTION ENTERPRISES**

**SECTION 19.13.** The Department of Correction, in consultation with the Office of State Budget and Management, shall study the feasibility of budgeting positions currently funded from the Inmate Welfare Fund and the Correction Enterprise Fund from the General Fund instead. The Department shall report its findings by April 1, 2010, 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.

**PRE-SENTENCE INVESTIGATIONS FEASIBILITY STUDY**

**SECTION 19.14.** The Department of Correction and the Administrative Office of the Courts shall conduct a feasibility study of conducting pre-sentence investigations on all offenders convicted of felonies for which the sentencing judge has the option of intermediate or active punishments. This feasibility study shall be conducted as a pilot implementation, incorporating a variety of districts across the State reflecting both rural and urban settings, as well as diversity of programming available within the district.

The Department of Correction and the Administrative Office of the Courts shall report the results of the study by May 1, 2010, to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

**STUDY INCARCERATED MOTHERS PROGRAM**

**SECTION 19.15.(a)** Our Children's Place, Inc., a nonprofit corporation, shall submit to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2009, a comprehensive plan for the implementation of a contractual program to house incarcerated women with their children. This plan shall include criteria for placement, minimum standards for custody and security, and projections of costs for implementation, including presumptive funding sources and memoranda of intent from affected agencies.

**SECTION 19.15.(b)** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall make recommendations to the 2010 Session of the 2009 General Assembly concerning the establishment of a program to house incarcerated women with their children. These recommendations shall address legal issues related to the custody of the children while in the program.

**AUTHORIZE STATE RETIREES AND LOCAL GOVERNMENTAL EMPLOYEES TO PURCHASE FROM CORRECTION ENTERPRISES**

**SECTION 19.16.** G.S. 148-132 reads as rewritten:

**"§ 148-132. Distribution of products and services.**

The Division of Correction Enterprises is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

- (1) Any public agency or institution owned, managed, or controlled by the State.
- (2) Any county, city, or town in this State.
- (3) Any federal, state, or local public agency or institution in any other state of the union.
- (4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code and also receives local, state, or federal grant funding.

- 1 (5) Any current employee or retiree of the State of North ~~Carolina~~, Carolina or  
2 of a unit of local government of this State, verified through State-issued  
3 identification, or through proof of retirement status, but a ~~State employee's~~  
4 purchases by a State or local governmental employee or retiree may not  
5 exceed two thousand five hundred dollars (\$2,500) during any calendar year.  
6 Products purchased by State and local governmental employees and retirees  
7 under this section may not be resold."  
8

## 9 PROVISION OF HEALTH CARE SERVICES TO INMATES

10 SECTION 19.17. The Department of Correction shall seek, whenever possible, to  
11 make use of its own hospitals and health care facilities to provide health care services to  
12 inmates. To the extent that the Department of Correction must utilize other facilities and  
13 services to provide health care services to inmates, the Department shall seek to contract with  
14 underutilized community hospitals or other health care facilities in a region to accomplish that  
15 goal. In the event that the Department does not have appropriate contracts for services in a  
16 region, it shall ensure that the prisoners requiring such health care services are equitably  
17 distributed among all hospitals or other appropriate health care facilities in a region.  
18

## 19 ACCOMMODATIONS FOR PROBATION OFFICES

20 SECTION 19.19. G.S. 15-209 reads as rewritten:

21 "§ 15-209. Accommodations for probation ~~officers~~. offices.

22 (a) The county commissioners in each county in which a probation ~~officer~~ office  
23 exists shall provide, in or near the courthouse, suitable office space for such ~~officer~~. office.

24 (b) If a county is unable to provide the space required under subsection (a) of this  
25 section for any reason, it may elect to request that the Department of Correction lease space for  
26 the probation office and receive reimbursement from the county for the leased space. If a  
27 county fails to reimburse the Department for such leased space, the Secretary of Correction  
28 may request that the Administrative Office of the Courts transfer the unpaid amount to the  
29 Department from the county's court and jail facility fee remittances."  
30

## 31 RATES FOR INMATE MEDICAL SERVICES

32 SECTION 19.20.(a) Unless the Department of Correction has a contract with a  
33 provider of medical services specifying otherwise, the Department shall pay to a provider of  
34 medical service for any and all inmates committed to the custody of the Department of  
35 Correction and confined in a correctional facility an amount no greater than one hundred fifty  
36 percent (150%) of the Medicaid reimbursement rate. This limitation applies to all medical  
37 services provided outside the facility, including hospitalizations, professional services,  
38 prescription drugs, and medications provided to any and all inmates confined in a correctional  
39 facility. For required services that are not included in the Medicaid reimbursement schedule,  
40 the Department of Correction shall pay the reasonable value of that service.

41 SECTION 19.20.(b) The Department shall consult with the Division of Medical  
42 Assistance in the Department of Health and Human Services to develop protocols for prisoners  
43 who would otherwise be eligible for Medicaid if they were not incarcerated to access Medicaid  
44 while in custody or under extended limits of confinement. The Department may make  
45 recommendations to the 2010 Regular Session of the 2009 General Assembly for special  
46 purpose facilities designed to house inmates but preserve Medicaid eligibility.

47 SECTION 19.20.(c) The Department may consult with the North Carolina  
48 Hospital Association to identify cost containment measures through more efficient use of  
49 contracting with underutilized hospitals and health care providers.  
50

1 **ESTABLISH THE SPECIAL COMMITTEE ON SENTENCING AND PRISON**  
2 **OVERCROWDING**

3 **SECTION 19.22.(a)** There is established the Special Committee on Sentencing and  
4 Prison Overcrowding.

5 **SECTION 19.22.(b)** The Committee shall be composed of 20 members. The  
6 President Pro Tempore of the Senate shall appoint 10 members and the Speaker of the House of  
7 Representatives shall appoint 10 members.

8 The President Pro Tempore of the Senate shall designate a cochair for the  
9 Committee and the Speaker of the House of Representatives shall designate a cochair for the  
10 Committee. Any vacancy which occurs on the Committee shall be filled in the same manner as  
11 the original appointment. A majority of the members shall constitute a quorum. The Committee  
12 may meet at any time upon the call of the cochairs.

13 **SECTION 19.22.(c)** The Committee shall study the State's current sentencing laws  
14 and policies, consider the current availability, use, and effectiveness of alternative punishments,  
15 and evaluate how all of those contribute to the increasing number of nonviolent offenders  
16 housed in State and local government correctional facilities. In conducting the study the  
17 Committee shall do all of the following:

- 18 (1) Review the State's sentencing grid currently used under structured  
19 sentencing, the criteria used to assign classifications to felonies and  
20 misdemeanors, and the active sentence lengths imposed for each offense.
- 21 (2) Review and evaluate the criteria set out in G.S. 164-42.2, which outlines the  
22 basis for the current comprehensive community corrections strategy and  
23 organizational structure for the State.
- 24 (3) Develop criteria to determine what criminal offenses are clearly nonviolent  
25 offenses and, based on that criteria, identify specific offenses that may be  
26 considered nonviolent offenses.
- 27 (4) Consider the various alternative punishments that are available to  
28 incarceration and the effectiveness of those alternatives, especially with  
29 regard to decreasing the recidivism rate among nonviolent offenders.
- 30 (5) Consider the continuum of community services and community-based  
31 corrections programs available in the State.
- 32 (6) Consider what an appropriate and effective sentence may be for a nonviolent  
33 offense, including whether a sentence should include a period of  
34 incarceration and whether there is an alternative punishment that may be  
35 appropriate.
- 36 (7) Assess the cost-effectiveness of the use of State and local funds in the  
37 criminal justice and corrections systems.
- 38 (8) Assess any risk posed to public safety with the use of alternative  
39 punishments and community treatment programs.
- 40 (9) Study the role that misdemeanants, both nonviolent and violent, have with  
41 regard to State and local correctional facilities.
- 42 (10) Assess and analyze the funding mechanisms for the continuum of  
43 community services and community-based corrections.
- 44 (11) Assess the different needs and assets of communities and the nonviolent  
45 offenders residing in those communities, determine how those needs vary,  
46 and evaluate how to address the needs while utilizing to the fullest extent the  
47 assets of the communities.
- 48 (12) Consider any recommendations of the Sentencing Commission regarding  
49 modification of the sentencing grid and use of alternative punishments.
- 50 (13) Any other issue that the Committee deems relevant to the study.

1           **SECTION 19.22.(d)** The Committee, while in the discharge of its official duties,  
2 may exercise all the powers provided under the provisions of Articles 5 and 5A of Chapter 120  
3 of the General Statutes. The Committee may meet in the Legislative Building or the Legislative  
4 Office Building. The Committee may contract for professional, clerical, or consultant services  
5 as provided by G.S. 120-32.02.

6           **SECTION 19.22.(e)** The Legislative Services Commission, through the Legislative  
7 Services Officer, shall assign professional staff to assist the Committee in its work. The  
8 Senate's and the House of Representatives' Director of Legislative Assistants shall assign  
9 clerical staff to the Committee, and the expenses relating to the clerical employees shall be  
10 borne by the Committee. Members of the Committee shall receive subsistence and travel  
11 expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

12           **SECTION 19.22.(f)** The Committee may make an interim report to the 2010  
13 Regular Session of the 2009 General Assembly and shall make its final report, including any  
14 legislative proposals, by the convening of the 2011 General Assembly. The Committee shall  
15 terminate upon filing its final report or upon the convening of the 2012 Regular Session of the  
16 2011 General Assembly, whichever is earlier.

## 17 18 **COMMUNITY WORK CREW FEE**

19           **SECTION 19.24.** Article 3 of Chapter 148 of the General Statutes is amended by  
20 adding a new section to read:

### 21 **"§ 148-32.2. Community work crew fee.**

22           The Department of Correction may charge a fee to any unit of local government to which it  
23 provides, upon request, a community work crew. The amount of the fee shall be no more than  
24 the cost to the Department to provide the crew to the unit of local government."

## 25 26 **CRIMINAL JUSTICE STANDARDS DIVISION FUNDS**

27           **SECTION 19.25.(a)** Notwithstanding any other provision of law, the sum of two  
28 million five hundred seventeen thousand seven hundred eighty-six dollars (\$2,517,786) from  
29 the fund balance of the Correction Canteen Fund and the sum of one million five hundred  
30 thirty-two thousand two hundred fourteen dollars (\$1,532,214) from the fund balance of the  
31 Correction Enterprise Fund for the 2009-2010 fiscal year are transferred to the Department of  
32 Justice for support of the Criminal Justice Standards Division.

33           **SECTION 19.25.(b)** Notwithstanding any other provision of law, the sum of two  
34 million five hundred seventeen thousand seven hundred eighty-six dollars (\$2,517,786) from  
35 the fund balance of the Correction Canteen Fund and the sum of five million five hundred  
36 eighty-two thousand two hundred fourteen dollars (\$5,582,214) from the fund balance of the  
37 Correction Enterprise Fund for the 2010-2011 fiscal year are transferred to the Department of  
38 Justice for support of the Criminal Justice Standards Division.

## 39 40 **PART XX. GENERAL GOVERNMENT – RESERVED**

## 41 42 **PART XXA. DEPARTMENT OF ADMINISTRATION**

## 43 44 **NC GREEN BUSINESS FUND/FUNDS**

45           **SECTION 20A.1.** Of the funds received by the State under the American Recovery  
46 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,  
47 Department of Administration, for the 2009-2010 fiscal year, the sum of five million dollars  
48 (\$5,000,000) in nonrecurring funds shall be allocated to the North Carolina Green Business  
49 Fund in the Department of Commerce.

## 50 51 **BIOFUELS CENTER OF NORTH CAROLINA**

1           **SECTION 20A.2.** Of the funds received by the State under the American Recovery  
2 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,  
3 Department of Administration, for the 2009-2010 fiscal year, the sum of five million dollars  
4 (\$5,000,000) in nonrecurring funds shall be allocated to the Biofuels Center of North Carolina.  
5 These funds shall be used for costs related to implementing the North Carolina Strategic Plan  
6 for Biofuels Leadership developed under S.L. 2006-206.

#### 7 8 **COASTAL SOUNDS WIND STUDY**

9           **SECTION 20A.3.** Of the funds received by the State under the American Recovery  
10 and Reinvestment Act of 2009 and appropriated in this act to the State Energy Office,  
11 Department of Administration, for the 2009-2010 fiscal year, the sum of three hundred  
12 thousand dollars (\$300,000) in nonrecurring funds shall be allocated to The University of North  
13 Carolina. These funds shall be used for costs related to implementing the pilot project described  
14 in Section 9.14 of this act.

#### 15 16 **INCREASE MARRIAGE LICENSE FEE**

17           **SECTION 20A.4.(a)** G.S. 161-10(a)(2) reads as rewritten:

18           "(2) Marriage Licenses. – For issuing a license ~~forty dollars (\$40.00);~~ sixty dollars  
19           (\$60.00); for issuing a delayed certificate with one certified copy twenty  
20           dollars (\$20.00); and for a proceeding for correction of an application,  
21           license or certificate, with one certified copy ten dollars (\$10.00)."

22           **SECTION 20A.4.(b)** G.S. 161-11.2 reads as rewritten:

23           "~~Twenty dollars (\$20.00)~~ Thirty dollars (\$30.00) of each fee collected by a register of deeds  
24 for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall be forwarded by the  
25 register of deeds to the county finance officer, who shall forward the funds to the Department  
26 of Administration to be credited to the Domestic Violence Center Fund established under  
27 G.S. 50B-9. The register of deeds shall forward the fees to the county finance officer as soon as  
28 practical. The county finance officer shall forward the fees to the Department of Administration  
29 within 60 days after receiving the fees. The Register of Deeds shall inform the applicants that  
30 ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00) of the fee for a marriage license shall be used for  
31 Domestic Violence programs."

32           **SECTION 20A.4.(c)** This section becomes effective July 1, 2009, and applies to  
33 licenses issued on or after that date.

#### 34 35 **EXTEND DEADLINE FOR TWENTY PERCENT REDUCTION OF PETROLEUM** 36 **PRODUCTS USE FOR STATE FLEETS/CLARIFY REPORT REQUIREMENT**

37           **SECTION 20A.5.(a)** Section 19.5(a) of S.L. 2005-276 reads as rewritten:

38           "**SECTION 19.5.(a)** All State agencies, universities, and community colleges that have  
39 State-owned vehicle fleets shall develop and implement plans to improve the State's use of  
40 alternative fuels, synthetic lubricants, and efficient vehicles. The plans shall achieve a twenty  
41 percent (20%) reduction or displacement of the current petroleum products consumed by  
42 ~~January 1, 2010.~~ July 1, 2011. Before implementation of any plan, all affected agencies shall  
43 report their plan to the Department of Administration. The Department of Administration shall  
44 compile a report on the plans submitted and report to the Joint Legislative Commission on  
45 Governmental Operations. Agencies shall implement their plans by January 1, 2006.  
46 Reductions may be met by petroleum or oils displaced through the use of biodiesel, ethanol,  
47 synthetic oils or lubricants, other alternative fuels, the use of hybrid electric vehicles, other  
48 fuel-efficient or low-emission vehicles, or additional methods as may be approved by the State  
49 Energy Office, thereby reducing the amount of harmful emissions. The plan shall not impede  
50 mission fulfillment of the agency and shall specifically address a long-term cost-benefit

1 analysis, allowances for changes in vehicle usage, total miles driven, and exceptions due to  
2 technology, budgetary limitations, and emergencies."

3 **SECTION 20A.5.(b)** Section 19.5(c) of S.L. 2005-276 reads as rewritten:

4 "**SECTION 19.5.(c)** Agencies shall report by September 1, 2006, and annually thereafter  
5 ~~on September 1, through September 1, 2011,~~ to the Department of Administration on the efforts  
6 undertaken to achieve the reductions. The Department of Administration shall compile and  
7 forward a report to the Joint Legislative Commission on Governmental Operations by  
8 November 1, 2006, and annually thereafter ~~on November 1, through November 1, 2011,~~ on the  
9 agencies' progress in meeting their plans."

10  
11 **ALLOW DOMESTIC VIOLENCE TASK FORCE OF PAMLICO COUNTY TO**  
12 **ESTABLISH ITS OWN DOMESTIC VIOLENCE CENTER**

13 **SECTION 20A.6.** For program year 2009-2010, the provisions of G.S. 50B-9(1)  
14 and any other protocol, policy, or guideline related to the timing of any grant application shall  
15 not exclude the Domestic Violence Task Force of Pamlico County as an eligible domestic  
16 violence center pursuant to G.S. 50B-9.

17  
18 **ETHICS COMMISSION RESERVE**

19 **SECTION 20A.7.** The Management Flexibility Reserve shall not be reduced for  
20 the State Ethics Commission for the 2010-2011 fiscal year.

21  
22 **PART XXB. DEPARTMENT OF CULTURAL RESOURCES**

23  
24 **TRANSFER ADMINISTRATION OF THE GRAVEYARD OF THE ATLANTIC**  
25 **MUSEUM TO THE ROANOKE ISLAND COMMISSION**

26 **SECTION 20B.1.(a)** G.S. 121-7.4 reads as rewritten:

27 "**§ 121-7.4. Graveyard of the Atlantic Museum.**

28 The Department of Cultural Resources shall ~~assume from the Graveyard of the Atlantic~~  
29 ~~Museum, the administration of the Graveyard of the Atlantic Museum on Hatteras Island and~~  
30 ~~shall designate it designate the Graveyard of the Atlantic Museum on Hatteras Island~~ as a  
31 member of the State History Museums Division, in accordance with the feasibility study  
32 conducted by the Department."

33 **SECTION 20B.1.(b)** G.S. 143B-131.2 reads as rewritten:

34 "**§ 143B-131.2. Roanoke Island Commission – Purpose, powers, and duties.**

35 (a) The Commission is created to combine various existing entities in the spirit of  
36 cooperation for a cohesive body to protect, preserve, develop, and interpret the historical and  
37 cultural assets of Roanoke Island. The Commission is further created to operate and administer  
38 the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, ~~and~~ all  
39 other properties under the administration of the Department of Cultural Resources located on  
40 Roanoke Island having historical significance to the State of North Carolina, Dare County, or  
41 the Town of ~~Manteo, Manteo,~~ and the Graveyard of the Atlantic Museum on Hatteras Island,  
42 except as otherwise determined by the Commission.

43 (b) The Commission shall have the following powers and duties:

- 44 (1) To advise the Secretary of Transportation and adopt rules on matters  
45 pertaining to, affecting, and encouraging restoration, preservation, and  
46 enhancement of the appearance, maintenance, and aesthetic quality of U.S.  
47 Highway 64/264 and the U.S. 64/264 Bypass travel corridor on Roanoke  
48 Island and the grounds on Roanoke Island Festival Park.
- 49 (2) To operate the Elizabeth II State Historic Site and Visitor Center and the  
50 Elizabeth II as permanent memorials commemorating the Roanoke Voyages,  
51 1584-1587.

1           (2a) To operate and fund the Graveyard of the Atlantic Museum on Hatteras  
2           Island.

3           ...."

4  
5 **ELIMINATE TRANSFER OF FUNDS APPROPRIATED TO ROANOKE ISLAND**  
6 **COMMISSION TO NONPROFIT CORPORATION**

7           **SECTION 20B.2.(a)** G.S. 143B-131.2(b)(10) reads as rewritten:

8           "(b) The Commission shall have the following powers and duties:

9           ...

10          (10) To establish and maintain a separate fund composed of moneys which may  
11          come into its hands from gifts, donations, grants, or bequests, which funds  
12          will be used by the Commission for purposes of carrying out its duties and  
13          purposes herein set forth. The Commission may also establish a reserve fund  
14          to be maintained and used for contingencies and emergencies. ~~Funds~~  
15          ~~appropriated to the Commission may be transferred to the Friends of~~  
16          ~~Elizabeth II, Inc., a private, nonprofit corporation. The Friends of Elizabeth~~  
17          ~~II, Inc., shall use the funds transferred to it to carry out the purposes of this~~  
18          ~~Part."~~

19           **SECTION 20B.2.(b)** The Office of State Budget and Management, in conjunction  
20          with the Office of the State Controller and the Department of Cultural Resources, shall close  
21          the Roanoke Island Commission (Special Fund code 24802-2584) and transfer the  
22          unencumbered cash balance on June 30, 2009, to the Department of Cultural Resources  
23          (General Fund Budget code 14800-1584).

24  
25 **ARCHIVES AND RECORDS MANAGEMENT PROGRAM FEE**

26           **SECTION 20B.3.(a)** Article 1 of Chapter 161 of the General Statutes is amended  
27          by adding a new section to read:

28          "**§ 161-11.6. Fees for archival of records.**

29          A fee of five dollars (\$5.00) shall be collected by the register of deeds from the grantor on  
30          each deed, who shall remit the funds to the county finance officer, who shall remit the funds,  
31          less the county's allowance for administrative expenses, on a monthly basis to the Department  
32          of Cultural Resources to be used to offset the cost of the Archives and Records Management  
33          Program pursuant to Chapter 121 and Chapter 132 of the General Statutes. Two percent (2%)  
34          of the fee shall be retained by the county to be used by the register of deeds and the county to  
35          cover administrative costs in collecting and remitting the fee. This fee shall be charged in  
36          addition to the fees for registering, filing, or recording instruments as provided by G.S. 161-10.  
37          Nothing in this section shall be construed to apply to deeds of trusts or mortgages."

38           **SECTION 20B.3.(b)** G.S. 121-5 is amended by adding a new subsection to read:

39           "(e) Program Funding. – Fees credited to the Department under G.S. 161-11.6 shall be  
40          used to offset the Department's costs in providing essential records management and archival  
41          services for public records pursuant to Chapter 121 and Chapter 132 of the General Statutes."

42           **SECTION 20B.3.(c)** This section becomes effective October 1, 2009, and applies  
43          to all real estate transactions registered, filed, or recorded on or after that date.

44  
45 **PART XXC. OFFICE OF THE STATE AUDITOR**

46  
47 **NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC., TO CONDUCT**  
48 **AUDITS OF LOCAL PARTNERSHIPS**

49           **SECTION 20C.1.(a)** G.S. 143B-168.12(c) reads as rewritten:

50           "(c) The North Carolina Partnership shall require each local partnership to place in each  
51          of its contracts a statement that the contract is subject to monitoring by the local partnership



1 and North Carolina Partnership, that contractors and subcontractors shall be fidelity bonded,  
2 unless the contractors or subcontractors receive less than one hundred thousand dollars  
3 (\$100,000) or unless the contract is for child care subsidy services, that contractors and  
4 subcontractors are subject to audit oversight by the State Auditor, and that contractors and  
5 subcontractors shall be subject to the requirements of ~~G.S. 143C-6-14~~. G.S. 143C-6-22.  
6 Organizations subject to G.S. 159-34 shall be exempt from this requirement."

7 **SECTION 20C.1.(b)** G.S. 143B-168.14(b) reads as rewritten:

8 "(b) Each local partnership shall be subject to audit and review by the ~~State Auditor~~  
9 ~~under Article 5A of Chapter 147 of the General Statutes. The State Auditor~~ North Carolina  
10 Partnership. The North Carolina Partnership shall conduct contract for annual financial and  
11 compliance audits of local partnerships that are rated "needs improvement" in performance  
12 assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior"  
13 or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall  
14 undergo biennial financial and compliance audits as contracted for by the ~~State Auditor~~. North  
15 Carolina Partnership."

## 16 17 **PART XXI. DEPARTMENT OF INSURANCE**

### 18 19 **SET INSURANCE REGULATORY CHARGE**

20 **SECTION 21.1.(a)** The percentage rate to be used in calculating the insurance  
21 regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2009 calendar  
22 year.

23 **SECTION 21.1.(b)** The percentage rate to be used in calculating the insurance  
24 regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2010 calendar year.

25 **SECTION 21.1.(c)** This section is effective when it becomes law.

### 26 27 **PREMIUM FINANCE COMPANY LICENSE FEE REVISIONS**

28 **SECTION 21.2.** G.S. 58-35-5 reads as rewritten:

29 **"§ 58-35-5. License required; fees.**

30 (a) No person except an authorized insurer shall engage in the business of an insurance  
31 premium finance company without obtaining a license from the Commissioner, as provided in  
32 this Article.

33 ...

34 (e) There shall be two types of licenses issued to an insurance premium finance  
35 company:

36 (1) An "A" type license shall be issued to insurance premium finance companies  
37 whose business of insurance premium financing is limited to the financing of  
38 insurance premiums of one insurance agent or agency and whose primary  
39 function is to finance only the insurance premium of such agent or agency.  
40 The license fee for an "A" type license shall be ~~three hundred dollars~~  
41 ~~(\$300.00)~~ six hundred dollars (\$600.00) for each license year or part thereof.

42 (2) A "B" type license shall be issued to an insurance premium finance company  
43 whose business of insurance premium financing is not limited to the  
44 financing of insurance premiums of one insurance agent or agency and  
45 whose primary function is to finance the insurance premiums of more than  
46 one insurance agent or agency. The license fee for a "B" type license shall be  
47 ~~one thousand two hundred dollars (\$1,200)~~ two thousand four hundred  
48 dollars (\$2,400) for each license year or part thereof.

49 A branch office license may be issued for either an "A" type or "B" type license. The fee for  
50 the branch office license shall be ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) for each

1 license year or part thereof. The examination fee when required by this section shall be two  
2 hundred fifty dollars (\$250.00) per application."  
3

#### 4 **BUILDING CODE OFFICIALS CERTIFICATION RENEWAL LATE FEE INCREASE**

5 **SECTION 21.3.** G.S. 143-151.16 reads as rewritten:

6 "**§ 143-151.16. Certification fees; renewal of certificates; examination fees.**

7 (a) The Board shall establish a schedule of fees to be paid by each applicant for  
8 certification as a qualified Code-enforcement official. Such fee shall not exceed twenty dollars  
9 (\$20.00) for each applicant.

10 (b) A certificate, other than a probationary certificate, as a qualified Code-enforcement  
11 official issued pursuant to the provisions of this Article must be renewed annually on or before  
12 the first day of July. Each application for renewal must be accompanied by a renewal fee to be  
13 determined by the Board, but not to exceed ten dollars (\$10.00). The Board is authorized to  
14 charge an extra ~~two dollar (\$2.00)~~ four dollar (\$4.00) late renewal fee for renewals made after  
15 the first day of July each year.

16 ...."  
17

#### 18 **MANUFACTURING HOUSING BOARD LICENSE FEE REVISIONS**

19 **SECTION 21.4.** G.S. 143-143.11 reads as rewritten:

20 "**§ 143-143.11. License required; application for license.**

21 (a) It shall be unlawful for any manufactured home manufacturer, dealer, salesperson,  
22 or set-up contractor to engage in business as such in this State without first obtaining a license  
23 from the Board for each place of business operated by the licensee, as provided in this Part. The  
24 fact that a person is licensed by the Board as a set-up contractor or a dealer does not preempt  
25 any other licensing boards' applicable requirements for that person.

26 (b) Application for the license shall be made to the Board at such time, in such form,  
27 and contain information the Board requires, and shall be accompanied by the fee established by  
28 the Board. The fee shall not exceed ~~three hundred dollars (\$300.00)~~ three hundred fifty dollars  
29 (\$350.00) for each license issued. In addition to the license fee, the Board may also charge an  
30 applicant a fee to cover the cost of the criminal history record check required by  
31 G.S. 143-143.10A.

32 (c) In the application, the Board shall require information relating to the matters set  
33 forth in G.S. 143-143.13 as grounds for refusal of a license, and information relating to other  
34 pertinent matters consistent with safeguarding the public interest. All of this information shall  
35 be considered by the Board in determining the fitness of the applicant. Once the Board has  
36 determined that an applicant is fit, the Board must provide the applicant a license for each place  
37 of business operated by the applicant.

38 (d) All licenses shall expire, unless revoked or suspended, on June 30 of each year  
39 following the date of issue.

40 (e) Every licensee shall, on or before the first day of July of each year, obtain a renewal  
41 of a license for the next year by applying to the Board, completing the necessary hours of  
42 continuing education required under G.S. 143-143.11B, and paying the required renewal fee for  
43 each place of business operated by the licensee. The renewal fee shall not exceed ~~three hundred~~  
44 ~~dollars (\$300.00)~~ three hundred fifty dollars (\$350.00) for each license issued. Upon failure to  
45 renew by the first day of July, a license automatically expires. The license may be renewed at  
46 any time within one year after its lapse upon payment of the renewal fee and a late filing fee.  
47 The late filing fee shall not exceed ~~three hundred dollars (\$300.00)~~ three hundred fifty dollars  
48 (\$350.00).

49 (f) Repealed by Session Laws 2005-297, s. 1, effective August 22, 2005.

1 (g) Notwithstanding the provisions of subsection (a), the Board may provide by rule  
2 that a manufactured home salesperson will be allowed to engage in business during the time  
3 period after making application for a license but before such license is granted.

4 (h) As a prerequisite to obtaining a license under this Part, a person may be required to  
5 pass an examination prescribed by the Board that is based on the Code, this Part, and any other  
6 subject matter considered relevant by the Board."  
7

## 8 **COLLECTION AGENCY LICENSE FEE INCREASE**

9 **SECTION 21.5.** G.S. 58-70-35 reads as rewritten:

### 10 **"§ 58-70-35. Application fee; issuance of permit; contents and duration.**

11 (a) Upon the filing of the application and information required by this Article, the  
12 applicant shall pay a nonrefundable fee of ~~five hundred dollars (\$500.00)~~, one thousand dollars  
13 (\$1,000), and no permit may be issued until this fee is paid. Fees collected under this  
14 subsection shall be used in paying the expenses incurred in connection with the consideration  
15 of such applications and the issuance of such permits.

16 ...."  
17

## 18 **MOTOR CLUB LICENSE FEE INCREASE**

19 **SECTION 21.6.** G.S. 58-69-10 reads as rewritten:

### 20 **"§ 58-69-10. Applications for licenses; fees; bonds or deposits.**

21 Licenses hereunder shall be obtained by filing ~~written application therefor~~ written  
22 application with the Commissioner in such form and manner as the Commissioner shall require.  
23 As a prerequisite to issuance of a license:

24 (1) The applicant shall furnish to the Commissioner such data and information  
25 as the Commissioner may deem reasonably necessary to enable him to  
26 determine, in accordance with the provisions of G.S. 58-69-15, whether or  
27 not a license should be issued to the applicant.

28 (1a) If the applicant has never been issued a motor club license it shall be  
29 required to submit an audited financial statement. If the applicant has  
30 previously been licensed the Commissioner may require that the financial  
31 statement be audited if it is reasonably necessary to determine whether or not  
32 a license should be issued to the applicant.

33 (2) If the applicant is a motor club it shall be required to pay to the  
34 Commissioner a nonrefundable annual license fee of ~~three hundred dollars~~  
35 ~~(\$300.00)~~ six hundred dollars (\$600.00) and to deposit or file with the  
36 Commissioner a bond, in favor of the State of North Carolina and executed  
37 by a surety company duly authorized to transact business in this State, in the  
38 amount of fifty thousand dollars (\$50,000), or securities of the type  
39 hereinafter specified in the amount of fifty thousand dollars (\$50,000),  
40 pledged to or made payable to the State of North Carolina and conditioned  
41 upon the full compliance by the applicant with the provisions of this Article  
42 and the regulations and orders issued by the Commissioner pursuant thereto,  
43 and upon the good faith performance by the applicant of its contracts for  
44 motor club services.

45 (3) If the applicant is a branch or district office of a motor club licensed under  
46 this Article it shall pay to the Commissioner a nonrefundable license fee of  
47 ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00).

48 (4) If the applicant is a franchise motor club it shall pay to the Commissioner a  
49 nonrefundable annual license fee of ~~one hundred dollars (\$100.00)~~ two  
50 hundred dollars (\$200.00) and shall deposit or file with the Commissioner a  
51 bond, in favor of the State of North Carolina and executed by a surety

1 company duly authorized to transact business in this State, in the amount of  
 2 fifty thousand dollars (\$50,000), or securities of the type hereinafter  
 3 specified in the amount of fifty thousand dollars (\$50,000), pledged to or  
 4 made payable to the State of North Carolina and conditioned upon the full  
 5 compliance by the applicant with the provisions of this Article and the  
 6 regulations and orders issued by the Commissioner pursuant thereto and  
 7 upon the good faith performance by the applicant of its contracts for motor  
 8 club services.

9 (5) Any applicant depositing securities under this section shall do so in the form  
 10 and manner as prescribed in Article 5 of this Chapter, and the provisions of  
 11 Article 5 of this Chapter, shall be applicable to securities pledged under this  
 12 Article."  
 13

14 **BAIL BONDSMEN AND RUNNERS FEE INCREASES**

15 **SECTION 21.7.** G.S. 58-71-55 reads as rewritten:

16 **"§ 58-71-55. License fees.**

17 A nonrefundable license fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars  
 18 (\$200.00) shall be paid to the Commissioner with each application for license as a bail  
 19 bondsman and a license fee of ~~sixty dollars (\$60.00)~~ one hundred twenty dollars (\$120.00) shall  
 20 be paid to the Commissioner with each application for license as a runner."  
 21

22 **HOME INSPECTOR LICENSE FEE INCREASES**

23 **SECTION 21.8.** G.S. 143-151.57 reads as rewritten:

24 **"§ 143-151.57. Fees.**

25 (a) Maximum Fees. – The Board may adopt fees that do not exceed the amounts set in  
 26 the following table for administering this Article:

<u>Item</u>	<u>Maximum Fee</u>
28 Application for home inspector license	<del>\$25.00</del> <u>35.00</u>
29 Application for associate home inspector	<del>15.00</del> <u>20.00</u>
30 Home inspector examination	<del>75.00</del> <u>80.00</u>
31 Issuance <u>or renewal</u> of home inspector license	<del>150.00</del> <u>160.00</u>
32 Issuance <u>or renewal</u> of associate home inspector license	<del>100.00</del> <u>110.00</u>
33 Late renewal of home inspector license	<del>25.00</del> <u>30.00</u>
34 Late renewal of associate home inspector license	<del>15.00</del> <u>20.00</u>
35 Application for course approval	150.00
36 Renewal of course approval	75.00
37 Course fee, per credit hour per license	5.00
38 Credit for unapproved continuing education course	50.00
39 Copies of Board rules or licensure standards	Cost of printing and mailing.

40  
 41 (b) Subsequent Application. – An individual who applied for a license as a home  
 42 inspector and who failed the home inspector examination is not required to pay an additional  
 43 application fee if the individual submits another application for a license as a home inspector.  
 44 The individual must pay the examination fee, however, to be eligible to take the examination  
 45 again."  
 46

47 **CCRC APPLICATION AND ANNUAL DISCLOSURE FILING FEE INCREASES**

48 **SECTION 21.9.(a)** G.S. 58-64-5 reads as rewritten:

49 **"§ 58-64-5. License.**

50 (a) No provider shall engage in the business of offering or providing continuing care in  
 51 this State without a license to do so obtained from the Commissioner as provided in this

1 Article. It is a Class 1 misdemeanor for any person, other than a provider licensed under this  
2 Article, to advertise or market to the general public any product similar to continuing care  
3 through the use of such terms as "life care", "continuing care", or "guaranteed care for life", or  
4 similar terms, words, or phrases. The licensing process may involve a series of steps pursuant  
5 to rules adopted by the Commissioner under this Article.

6 (b) The application for a license shall be filed with the Department by the provider on  
7 forms prescribed by the Department and within a period of time prescribed by the Department;  
8 and shall include all information required by the Department pursuant to rules adopted by it  
9 under this Article including, but not limited to, the disclosure statement meeting the  
10 requirements of this Article and other financial and facility development information required  
11 by the Department. The application for a license must be accompanied by an application fee of  
12 ~~two hundred dollars (\$200.00)~~ five hundred dollars (\$500.00).

13 ...."

14 **SECTION 21.9.(b)** G.S. 58-64-30 reads as rewritten:

15 "**§ 58-64-30. Annual disclosure statement revision.**

16 (a) Within 150 days following the end of each fiscal year, the provider shall file with  
17 the Commissioner a revised disclosure statement setting forth current information required  
18 pursuant to G.S. 58-64-20. The provider shall also make this revised disclosure statement  
19 available to all the residents of the facility. This revised disclosure statement shall include a  
20 narrative describing any material differences between (i) the forecasted statements of revenues  
21 and expenses and cash flows or other forecasted financial data filed pursuant to G.S. 58-64-20  
22 as a part of the disclosure statement recorded most immediately subsequent to the start of the  
23 provider's most recently completed fiscal year and (ii) the actual results of operations during  
24 that fiscal year, together with the revised forecasted statements of revenues and expenses and  
25 cash flows or other forecasted financial data being filed as a part of the revised disclosure  
26 statement. A provider may also revise its disclosure statement and have the revised disclosure  
27 statement recorded at any other time if, in the opinion of the provider, revision is necessary to  
28 prevent an otherwise current disclosure statement from containing a material misstatement of  
29 fact or omitting a material fact required to be stated therein. Only the most recently recorded  
30 disclosure statement, with respect to a facility, and in any event, only a disclosure statement  
31 dated within one year plus 150 days prior to the date of delivery, shall be considered current for  
32 purposes of this Article or delivered pursuant to G.S. 58-64-20.

33 (b) The annual disclosure statement required to be filed with the Commissioner under  
34 this section shall be accompanied by an annual filing fee of ~~one hundred dollars (\$100.00)~~ one  
35 thousand dollars (\$1,000)."

## 37 **HEALTH MAINTENANCE ORGANIZATION FEE INCREASES**

38 **SECTION 21.10.** G.S. 58-67-160 reads as rewritten:

39 "**§ 58-67-160. Fees.**

40 Every health maintenance organization subject to this Article shall pay to the Commissioner  
41 a fee of ~~two hundred fifty dollars (\$250.00)~~ five hundred dollars (\$500.00) for filing an  
42 application for a license and an annual license continuation fee of ~~one thousand five hundred~~  
43 ~~dollars (\$1,500)~~ two thousand dollars (\$2,000) for each license. The license shall continue in  
44 full force and effect, subject to timely payment of the annual license continuation fee in  
45 accordance with G.S. 58-6-7 and subject to any other applicable provisions of the insurance  
46 laws of this State."

## 48 **INSURANCE COMPANY APPLICATION AND LICENSING FEE INCREASES**

49 **SECTION 21.11.(a)** G.S. 58-6-5(1) reads as rewritten:

50 "(1) For filing and examining an insurance company application for admission, a  
51 nonrefundable fee of ~~two hundred fifty dollars (\$250.00)~~ one thousand

dollars (\$1,000), to be submitted with the filing; for each certification or confirmation of an insurance company deposit held by the Commissioner pursuant to this Chapter, twenty-five dollars (\$25.00)."

SECTION 21.11.(b) G.S. 58-6-7(a) reads as rewritten:

"(a) In order to do business in this State, an insurance company shall apply for and obtain a license from the Commissioner. The license shall be perpetual and shall continue in full force and effect, subject to timely payment of the annual license continuation fee in accordance with this Chapter and subject to any other applicable provision of the insurance laws of this State. The insurance company shall pay a fee for each year the license is in effect, as follows:

For each domestic farmer's mutual assessment fire insurance company .....	\$ 25.00
For each fraternal order .....	500.00
For each of all other insurance companies, except	
mutual burial associations taxed under G.S. 105-121.1 .....	<del>1,500.00</del> <u>2,500.00</u>

The fees levied in this subsection are in addition to those specified in G.S. 58-6-5."

LIABILITY RISK RETENTION AND PURCHASING GROUP FEE INCREASES

SECTION 21.12. G.S. 58-22-70 reads as rewritten:

"§ 58-22-70. Registration and renewal fees.

Every risk retention group and purchasing group that registers with the Commissioner under this Article shall pay the following fees:

Risk retention group registration	<del>\$250.00</del>	<u>\$500.00</u>
Purchasing group registration	<del>50.00</del>	<u>500.00</u>
Risk retention group renewal	<del>1,000.00</del>	<u>1,500.00</u>
Purchasing group renewal	<del>50.00</del>	<u>100.00</u>

Registration fees shall not be prorated and must be submitted with the application for registration. Renewal fees shall not be prorated and shall be paid on or before January 1 of each year."

MEDICAL SERVICE CORPORATION FEE INCREASES

SECTION 21.13.(a) G.S. 58-65-1 reads as rewritten:

"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign corporations prohibited.

(a) Any corporation organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital or medical or dental service plan whereby hospital care or medical or dental service may be provided in whole or in part by the corporation or by hospitals, physicians, or dentists participating in the plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, unless otherwise provided.

The term "hospital service plan" as used in this Article includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations or any other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association or the American Medical Association.

The term "medical service plan" as used in this Article includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical or any other professional services authorized or permitted to be furnished by a duly licensed physician or other provider listed in G.S. 58-50-30. The term "medical services plan" also includes the contracting for the payment of fees toward, or furnishing of, professional medical services

1 authorized or permitted to be furnished by a duly licensed provider of health services licensed  
2 under Chapter 90 of the General Statutes.

3 The term "dental service plan" as used in this Article includes contracting for the payment  
4 of fees toward, or furnishing of dental or any other professional services authorized or  
5 permitted to be furnished by a duly licensed dentist.

6 The term "hospital service corporation" as used in this Article is intended to mean any  
7 nonprofit corporation operating a hospital or medical or dental service plan, as defined in this  
8 section. Any corporation organized and subject to the provisions of this Article, the certificate  
9 of incorporation of which authorizes the operation of either a hospital or medical or dental  
10 service plan, or any or all of them, may, with the approval of the Commissioner, issue  
11 subscribers' contracts or certificates approved by the Commissioner of Insurance, for the  
12 payment of either hospital or medical or dental fees, or the furnishing of such services, or any  
13 or all of them, and may enter into contracts with hospitals for physicians or dentists, or any or  
14 all of them, for the furnishing of fees or services respectively under a hospital or medical or  
15 dental service plan, or any or all of them.

16 The term "preferred provider" as used in this Article with respect to contracts,  
17 organizations, policies or otherwise means a health care service provider who has agreed to  
18 accept, from a corporation organized for the purposes authorized by this Article or other  
19 applicable law, special reimbursement terms in exchange for providing services to beneficiaries  
20 of a plan administered pursuant to this Article. Except to the extent prohibited either by  
21 G.S. 58-65-140 or by rules adopted by the Commissioner not inconsistent with this Article, the  
22 contractual terms and conditions for special reimbursement shall be those which the  
23 corporation and preferred provider find to be mutually agreeable.

24 The term "full service corporation" as used in this Article means any corporation organized  
25 under the provisions of this Article that offers a medical service plan or a hospital service plan.

26 The term "single service corporation" as used in this Article means any corporation  
27 organized under the provisions of this Article that offers only a dental service plan.

28 ...."

29 **SECTION 21.13.(b)** G.S. 58-65-55 reads as rewritten:

30 **"§ 58-65-55. Issuance and continuation of license.**

31 (a) Every corporation subject to this Article shall pay to the Commissioner a fee of two  
32 hundred fifty dollars (\$250.00) for filing an application for a license. Fee payment shall be  
33 contemporaneous with the filing. Before issuing or continuing any such license or certificate  
34 the Commissioner may make such an examination or investigation as the Commissioner deems  
35 expedient. The Commissioner shall issue a license upon the payment of a fee of one thousand  
36 five hundred dollars (\$1,500) for a single service corporation or two thousand five hundred  
37 dollars (\$2,500) for a full service corporation and upon being satisfied on the following points:

- 38 (1) The applicant is established as a bona fide nonprofit hospital service  
39 corporation as defined by this Article and Article 66 of this Chapter.
- 40 (2) The rates charged and benefits to be provided are fair and reasonable.
- 41 (3) The amounts provided as working capital of the corporation are repayable  
42 only out of earned income in excess of amounts paid and payable for  
43 operating expenses and hospital and medical and/or dental expenses and  
44 such reserve as the Department deems adequate, as provided hereinafter.
- 45 (4) That the amount of money actually available for working capital be  
46 sufficient to carry all acquisition costs and operating expenses for a  
47 reasonable period of time from the date of the issuance of the certificate.

48 (b) The license shall continue in full force and effect, subject to payment of an annual  
49 license continuation fee of ~~one thousand five hundred dollars (\$1,500)~~ one thousand five  
50 hundred dollars (\$1,500) for a single service corporation or two thousand five hundred dollars

1 (~~\$2,500~~), subject to all other provisions of subsection (a) of this section and subject to any other  
2 applicable provisions of the insurance laws of this State."  
3

#### 4 **SURPLUS INSURANCE LINES APPLICATION AND LICENSE FEE INCREASES**

5 **SECTION 21.14.** G.S. 58-21-20(c) reads as rewritten:

6 "(c) Every surplus lines insurer that applies for eligibility under this section shall pay a  
7 nonrefundable fee of ~~two hundred fifty dollars (\$250.00)~~ five hundred dollars (\$500.00). In  
8 order to renew eligibility, such insurer shall pay a nonrefundable renewal fee of ~~five hundred~~  
9 ~~dollars (\$500.00)~~ one thousand dollars (\$1,000) on or before January 1 of each year thereafter.  
10 Such fees shall not be prorated."  
11

#### 12 **ACCREDITED REINSURANCE LICENSE FEE INCREASE**

13 **SECTION 21.15.** G.S. 58-7-21(b) reads as rewritten:

14 "(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset  
15 or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the  
16 requirements of subdivisions (1), (2), (3), (4), or (5) of this subsection. Credit shall be allowed  
17 under subdivision (1), (2), or (3) of this subsection only with regard to cessions of those kinds  
18 or classes of business in which the assuming insurer is licensed or otherwise permitted to write  
19 or assume in its state of domicile or, in the case of a United States branch of an alien assuming  
20 insurer, in the state through which it is entered and licensed to transact insurance or  
21 reinsurance. Credit shall be allowed under subdivision (3) or (4) of this subsection only if the  
22 applicable requirements of subdivision (6) of this section have been satisfied.

23 (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
24 that is licensed to transact insurance or reinsurance in this State.

25 (2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
26 that is accredited as a reinsurer in this State. An accredited reinsurer is one  
27 that:

- 28 a. Files with the Commissioner evidence of its submission to this  
29 State's jurisdiction;
- 30 b. Submits to this State's authority to examine its books and records;
- 31 c. Is licensed to transact insurance or reinsurance in at least one state, or  
32 in the case of a United States branch of an alien assuming insurer is  
33 entered through and licensed to transact insurance or reinsurance in  
34 at least one state;
- 35 d. Files annually with the Commissioner a copy of its annual statement  
36 filed with the insurance regulator of its state of domicile, a copy of its  
37 most recent audited financial statement, and a fee of ~~five hundred~~  
38 ~~dollars (\$500.00)~~; seven hundred fifty dollars (\$750.00) and either
  - 39 1. Maintains a policyholders' surplus in an amount that is not  
40 less than twenty million dollars (\$20,000,000) and whose  
41 accreditation has not been denied by the Commissioner  
42 within 90 days after its submission; or
  - 43 2. Maintains a policyholders' surplus in an amount less than  
44 twenty million dollars (\$20,000,000) and whose accreditation  
45 has been approved by the Commissioner.

46 Credit shall not be allowed a domestic ceding insurer if the assuming  
47 insurer's accreditation has been revoked by the Commissioner after notice  
48 and opportunity for a hearing.

49 ...."  
50

#### 51 **THIRD-PARTY INSURANCE ADMINISTRATOR LICENSE FEE INCREASE**



1           **SECTION 21.16.** G.S. 58-56-51 reads as rewritten:

2   "**§ 58-56-51. License required.**

3       (a) No person shall act as, offer to act as, or hold himself or herself out as a TPA in this  
4 State without a valid TPA license issued by the Commissioner. Licenses shall be renewed  
5 annually. Failure to submit a complete renewal application shall result in the expiration of the  
6 license of the TPA as a matter of law; provided, however, the Commissioner may grant the  
7 TPA an extension of time for good cause.

8       (b) Each application for the issuance or renewal of a license shall be made upon a form  
9 prescribed by the Commissioner and shall be accompanied by a nonrefundable filing fee of ~~one~~  
10 ~~hundred dollars (\$100.00)~~ three hundred dollars (\$300.00) and evidence of maintenance of a  
11 fidelity bond, errors and omissions liability insurance, or other security, of a type and in an  
12 amount to be determined by rules of the Commissioner. Applications for issuance of licenses  
13 shall include or be accompanied by the following information and documents:

14           (1) All organizational documents of the TPA, including any articles of  
15 incorporation, articles of association, partnership agreement, trade name  
16 certificate, or trust agreement, any other applicable documents, and all  
17 amendments to these documents.

18           ...

19       The information required by subdivisions (1) through (7) of this subsection, including any  
20 trade secrets, shall be kept confidential; provided that the Commissioner may use that  
21 information in any judicial or administrative proceeding instituted against the TPA.  
22 Applications for renewals of licenses shall include or be accompanied by any changes in the  
23 information required by subdivisions (1) through (7) of this subsection.

24       ...."

## 25           **VIATICAL SETTLEMENT PROVIDER AND BROKER LICENSE FEE INCREASES**

26           **SECTION 21.17.** G.S. 58-58-210 reads as rewritten:

27   "**§ 58-58-210. License requirements.**

28           ...

29       (b) Application for a provider or broker license shall be made to the Commissioner by  
30 the applicant on a form prescribed by the Commissioner, and these applications shall be  
31 accompanied by a fee of ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00).

32       (c) Licenses may be renewed from year to year on the anniversary date upon payment  
33 of the annual renewal fee of ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00).  
34 Failure to pay the fees by the renewal date results in expiration of the license.

35       ...."

## 36           **PART XXIA. OFFICE OF ADMINISTRATIVE HEARINGS**

### 37           **FEEES FOR FILING CONTESTED CASE HEARINGS BEFORE THE OFFICE OF** 38 **ADMINISTRATIVE HEARINGS**

39           **SECTION 21A.1.(a)** G.S. 150B-23(a) reads as rewritten:

40       "(a) A contested case shall be commenced by paying a fee in an amount established in  
41 G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except  
42 as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who  
43 files the petition shall serve a copy of the petition on all other parties and, if the dispute  
44 concerns a license, the person who holds the license. A party who files a petition shall file a  
45 certificate of service together with the petition. A petition shall be signed by a party or a  
46 representative of the party and, if filed by a party other than an agency, shall state facts tending  
47 to establish that the agency named as the respondent has deprived the petitioner of property, has  
48  
49  
50

1 ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced  
2 the petitioner's rights and that the agency:

- 3 (1) Exceeded its authority or jurisdiction;
- 4 (2) Acted erroneously;
- 5 (3) Failed to use proper procedure;
- 6 (4) Acted arbitrarily or capriciously; or
- 7 (5) Failed to act as required by law or rule.

8 The parties in a contested case shall be given an opportunity for a hearing without undue delay.  
9 Any person aggrieved may commence a contested case hereunder.

10 A local government employee, applicant for employment, or former employee to whom  
11 Chapter 126 of the General Statutes applies may commence a contested case under this Article  
12 in the same manner as any other petitioner. The case shall be conducted in the same manner as  
13 other contested cases under this Article, except that the State Personnel Commission shall enter  
14 final decisions only in cases in which it is found that the employee, applicant, or former  
15 employee has been subjected to discrimination prohibited by Article 6 of Chapter 126 of the  
16 General Statutes or in any case where a binding decision is required by applicable federal  
17 standards. In these cases, the State Personnel Commission's decision shall be binding on the  
18 local appointing authority. In all other cases, the final decision shall be made by the applicable  
19 appointing authority."

20 **SECTION 21A.1.(b)** Chapter 150B of the General Statutes is amended by adding a  
21 new section to read:

22 "**§ 150B-23.2. Fee for filing a contested case hearing.**

23 (a) Filing Fee. – In every contested case commenced in the Office of Administrative  
24 Hearings by a person aggrieved, the petitioner shall pay a filing fee, and the administrative law  
25 judge shall have the authority to assess that filing fee against the losing party in the amount of  
26 two hundred dollars (\$200.00), unless the Office of Administrative Hearings establishes a  
27 lesser filing fee by rule.

28 (b) Time of Collection. – All fees that are required to be assessed, collected, and  
29 remitted under subsection (a) of this section shall be collected by the Office of Administrative  
30 Hearings at the time of commencement of the contested case (except in suits in forma  
31 pauperis).

32 (c) Forms of Payment. – The Office of Administrative Hearings may by rule provide  
33 for the acceptable forms for payment and transmission of the filing fee.

34 (d) Waiver or Refund. – The Office of Administrative Hearings shall by rule provide  
35 for the fee to be waived in a contested case in which the petition is filed in forma pauperis and  
36 supported by such proofs as are required in G.S. 1-110 and in a contested case involving a  
37 mandated federal cause of action. The Office of Administrative Hearings shall by rule provide  
38 for the fee to be refunded in a contested case in which the losing party is the State."

39 **SECTION 21A.1.(c)** This section becomes effective July 1, 2009, and applies to  
40 contested cases filed on or after that date.

41  
42 **REDUCE COMPENSATION FOR RULES REVIEW COMMISSION MEMBERS**

43 **SECTION 21A.2.** G.S 143B-30.1(d) reads as rewritten:

44 "(d) Members of the Commission who are not officers or employees of the State shall  
45 receive compensation of ~~two hundred dollars (\$200.00)~~ one hundred fifty dollars (\$150.00) for  
46 each day or part of a day of service plus reimbursement for travel and subsistence expenses at  
47 the rates specified in G.S. 138-5. Members of the Commission who are officers or employees  
48 of the State shall receive reimbursement for travel and subsistence at the rate set out in  
49 G.S. 138-6."

50  
51 **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

1  
2 **PROVIDE FOR ZERO-BASED BUDGETING**

3 **SECTION 22.1.(a)** The General Assembly finds that the traditional method of  
4 budgeting may no longer be sufficient to manage the competing demands of North Carolina's  
5 complex budget, its rapidly expanding education and health care expenditures, and the need to  
6 foster economic development. To meet the State's growing needs, it is necessary to examine  
7 new approaches to budgeting and management.

8 **SECTION 22.1.(b)** The Director of the Budget shall subject every program in  
9 State government to zero-based budget review no less often than once every six years.

10 **SECTION 22.1.(c)** Beginning in 2011, and in each odd year thereafter, the  
11 Governor shall submit a zero-based budget for. To accommodate zero-based budget review, the  
12 Director of the Budget shall require agencies to prepare and submit a zero-based budget plan in  
13 addition to any other information that may be required by statute, rule, or directive. At a  
14 minimum, the plan shall contain the following information:

- 15 (1) A description of those discrete activities that comprise the agency, and a  
16 justification for the existence of each activity by reference to statute or other  
17 legal authority.
- 18 (2) For each activity, a quantitative estimate of any adverse impacts that could  
19 reasonably be expected should the activity be discontinued, together with a  
20 full description of the methods by which the adverse impact is estimated.
- 21 (3) For each activity, an itemized account of expenditures that would be  
22 required to maintain the activity at the minimum level of service required by  
23 the statutory authority, together with a concise statement of the quantity and  
24 quality of services required at that minimum level.
- 25 (4) For each activity, an itemized account of expenditures required to maintain  
26 the activity at current levels of service, together with a concise statement of  
27 the quantity and quality of services being provided.
- 28 (5) A ranking of all activities that shows the relative contribution of each  
29 activity to the overall goals and purposes of the agency at current service  
30 levels.

31 **SECTION 22.1.(d)** Each odd year beginning in 2011, the General Assembly shall  
32 prepare its budget for the fiscal year which begins on July 1 of that year by starting at zero each  
33 agency or program which has been reviewed by the Director that year under this act and subject  
34 the same agency program to a thorough legislative review using the same criteria set forth in  
35 subsection (c) of this section.

36  
37 **PART XXIII. OFFICE OF THE STATE CONTROLLER**

38  
39 **OVERPAYMENTS AUDIT**

40 **SECTION 23.1.(a)** During the 2009-2011 biennium, receipts generated by the  
41 collection of inadvertent overpayments by State agencies to vendors as a result of pricing  
42 errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds,  
43 erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be  
44 deposited in the Special Reserve Account 24172.

45 **SECTION 23.1.(b)** For each year of the 2009-2011 biennium, five hundred  
46 thousand dollars (\$500,000) of the funds transferred from the Special Reserve Account 24172  
47 shall be used by the Office of the State Controller for data processing, debt collection, or  
48 e-commerce costs.

49 **SECTION 23.1.(c)** All funds available in the Special Reserve Account 24172 on  
50 July 1 of each year of the 2009-2011 biennium are transferred to the General Fund on that date.

1           **SECTION 23.1.(d)** Any unobligated funds in the Special Reserve Account 24172  
2 that are realized above the allowance in subsection (b) of this section are subject to  
3 appropriation by the General Assembly.

4           **SECTION 23.1.(e)** The State Controller shall report quarterly to the Joint  
5 Legislative Commission on Governmental Operations and the Fiscal Research Division on the  
6 revenue deposited into the Special Reserve Account 24172 and the disbursement of that  
7 revenue.

#### 9 **BEACON STAFF TO SUPPORT STATEWIDE ENTERPRISE TRAINING PROGRAM**

10           **SECTION 23.2.(a)** For the 2009-2011 fiscal biennium, the Office of the State  
11 Controller shall use three hundred sixty-four thousand four hundred thirty-eight dollars  
12 (\$364,438) of existing BEACON funds to continue the following six full-time, time-limited  
13 training positions that are effective July 1, 2009, and that support the statewide enterprise  
14 training program established by Section 20.1 of S.L. 2008-107:

15           (1) Two Staff Development Specialists II (\$112,525).

16           (2) One BEACON University Trainer (\$70,928).

17           (3) One Technical Support Technician (\$64,708).

18           (4) One Administrative Support Specialist (\$45,347).

19           (5) One Business and Technology Application Technician (\$70,928).

20           **SECTION 23.2.(b)** Each agency that utilizes BEACON for payroll or personnel  
21 purposes shall participate in the BEACON training program offered by the Office of State  
22 Controller.

#### 23 24 **PART XXIV. DEPARTMENT OF THE SECRETARY OF STATE**

##### 25 26 **INCREASE REGISTRATION FEE RENEWAL FOR SECURITIES SALESMEN**

27           **SECTION 24.1.** G.S. 78A-37(b) reads as rewritten:

28           "(b) Every applicant for initial or renewal registration shall pay a filing fee of three  
29 hundred dollars (\$300.00) in the case of a dealer and ~~seventy-five dollars (\$75.00)~~ one hundred  
30 twenty-five dollars (\$125.00) in the case of a salesman. The Administrator may by rule reduce  
31 the registration fee proportionately when the registration will be in effect for less than a full  
32 year."

##### 33 34 **BUDGET ADJUSTMENTS**

35           **SECTION 24.2.(a)** The Management Flexibility Reserve shall not be reduced for  
36 the Department of Secretary of State for the 2010-2011 fiscal year for the following position: #  
37 1210, Corporations (\$28,941).

38           **SECTION 24.2.(b)** Notwithstanding any provision of this act to the contrary, a  
39 reduction of ninety-five thousand eight hundred one dollars (\$95,801) for the 2009-2010 fiscal  
40 year shall be eliminated to reduce the reduction to adjust the continuation budget within the  
41 Department of Secretary of State.

#### 42 43 **PART XXIVA. DEPARTMENT OF REVENUE**

##### 44 45 **PROPERTY TAX DIVISION RECEIPT SUPPORTED**

46           **SECTION 24A.1.(a)** G.S. 105-501(b) reads as rewritten:

47           "(b) Deductions. – In determining the net proceeds of the tax to be distributed, the  
48 Secretary must deduct from the collections to be allocated an amount equal to ~~one-twelfth of~~  
49 the costs during the preceding fiscal year of: the following:

1 (1) The costs during the preceding month of the Department of Revenue in  
 2 performing the duties imposed by ~~G.S. 105-275.2~~ and by Article 15 of this  
 3 Chapter.

4 (1a) One-twelfth of the costs during the preceding fiscal year of the following:

5 a. Seventy percent (70%) of the expenses of the Department of  
 6 Revenue in performing the duties imposed by Article 2D of this  
 7 Chapter.

8 ~~(2)~~b. The Property Tax Commission.

9 ~~(3)~~c. The School of Government at the University of North Carolina at  
 10 Chapel Hill in operating a training program in property tax appraisal  
 11 and assessment.

12 ~~(4)~~d. The personnel and operations provided by the Department of State  
 13 Treasurer for the Local Government Commission."

14 **SECTION 24A.1.(b)** For fiscal year 2009-2010, the deductions under  
 15 G.S. 105-501(b) from the collections of the additional one-half percent (1/2%) sales and use tax  
 16 collected under Article 42 of Chapter 105 of the General Statutes must include one-twelfth of  
 17 the costs during the preceding fiscal year of the Department of Revenue in performing the  
 18 duties imposed by Article 15 of Chapter 105 of the General Statutes.

## 19 **PART XXV. DEPARTMENT OF TRANSPORTATION**

### 20 **CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND** 21 **APPROPRIATIONS**

22 **SECTION 25.1.(a)** The General Assembly authorizes and certifies anticipated  
 23 revenues of the Highway Fund as follows:

24	For Fiscal Year 2011-2012	\$ 1,762.0 million
25	For Fiscal Year 2012-2013	\$ 1,861.8 million
26	For Fiscal Year 2013-2014	\$ 1,966.2 million
27	For Fiscal Year 2014-2015	\$ 2,026.0 million

28 **SECTION 25.1.(b)** The General Assembly authorizes and certifies anticipated  
 29 revenues of the Highway Trust Fund as follows:

30	For Fiscal Year 2011-2012	\$ 972.1 million
31	For Fiscal Year 2012-2013	\$ 1,036.0 million
32	For Fiscal Year 2013-2014	\$ 1,104.0 million
33	For Fiscal Year 2014-2015	\$ 1,158.8 million

### 34 **MODIFY GLOBAL TRANSPARK DEBT AND REQUIRE GLOBAL TRANSPARK TO** 35 **REPORT ON ANTICIPATED REPAYMENT SCHEDULE**

36 **SECTION 25.2.(a)** G.S. 147-69.2(b)(11), as amended by Section 7 of S.L.  
 37 2005-144, Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, and Section 27.7 of  
 38 S.L. 2007-323 reads as rewritten:

39 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated  
 40 in subsection (a) of this section in excess of the amount required to meet the current needs and  
 41 demands on such funds, selecting from among the following:

- 42 ...
- 43 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina  
 44 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed  
 45 twenty-five million dollars (\$25,000,000), that have a final maturity not later  
 46 than October 1, ~~2009~~2011. The obligations shall bear interest at the rate set  
 47 by the State Treasurer. No commitment to purchase obligations may be  
 48 made pursuant to this subdivision after September 1, 1993, and no  
 49  
 50  
 51

1 obligations may be purchased after September 1, 1994. In the event of a loss  
2 to the Escheat Fund by reason of an investment made pursuant to this  
3 subdivision, it is the intention of the General Assembly to hold the Escheat  
4 Fund harmless from the loss by appropriating to the Escheat Fund funds  
5 equivalent to the loss.

6 If any part of the property owned by the North Carolina Global  
7 TransPark Authority now or in the future is divested, proceeds of the  
8 divestment shall be used to fulfill any unmet obligations on an investment  
9 made pursuant to this subdivision."

10 **SECTION 25.2.(b)** The Global TransPark Authority shall report on or before May  
11 15, 2010, to the House and Senate Appropriations Subcommittees on Transportation on its  
12 strategic, business, and financial plans. The report shall include the Authority's proposed  
13 schedule to achieve financial self-sufficiency and proposed schedule to repay to the Escheat  
14 Fund the investment authorized under G.S. 147-69.2(b)(11) and any accumulated interest, both  
15 of which totaled thirty-five million six hundred twenty-six thousand one hundred thirty-eight  
16 dollars and seventy cents (\$35,626,138.70) as of April 30, 2009.

### 17 18 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

19 **SECTION 25.3.** Of the funds appropriated in this act to the Department of  
20 Transportation:

- 21 (1) Seven million dollars (\$7,000,000) shall be allocated in each fiscal year for  
22 small construction projects recommended by the member of the Board of  
23 Transportation representing the Division in which the project is to be  
24 constructed in consultation with the Division Engineer and approved by the  
25 Secretary of the Department of Transportation. These funds shall be  
26 allocated equally in each fiscal year of the biennium among the 14 Highway  
27 Divisions for small construction projects.
- 28 (2) Twelve million dollars (\$12,000,000) in fiscal year 2009-2010 and twelve  
29 million dollars (\$12,000,000) in fiscal year 2010-2011 shall be used  
30 statewide for rural or small urban highway improvements and related  
31 transportation enhancements to public roads and public facilities, industrial  
32 access roads, and spot safety projects, including pedestrian walkways that  
33 enhance highway safety. Projects funded pursuant to this subdivision shall  
34 be approved by the Secretary of Transportation.

35 None of these funds used for rural secondary road construction are subject to the  
36 county allocation formulas in G.S. 136-44.5(b) and (c).

37 These funds are not subject to G.S. 136-44.7.

38 The Department of Transportation shall report to the members of the General  
39 Assembly on projects funded pursuant to this section in each member's district prior to  
40 construction. The Department shall make a quarterly comprehensive report on the use of these  
41 funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research  
42 Division.

### 43 44 **USE SECONDARY ROAD IMPROVEMENT FUNDS FOR HIGHWAY 45 MAINTENANCE IN FISCAL YEAR 2009-2010 AND USE FIFTY PERCENT OF 46 THE SECONDARY ROAD IMPROVEMENT FUNDS FOR HIGHWAY 47 MAINTENANCE IN FISCAL YEAR 2010-2011**

48 **SECTION 25.4.(a)** Notwithstanding the provisions of G.S. 136-44.2A regarding  
49 the annual allocation of funds from the Highway Fund to the Department of Transportation for  
50 secondary road improvement programs, the funds required to be allocated for the secondary

1 road improvement programs, established pursuant to G.S. 136-44.7 and G.S. 136-44.8, for  
2 fiscal year 2009-2010, shall remain in the Highway Fund for highway maintenance.

3 **SECTION 25.4.(b)** Notwithstanding the provisions of G.S. 136-44.2A regarding  
4 the annual allocation of funds from the Highway Fund to the Department of Transportation for  
5 secondary road improvement programs, fifty percent (50%) of the funds required to be  
6 allocated for the secondary road improvement programs, established pursuant to G.S. 136-44.7  
7 and G.S. 136-44.8, for fiscal year 2010-2011, shall remain in the Highway Fund for highway  
8 maintenance.

9  
10 **FLEXIBLE USE OF FUNDS FOR RURAL PUBLIC TRANSPORTATION FOR**  
11 **FISCAL YEARS 2009-2010 AND 2010-2011**

12 **SECTION 25.7.** In order to ensure maximum receipts of funding and to facilitate  
13 the use of funds available to the Department under the American Recovery and Reinvestment  
14 Act of 2009, P.L. 111-5, the Department of Transportation, Public Transportation Division,  
15 shall have the flexibility to transfer funding from the consolidated capital program of its rural  
16 funding programs for vehicles, technology, and facilities to the operating programs, based on  
17 the Department's ability to leverage all additional federal funds to meet the capital needs of  
18 rural transportation systems. This section applies only to fiscal years 2009-2010 and  
19 2010-2011.

20  
21 **DEPARTMENT OF TRANSPORTATION MAY TAKE REQUIRED**  
22 **ADMINISTRATIVE REDUCTION FROM ADDITIONAL ADMINISTRATIVE**  
23 **BUDGETS**

24 **SECTION 25.8.** The Department of Transportation may take the twelve million  
25 dollar (\$12,000,000) reduction to the central administration budget, as required by S.L.  
26 2008-107, from the central administration, Highway Division administration, and Division of  
27 Motor Vehicles administration budgets.

28  
29 **STUDY THE FEASIBILITY OF ASSESSING A FEE FOR PROVIDING TRAFFIC**  
30 **CONTROL BY THE STATE HIGHWAY PATROL OR THE DEPARTMENT OF**  
31 **TRANSPORTATION AT SPECIAL EVENTS**

32 **SECTION 25.9.(a)** The Joint Legislative Transportation Oversight Committee  
33 shall study the feasibility of assessing a fee for services provided by the State Highway Patrol  
34 or the Department of Transportation for certain special events. In conducting this study, the  
35 Committee shall determine the costs associated with providing traffic control devices and  
36 personnel to provide traffic control and direction at special functions and events. The  
37 Committee shall also develop criteria to determine events, if any, for which a fee will be  
38 assessed and criteria to determine the amount of the fee, if any, that should be assessed.

39 **SECTION 25.9.(b)** The Joint Legislative Transportation Oversight Committee  
40 shall make a report to the 2010 Regular Session of the 2009 General Assembly not later than  
41 April 1, 2010 detailing the information required by this Section and shall provide any  
42 recommended changes in current legislation or proposed new legislation if required.

43  
44 **PART XXVI. SALARIES AND BENEFITS**

45  
46 **GOVERNOR AND COUNCIL OF STATE/NO SALARY INCREASES**

47 **SECTION 26.1.(a)** For the 2009-2010 and 2010-2011 fiscal years, the salary of the  
48 Governor shall remain the amount set by G.S. 147-11(a).

49 **SECTION 26.1.(b)** The annual salaries for the members of the Council of State,  
50 payable monthly, for the 2009-2010 and 2010-2011 fiscal years are:  
51

1	Council of State	Annual Salary
2	Lieutenant Governor	\$123,198
3	Attorney General	123,198
4	Secretary of State	123,198
5	State Treasurer	123,198
6	State Auditor	123,198
7	Superintendent of Public Instruction	123,198
8	Agriculture Commissioner	123,198
9	Insurance Commissioner	123,198
10	Labor Commissioner	123,198

11  
12 **NONELECTED DEPARTMENT HEAD/NO SALARY INCREASES**

13 **SECTION 26.2.** In accordance with G.S. 143B-9, the maximum annual salaries,  
14 payable monthly, for the nonelected heads of the principal State departments for the 2009-2010  
15 and 2010-2011 fiscal years are:

16		
17	Nonelected Department Heads	Annual Salary
18	Secretary of Administration	\$120,363
19	Secretary of Correction	120,363
20	Secretary of Crime Control and Public Safety	120,363
21	Secretary of Cultural Resources	120,363
22	Secretary of Commerce	120,363
23	Secretary of Environment and Natural Resources	120,363
24	Secretary of Health and Human Services	120,363
25	Secretary of Juvenile Justice and	
26	Delinquency Prevention	120,363
27	Secretary of Revenue	120,363
28	Secretary of Transportation	120,363

29  
30 **CERTAIN EXECUTIVE BRANCH OFFICIALS/NO SALARY INCREASES/ABC**  
31 **CHAIRMAN TO RECEIVE SAME COMPENSATION AS ASSOCIATE MEMBERS**

32 **SECTION 26.3.(a)** The annual salaries, payable monthly, for the 2009-2010 and  
33 2010-2011 fiscal years for the following executive branch officials are:

34		
35	Executive Branch Officials	Annual Salary
36	State Controller	153,319
37	Commissioner of Motor Vehicles	109,553
38	Commissioner of Banks	123,198
39	State Personnel Director	120,363
40	Chairman, Parole Commission	100,035
41	Members of the Parole Commission	46,178
42	Chairman, Utilities Commission	137,203
43	Members of the Utilities Commission	123,198
44	Executive Director, Agency for	
45	Public Telecommunications	92,356
46	Director, Museum of Art	112,256
47	Executive Director, North Carolina	
48	Agricultural Finance Authority	106,635
49	State Chief Information Officer	153,227

50 **SECTION 26.3.(b)** G.S. 18B-200(a) reads as rewritten:



"(a) Creation of Commission; compensation. – The North Carolina Alcoholic Beverage Control Commission is created to consist of a chairman and two associate members. The chairman ~~shall devote his full time to his official duties and receive a salary fixed by the General Assembly in the Current Operations Appropriations Act. The~~ and the associate members shall be compensated for per diem, subsistence and travel as provided in Chapter 138 of the General Statutes."

## JUDICIAL BRANCH OFFICIALS/NO SALARY INCREASES

**SECTION 26.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the 2009-2010 and 2010-2011 fiscal years are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	\$140,932
Associate Justice, Supreme Court	137,249
Chief Judge, Court of Appeals	135,061
Judge, Court of Appeals	131,531
Judge, Senior Regular Resident Superior Court	127,957
Judge, Superior Court	124,382
Chief Judge, District Court	112,946
Judge, District Court	109,372
District Attorney	119,305
Administrative Officer of the Courts	126,738
Assistant Administrative Officer of the Courts	115,763
Public Defender	119,305
Director of Indigent Defense Services	123,022

**SECTION 26.4.(b)** The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed seventy thousand nine hundred forty-six dollars (\$70,946), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars (\$37,182). The annual salaries in effect on June 30, 2009, shall remain at the same amount for the 2009-2010 and 2010-2011 fiscal years.

**SECTION 26.4.(c)** The annual salaries in effect on June 30, 2009, for permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

**SECTION 26.4.(d)** The annual salaries in effect on June 30, 2009, for permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act, shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

## CLERK OF SUPERIOR COURT/NO SALARY INCREASES

**SECTION 26.5.** The annual salaries of the clerks of superior court provided by G.S. 7A-101(a) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

## ASSISTANT AND DEPUTY CLERKS OF COURT/NO SALARY INCREASES

**SECTION 26.6.** The annual salaries of the assistant and deputy clerks of superior court provided by G.S. 7A-102(c1) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years, and there shall not be a step increase.

**MAGISTRATES/ NO SALARY INCREASES**

**SECTION 26.7.** The annual salaries of magistrates provided by G.S. 7A-171.1(a) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years, and there shall not be a step increase.

**GENERAL ASSEMBLY MEMBERS/NO SALARY INCREASES**

**SECTION 26.7A.** For the 2009-2010 and 2010-2011 fiscal years, the salaries of the members and officers of the General Assembly shall remain the amount set by G.S. 120-3.

**GENERAL ASSEMBLY PRINCIPAL CLERKS/NO SALARY INCREASES**

**SECTION 26.8.** The annual salaries of the General Assembly principal clerks provided by G.S. 120-37(c) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

**SERGEANT-AT-ARMS AND READING CLERKS/NO SALARY INCREASES**

**SECTION 26.9.** The annual salaries of the General Assembly sergeants-at-arms and reading clerks provided by G.S. 120-37(b) shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

**LEGISLATIVE EMPLOYEES/NO SALARY INCREASES**

**SECTION 26.10.** The Legislative Services Officer shall not increase the salaries of nonelected employees of the General Assembly in effect on June 30, 2009. Except as specifically provided in this section, nothing in this act limits any of the provisions of G.S. 120-32.

**COMMUNITY COLLEGES PERSONNEL/NO SALARY INCREASES**

**SECTION 26.11.(a)** The annual salaries in effect on June 30, 2009, for faculty, except as otherwise provided by Section 8.1 of this act, and for all permanent, full-time community college institutional personnel supported by State funds, shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

**SECTION 26.11.(b)** The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.
- (3) Bachelor's Degree.
- (4) Master's Degree or Education Specialist.
- (5) Doctoral Degree.

**SECTION 26.11.(c)** For the 2009-2010 and 2010-2011 school years, the minimum salaries for nine-month, full-time curriculum community college faculty shall not be increased and shall remain as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	\$34,819
Bachelor's Degree	\$37,009
Master's Degree or Education Specialist	\$38,952
Doctoral Degree	\$41,753

1 No full-time faculty member shall earn less than the minimum salary for his or her education  
2 level. The pro rata hourly rate of the minimum salary for each education level shall be used to  
3 determine the minimum salary for part-time faculty members.  
4

#### 5 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA NO SALARY INCREASES**

6 **SECTION 26.12.** The annual salaries in effect on June 30, 2009, for all employees  
7 of The University of North Carolina supported by State funds, and for employees of the North  
8 Carolina School of Science and Mathematics shall remain in effect for the 2009-2010 and  
9 2010-2011 fiscal years except for faculty as otherwise provided by the Distinguished Professors  
10 Endowment Fund.  
11

#### 12 **MOST STATE EMPLOYEES/NO SALARY INCREASES**

13 **SECTION 26.13.(a)** The salaries in effect June 30, 2009, of all permanent,  
14 full-time State employees whose salaries are set in accordance with the State Personnel Act,  
15 and who are paid from the General Fund or the Highway Fund, shall remain in effect for the  
16 2009-2010 and 2010-2011 fiscal years.

17 **SECTION 26.13.(b)** Except as otherwise provided in this act, the salaries in effect  
18 on June 30, 2009, for permanent, full-time State officials and persons in exempt positions that  
19 are recommended by the Governor and set by the General Assembly shall remain in effect for  
20 the 2009-2010 and 2010-2011 fiscal years.

21 **SECTION 26.13.(c)** The salaries in effect on June 30, 2009, for all permanent,  
22 part-time State employees shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

23 **SECTION 26.13.(d)** The Director of the Budget may allocate out of special  
24 operating funds or from other sources of the employing agency, except tax revenues, sufficient  
25 funds to maintain salaries in accordance with subsection (a), (b), or (c) of this section, including  
26 funds for the employer's retirement and social security contributions, for the permanent,  
27 full-time and part-time employees of the agency, provided the employing agency elects to make  
28 available the necessary funds.

29 **SECTION 26.13.(e)** Salary adjustments due to in-range adjustments for job  
30 change, career progression adjustments for demonstrated competencies, reallocations, or  
31 promotions shall not be affected by the freeze on salaries authorized in this act. Salary  
32 adjustments related to the following shall not be granted: range revisions, in-range adjustments  
33 for equity, in-range adjustments for labor market, retention adjustments, grade to band  
34 transfers, and career progression adjustments for labor market.  
35

#### 36 **ALL STATE-SUPPORTED PERSONNEL/NO SALARY INCREASES**

37 **SECTION 26.14.(a)** Salaries and related benefits for positions that are funded  
38 partially from the General Fund or Highway Fund and partially from sources other than the  
39 General Fund or Highway Fund, in effect June 30, 2009, shall remain in effect for the  
40 2009-2010 and 2010-2011 fiscal years.

41 **SECTION 26.14.(b)** The salary increase provisions of G.S. 20-187.3 are  
42 suspended for the 2009-2010 and 2010-2011 fiscal years.

43 **SECTION 26.14.(c)** The Director of the Budget shall transfer from the Reserve for  
44 Compensation Increases in this act for fiscal years 2009-2010 and 2010-2011 all funds  
45 necessary for the salaries authorized by this act, including funds for the employer's retirement  
46 and social security contributions.

47 **SECTION 26.14.(d)** Nothing in this act authorizes the transfer of funds between  
48 the General Fund and the Highway Fund for salary increases.  
49

#### 50 **LIMIT CERTAIN STATE EMPLOYEE BONUSES AND TRANSITION SALARY** 51 **PACKAGES**

1           **SECTION 26.14A.(a)** G.S. 53-96.1 reads as rewritten:

2   "**§ 53-96.1. Salaries, promotions, and leave of employees of the Office of the**  
3   **Commissioner of Banks.**

4       (a) Repealed by Session Laws 2007-484, s. 9(a), effective August 30, 2007.

5       (b) The exemptions to Chapter 126 of the General Statutes authorized by  
6 G.S. 126-5(c11) for the Office of the Commissioner of Banks and its employees shall be used  
7 to develop organizational classification and compensation innovations that will result in the  
8 enhanced efficiency of ~~operations.~~ operations, except that the Commissioner of Banks may not  
9 award compensation bonuses to employees.

10       (c) The Office of State Personnel shall assist the Commissioner of Banks in the  
11 development and implementation of an organizational structure and human resources programs  
12 that make the most appropriate use of the exemptions, including (i) a system of job categories  
13 or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for agency  
14 personnel and the voluntary sharing of such time off; and (iii) a system of uniform performance  
15 assessments for agency personnel tailored to the agency's needs. The Commissioner of Banks  
16 may, under the supervision of the Office of State Personnel, develop and implement  
17 organizational classification and compensation innovations having the potential to benefit all  
18 State agencies."

19           **SECTION 26.14A.(b)** G.S. 126-8.5 reads as rewritten:

20   "**§ 126-8.5. Discontinued service retirement allowance and severance wages for certain**  
21   **State employees.**employees; limitation to amount of transition salary packages  
22   or golden parachutes for State employees.

23       (a) When the Director of the Budget determines that the closing of a State institution or  
24 a reduction in force will accomplish economies in the State Budget, he shall pay either a  
25 discontinued service retirement allowance or severance wages to any affected State employee,  
26 provided reemployment is not available. As used in this section, "economies in the State  
27 Budget" means economies resulting from elimination of a job and its responsibilities or from a  
28 lack of funds to support the job. In determining whether to pay a discontinued service  
29 retirement allowance or severance wages, the Director of the Budget shall consider the  
30 recommendation of the department head involved and any recommendation of the State  
31 Personnel Director. Severance wages shall not be paid to an employee who chooses a  
32 discontinued service retirement. Severance wages shall not be subject to employer or employee  
33 retirement contributions. Severance wages shall be paid according to the policies adopted by  
34 the State Personnel Commission.

35       Notwithstanding any other provisions of the State's retirement laws, any employee of the  
36 State who is a member of the Teachers' and State Employees' Retirement System or the  
37 Law-Enforcement Officers' Retirement System and who has his job involuntarily terminated as  
38 a result of economies in the State Budget may be entitled to a discontinued service retirement  
39 allowance, subject to the approval of the employing agency and the availability of agency  
40 funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be  
41 approved for employees with 20 or more years of creditable retirement service who are at least  
42 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be  
43 approved for employees with 20 or more years of creditable retirement service who are at least  
44 50 years of age, reduced by one-fourth of one percent (¼ of 1%) for each month that retirement  
45 precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is  
46 approved, the employing agency shall make a lump sum payment to the Administrator of the  
47 State Retirement Systems equal to the actuarial present value of the additional liabilities  
48 imposed upon the System, to be determined by the System's consulting actuary, as a result of  
49 the discontinued service retirement, plus an administrative fee to be determined by the  
50 Administrator.

1 The salary used to determine severance wages under this section is the last annual salary  
2 except that if the employee was promoted within the previous 12 months, the last annual salary  
3 is that annual salary prior to the promotion. If the annual salary prior to the promotion is used,  
4 it shall be adjusted to account for any across-the-board legislative salary increases. Excluded  
5 from any calculation are any benefits such as, but not limited to, overtime pay, shift pay,  
6 holiday premium, or longevity pay.

7 (b) Any employee separated from State government and paid severance wages under  
8 this section shall not be employed under a contractual arrangement by any State agency, other  
9 than the constituent institutions of The University of North Carolina and the constituent  
10 institutions of the North Carolina Community College System, until 12 months have elapsed  
11 since the separation. This subsection does not affect any reduction in force rights that the  
12 employee may have.

13 (c) The amount of any transition salary package payable to certain State employees  
14 employed by State agencies, departments, institutions and The University of North Carolina  
15 shall be limited by the provisions of this subsection as follows:

16 (1) Notwithstanding any other provision of law, no State employee who leaves  
17 the position that the employee most recently held shall continue to be paid  
18 the salary for that position when the employee is no longer carrying out the  
19 responsibilities for that position. This includes periods of transition.

20 (2) Notwithstanding subdivision (1) of this subsection, a State employee who  
21 leaves the position that the employee most recently held may continue to be  
22 paid the salary for a position that he or she no longer holds in the following  
23 circumstances only:

24 a. The payment is included as a term of the contract that was entered  
25 into at the time the person was hired for, or promoted to, the position  
26 most recently held; and

27 b. The contract is signed by the appropriate finance officer or a properly  
28 designated deputy finance officer for the agency hiring the person,  
29 approved by the agency head, and approved by the Office of State  
30 Budget and Management. If the State agency is The University of  
31 North Carolina or a constituent institution of The University of North  
32 Carolina, then the contract must be signed by the appropriate finance  
33 officer or a properly designated deputy finance officer for The  
34 University of North Carolina or the constituent institution, approved  
35 by the appropriate chancellor, and approved by the UNC Board of  
36 Governors or by the Board of Trustees of the constituent institution  
37 as appropriate.

38 (3) This subsection does not affect or impair a State employee's rights to  
39 severance wages or a discontinued service retirement allowance as provided  
40 in subsections (a) and (b) of this section, or terminal leave payments for  
41 vacation leave, bonus leave, and longevity, if applicable.

42 (4) The following definitions apply in this subsection:

43 a. State employee who leaves the position that the employee most  
44 recently held. – Includes those circumstances in which a person  
45 retires, resigns, or voluntarily or involuntarily terminates  
46 employment. The phrase also includes those circumstances in which  
47 a person continues to work for the State but accepts a lesser position  
48 with the State.

49 b. Transition. – When a State employee moves from the position that  
50 the employee most recently held to a lesser position of employment.  
51 The term includes a 'golden parachute' or a sabbatical."



1	3	\$3,129	\$3,504
2	4	\$3,264	\$3,656
3	5	\$3,404	\$3,812
4	6	\$3,538	\$3,963
5	7	\$3,667	\$4,107
6	8	\$3,771	\$4,224
7	9	\$3,819	\$4,277
8	10	\$3,868	\$4,332
9	11	\$3,918	\$4,388
10	12	\$3,967	\$4,443
11	13	\$4,018	\$4,500
12	14	\$4,069	\$4,557
13	15	\$4,122	\$4,617
14	16	\$4,176	\$4,677
15	17	\$4,231	\$4,739
16	18	\$4,286	\$4,800
17	19	\$4,345	\$4,866
18	20	\$4,403	\$4,931
19	21	\$4,461	\$4,996
20	22	\$4,523	\$5,066
21	23	\$4,584	\$5,134
22	24	\$4,650	\$5,208
23	25	\$4,714	\$5,280
24	26	\$4,779	\$5,352
25	27	\$4,845	\$5,426
26	28	\$4,913	\$5,503
27	29	\$4,984	\$5,582
28	30	\$5,055	\$5,662
29	31	\$5,153	\$5,771
30	32+	\$5,255	\$5,886

2009-2010 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
34		
35	0	N/A
36	1	N/A
37	2	N/A
38	3	\$3,855
39	4	\$4,021
40	5	\$4,193
41	6	\$4,359
42	7	\$4,518
43	8	\$4,646
44	9	\$4,705
45	10	\$4,766
46	11	\$4,827
47	12	\$4,888
48	13	\$4,950
49	14	\$5,013
50	15	\$5,078
51	16	\$5,145

1	17	\$4,654	\$5,212
2	18	\$4,715	\$5,281
3	19	\$4,780	\$5,354
4	20	\$4,843	\$5,424
5	21	\$4,907	\$5,496
6	22	\$4,975	\$5,572
7	23	\$5,042	\$5,647
8	24	\$5,115	\$5,729
9	25	\$5,185	\$5,807
10	26	\$5,257	\$5,888
11	27	\$5,330	\$5,970
12	28	\$5,404	\$6,052
13	29	\$5,482	\$6,140
14	30	\$5,561	\$6,228
15	31	\$5,668	\$6,348
16	32+	\$5,781	\$6,475

17  
18       **SECTION 26.15.(b)** Annual longevity payments for teachers shall be at the rate of  
19 one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and  
20 twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three  
21 and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service,  
22 and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The  
23 longevity payment shall be paid in a lump sum once a year.

24       **SECTION 26.15.(c)** Certified public schoolteachers with certification based on  
25 academic preparation at the six-year degree level shall receive a salary supplement of one  
26 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for  
27 certified personnel of the public schools who are classified as "M" teachers. Certified public  
28 schoolteachers with certification based on academic preparation at the doctoral degree level  
29 shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in  
30 addition to the compensation provided for certified personnel of the public schools who are  
31 classified as "M" teachers.

32       **SECTION 26.15.(d)** The first step of the salary schedule for school psychologists  
33 shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule  
34 established in this section for certified personnel of the public schools who are classified as  
35 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate  
36 step based on their years of experience. Certified psychologists shall receive longevity  
37 payments based on years of State service in the same manner as teachers.

38       Certified psychologists with certification based on academic preparation at the  
39 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars  
40 (\$126.00) per month in addition to the compensation provided for certified psychologists.  
41 Certified psychologists with certification based on academic preparation at the doctoral degree  
42 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month  
43 in addition to the compensation provided for certified psychologists.

44       **SECTION 26.15.(e)** Speech pathologists who are certified as speech pathologists  
45 at the master's degree level and audiologists who are certified as audiologists at the master's  
46 degree level and who are employed in the public schools as speech and language specialists and  
47 audiologists shall be paid on the school psychologist salary schedule.

48       Speech pathologists and audiologists with certification based on academic  
49 preparation at the six-year degree level shall receive a salary supplement of one hundred  
50 twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech  
51 pathologists and audiologists. Speech pathologists and audiologists with certification based on



1 academic preparation at the doctoral degree level shall receive a salary supplement of two  
 2 hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for  
 3 speech pathologists and audiologists.

4 **SECTION 26.15.(f)** Certified school nurses who are employed in the public  
 5 schools as nurses shall be paid on the "M" salary schedule.

6 **SECTION 26.15.(g)** As used in this section, the term "teacher" shall also include  
 7 instructional support personnel.

8  
 9 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

10 **SECTION 26.16.(a)** The base salary schedule for school-based administrators shall  
 11 apply only to principals and assistant principals. The base salary schedule for the 2009-2010  
 12 fiscal year, commencing July 1, 2009, is as follows:

13  
 14 2009-2010 Principal and Assistant Principal Salary Schedules  
 15 Classification

16	Years of Exp	Assistant	Prin I	Prin II	Prin III	Prin IV
17		Principal	(0-10)	(11-21)	(22-32)	(33-43)
18	0-5	\$3,781	-	-	-	-
19	6	\$3,931	-	-	-	-
20	7	\$4,074	-	-	-	-
21	8	\$4,189	-	-	-	-
22	9	\$4,243	\$4,243	-	-	-
23	10	\$4,298	\$4,298	-	-	-
24	11	\$4,353	\$4,353	\$4,408	-	-
25	12	\$4,408	\$4,408	\$4,464	-	-
26	13	\$4,464	\$4,464	\$4,521	\$4,579	-
27	14	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
28	15	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
29	16	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
30	17	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
31	18	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
32	19	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
33	20	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
34	21	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
35	22	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
36	23	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
37	24	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
38	25	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
39	26	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
40	27	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
41	28	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
42	29	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
43	30	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
44	31	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
45	32	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
46	33	-	\$5,956	\$6,075	\$6,197	\$6,321
47	34	-	-	\$6,197	\$6,321	\$6,447
48	35	-	-	\$6,321	\$6,447	\$6,576
49	36	-	-	-	\$6,576	\$6,708
50	37	-	-	-	\$6,708	\$6,842
51	38	-	-	-	-	\$6,979

2009-2010 Principal and Assistant Principal Salary Schedules  
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-15	\$4,828	-	-	-
16	\$4,891	-	-	-
17	\$4,956	\$5,025	-	-
18	\$5,025	\$5,092	\$5,237	-
19	\$5,092	\$5,166	\$5,310	\$5,383
20	\$5,166	\$5,237	\$5,383	\$5,458
21	\$5,237	\$5,310	\$5,458	\$5,537
22	\$5,310	\$5,383	\$5,537	\$5,617
23	\$5,383	\$5,458	\$5,617	\$5,725
24	\$5,458	\$5,537	\$5,725	\$5,839
25	\$5,537	\$5,617	\$5,839	\$5,956
26	\$5,617	\$5,725	\$5,956	\$6,075
27	\$5,725	\$5,839	\$6,075	\$6,197
28	\$5,839	\$5,956	\$6,197	\$6,321
29	\$5,956	\$6,075	\$6,321	\$6,447
30	\$6,075	\$6,197	\$6,447	\$6,576
31	\$6,197	\$6,321	\$6,576	\$6,708
32	\$6,321	\$6,447	\$6,708	\$6,842
33	\$6,447	\$6,576	\$6,842	\$6,979
34	\$6,576	\$6,708	\$6,979	\$7,119
35	\$6,708	\$6,842	\$7,119	\$7,261
36	\$6,842	\$6,979	\$7,261	\$7,406
37	\$6,979	\$7,119	\$7,406	\$7,554
38	\$7,119	\$7,261	\$7,554	\$7,705
39	\$7,261	\$7,406	\$7,705	\$7,859
40	-	\$7,554	\$7,859	\$8,016
41	-	\$7,705	\$8,016	\$8,176
42	-	-	\$8,176	\$8,340

**SECTION 26.16.(b)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

1 The number of teachers supervised includes teachers and assistant principals paid  
2 from State funds only; it does not include teachers or assistant principals paid from non-State  
3 funds or the 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  
6 schools who supervise 33 or more teachers shall be classified according to the number of  
7 teachers supervised.

8 **SECTION 26.16.(c)** A principal shall be placed on the step on the salary schedule  
9 that reflects total number of years of experience as a certificated employee of the public schools  
10 and an additional step for every three years of experience as a principal. A principal or assistant  
11 principal shall also continue to receive any additional State-funded percentage increases earned  
12 for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student  
13 performance or maintaining a safe and orderly school.

14 **SECTION 26.16.(d)** Principals and assistant principals with certification based on  
15 academic preparation at the six-year degree level shall be paid a salary supplement of one  
16 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a  
17 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

18 **SECTION 26.16.(e)** Longevity pay for principals and assistant principals shall be  
19 as provided for State employees under the State Personnel Act.

20 **SECTION 26.16.(f)** If a principal is reassigned to a higher job classification  
21 because the principal is transferred to a school within a local school administrative unit with a  
22 larger number of State-allotted teachers, the principal shall be placed on the salary schedule as  
23 if the principal had served the principal's entire career as a principal at the higher job  
24 classification.

25 If a principal is reassigned to a lower job classification because the principal is  
26 transferred to a school within a local school administrative unit with a smaller number of  
27 State-allotted teachers, the principal shall be placed on the salary schedule as if the principal  
28 had served the principal's entire career as a principal at the lower job classification.

29 This subsection applies to all transfers on or after the effective date of this section,  
30 except transfers in school systems that have been created, or will be created, by merging two or  
31 more school systems. Transfers in these merged systems are exempt from the provisions of this  
32 subsection for one calendar year following the date of the merger.

33 **SECTION 26.16.(g)** Participants in an approved full-time master's in school  
34 administration program shall receive up to a 10-month stipend at the beginning salary of an  
35 assistant principal during the internship period of the master's program. For the 2006-2007  
36 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the  
37 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any  
38 fellowship funds received by the intern as a full-time student, including awards of the Principal  
39 Fellows Program. The Principal Fellows Program or the school of education where the intern  
40 participates in a full-time master's in school administration program shall supply the  
41 Department of Public Instruction with certification of eligible full-time interns.

42 **SECTION 26.16.(h)** During the 2009-2010 fiscal year, the placement on the salary  
43 schedule of an administrator with a one-year provisional assistant principal's certificate shall be  
44 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary  
45 schedule, whichever is higher.

#### 46 **CENTRAL OFFICE SALARIES**

47 **SECTION 26.17.(a)** The monthly salary ranges that follow apply to assistant  
48 superintendents, associate superintendents, directors/coordinators, supervisors, and finance  
49 officers for the 2009-2010 fiscal year, beginning July 1, 2009.

50 School Administrator I \$3,309 \$6,207  
51

1	School Administrator II	\$3,508	\$6,583
2	School Administrator III	\$3,724	\$6,984
3	School Administrator IV	\$3,874	\$7,262
4	School Administrator V	\$4,030	\$7,556
5	School Administrator VI	\$4,275	\$8,013
6	School Administrator VII	\$4,447	\$8,336

7 The local board of education shall determine the appropriate category and  
8 placement for each assistant superintendent, associate superintendent, director/coordinator,  
9 supervisor, or finance officer within the salary ranges and within funds appropriated by the  
10 General Assembly for central office administrators and superintendents. The category in which  
11 an employee is placed shall be included in the contract of any employee.

12 **SECTION 26.17.(b)** The monthly salary ranges that follow apply to public school  
13 superintendents for the 2009-2010 fiscal year, beginning July 1, 2009.

14	Superintendent I	\$4,720	\$8,843
15	Superintendent II	\$5,011	\$9,377
16	Superintendent III	\$5,316	\$9,948
17	Superintendent IV	\$5,642	\$10,552
18	Superintendent V	\$5,988	\$11,196

19 The local board of education shall determine the appropriate category and  
20 placement for the superintendent based on the average daily membership of the local school  
21 administrative unit and within funds appropriated by the General Assembly for central office  
22 administrators and superintendents.

23 **SECTION 26.17.(c)** Longevity pay for superintendents, assistant superintendents,  
24 associate superintendents, directors/coordinators, supervisors, and finance officers shall be as  
25 provided for State employees under the State Personnel Act.

26 **SECTION 26.17.(d)** Superintendents, assistant superintendents, associate  
27 superintendents, directors/coordinators, supervisors, and finance officers with certification  
28 based on academic preparation at the six-year degree level shall receive a salary supplement of  
29 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided  
30 pursuant to this section. Superintendents, assistant superintendents, associate superintendents,  
31 directors/coordinators, supervisors, and finance officers with certification based on academic  
32 preparation at the doctoral degree level shall receive a salary supplement of two hundred  
33 fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this  
34 section.

35 **SECTION 26.17.(e)** The State Board of Education shall not permit local school  
36 administrative units to transfer State funds from other funding categories for salaries for public  
37 school central office administrators.

38 **SECTION 26.17.(f)** The salaries in effect June 30, 2009, for all permanent  
39 full-time personnel paid from the Central Office Allotment, shall remain in effect for the  
40 2009-2010 and 2010-2011 fiscal years.

#### 41 **NONCERTIFIED SCHOOL PERSONNEL SALARIES**

42 **SECTION 26.18.(a)** The salaries in effect June 30, 2009, of permanent, full-time  
43 noncertified public school employees whose salaries are supported from the State's General  
44 Fund shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

45 **SECTION 26.18.(b)** The salaries in effect on June 30, 2009, for all permanent  
46 part-time noncertified public school employees whose salaries are supported from the State's  
47 General Fund shall remain in effect for the 2009-2010 and 2010-2011 fiscal years.

48 **SECTION 26.18.(c)** The Director of the Budget may allocate out of special  
49 operating funds or from other sources of the employing agency, except tax revenues, sufficient  
50 funds to maintain salaries in accordance with subsection (a) or (b) of this section including  
51

1 funds for the employer's retirement and social security contributions for the permanent full-time  
2 and part-time employees of the agency, provided the employing agency elects to make  
3 available the necessary funds.  
4

#### 5 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

6 **SECTION 26.20.(a)** Section 6(b) of S.L. 2009-16 reads as rewritten:

7 "**SECTION 6.(b)** Effective July 1, 2009, the State's employer contribution rates budgeted  
8 for retirement and related benefits as percentage of covered salaries for the 2009-2010 fiscal  
9 year are: (i) ~~eight and fifty-four hundredths percent (8.54%)~~ eight and seventy-five hundredths  
10 percent (8.75%) – Teachers and State Employees; (ii) ~~thirteen and fifty-four hundredths percent~~  
11 ~~(13.54%)~~ thirteen and seventy-five hundredths percent (13.75%) – State Law Enforcement  
12 Officers; (iii) eleven and eighty-six hundredths percent (11.86%) – University Employees'  
13 Optional Retirement System; (iv) eleven and eighty-six hundredths percent (11.86%) –  
14 Community College Optional Retirement Program; (v) ~~seventeen and seventy-one hundredths~~  
15 ~~percent (17.71%)~~ nineteen and sixty-one hundredths percent (19.61%) – Consolidated Judicial  
16 Retirement System; and (vi) four and fifty hundredths percent (4.50%) – Legislative  
17 Retirement System. Each of the foregoing contribution rates includes four and fifty hundredths  
18 percent (4.50%) for hospital and medical benefits. The rate for Teachers and State Employees,  
19 State Law Enforcement Officers, Community College Optional Retirement Program, and for  
20 the University Employees' Optional Retirement Program includes fifty-two hundredths percent  
21 (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State  
22 Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits  
23 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental  
24 Retirement Income."

25 **SECTION 26.20.(b)** Section 6(c) of S.L. 2009-16 reads as rewritten:

26 "**SECTION 6.(c)** Effective July 1, 2010, the State's employer contribution rates budgeted  
27 for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal  
28 year are: (i) ~~eight and ninety-four hundredths percent (8.94%)~~ twelve and twelve hundredths  
29 percent (12.12%) – Teachers and State Employees; (ii) ~~thirteen and ninety-four hundredths~~  
30 ~~percent (13.94%)~~ seventeen and twelve hundredths percent (17.12%) – State Law Enforcement  
31 Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees'  
32 Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) –  
33 Community College Optional Retirement Program; (v) ~~eighteen and eleven hundredths percent~~  
34 ~~(18.11%)~~ twenty and one hundredths percent (20.01%) – Consolidated Judicial Retirement  
35 System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System.  
36 Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%)  
37 for hospital and medical benefits. The rate for Teachers and State Employees, State Law  
38 Enforcement Officers, Community College Optional Retirement Program, and for the  
39 University Employees' Optional Retirement Program includes fifty-two hundredths percent  
40 (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State  
41 Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits  
42 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental  
43 Retirement Income."  
44

#### 45 **NATIONAL GUARD PENSION FUND**

46 **SECTION 26.21.** G.S. 127A-40(f) reads as rewritten:

47 "(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of  
48 guard members for the benefits herein provided and shall certify those eligible to the State  
49 Treasurer. In addition, the Department of Crime Control and Public Safety shall, on and after  
50 July 1, 1983, provide the Department of State Treasurer with an annual census population, by  
51 age and the number of years of creditable service, for all former members of the National

1 Guard in receipt of a pension as well as for all active members of the National Guard who are  
 2 not in receipt of a pension and who have seven and more years of creditable service. The  
 3 Department of Crime Control and Public Safety shall also provide the State Treasurer a census  
 4 population of all former members of the National Guard who are not in receipt of a pension and  
 5 who have 15 and more years of creditable service. The Department of State Treasurer shall  
 6 make pension payments to those persons certified from the North Carolina National Guard  
 7 Pension Fund, which shall include general fund appropriations made to ~~and transferred from~~  
 8 ~~the Department of Crime Control and Public Safety.~~ the Department of State Treasurer. The  
 9 Department of State Treasurer shall have performed an annual actuarial valuation of the fund  
 10 and shall have the financial responsibility for maintaining the fund on a generally accepted  
 11 actuarial basis. The Department of Crime Control and Public Safety shall provide the  
 12 Department of State Treasurer with whatever assistance is required by the State Treasurer in  
 13 carrying out his financial responsibilities."  
 14

15 **EXTEND PHASED RETIREMENT PROGRAM EXEMPTION**

16 **SECTION 26.22.** Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21  
 17 of S.L. 2006-66, reads as rewritten:

18 "SECTION 29.28.(f) Subsections (a) and (b) of this section become effective August 1,  
 19 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to  
 20 participants in The University of North Carolina Phased Retirement Program until the earlier of  
 21 ~~June 30, 2010,~~ August 31, 2013, or 12 months after the issuance of final phased retirement  
 22 regulations by the Internal Revenue Service. The remainder of this section becomes effective  
 23 June 30, 2005."  
 24

25 **PART XXVII. CAPITAL APPROPRIATIONS.**

26 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

27 **SECTION 27.1.** The appropriations made by the 2009 General Assembly for  
 28 capital improvements are for constructing, repairing, or renovating State buildings, utilities, and  
 29 other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings  
 30 and land for State government purposes.  
 31

32 **CAPITAL APPROPRIATIONS/GENERAL FUND**

33 **SECTION 27.2.** There is appropriated from the General Fund for the 2009-2010  
 34 fiscal year the following amounts for capital improvements:  
 35

37 <b>Capital Improvements – General Fund</b>	38 <b>2009-2010</b>
39 Department of Environment and Natural Resources	
40 Water Resources Development Projects	\$ 7,150,000
41	
42 <b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$ 7,150,000</b>

43 **WATER RESOURCES DEVELOPMENT PROJECTS/REQUIRED TO DRAW DOWN**  
 44 **\$57,700,000 FEDERAL FUNDS**

45 **SECTION 27.3.(a)** The Department of Environment and Natural Resources shall  
 46 allocate the funds appropriated in this act for water resources development projects in  
 47 accordance with the schedule that follows. These funds will provide a State match for an  
 48 estimated fifty-seven million seven hundred thousand dollars (\$57,700,000) in federal funds.  
 49

50 **Name of Project** **2009-2010**

1			
2	(1)	Wilmington Harbor Deepening	\$ 1,300,000
3	(2)	Carolina Beach Renourishment	738,000
4	(3)	Carolina Beach South (Kure Beach) Renourishment	842,000
5	(4)	Wrightsville Beach Renourishment	2,059,000
6	(5)	Ocean Isle Beach Renourishment	1,211,000
7	(6)	Beaufort Harbor Maintenance	50,000
8	(7)	Princeville Flood Control	100,000
9	(8)	Currituck Sound Environmental Restoration	100,000
10	(9)	West Onslow Beach (Topsail Beach, Pender County)	75,000
11	(10)	Planning Assistance to Communities	75,000
12	(11)	Concord Stream Restoration (Cabarrus County) (Sec. 206)	350,000
13	(12)	Wilson Bay Restoration (Sec. 206), Onslow County	250,000
14			
15	<b>TOTALS</b>		<b>\$ 7,150,000</b>
16			

17           **SECTION 27.3.(b)** Where the actual costs are different from the estimated costs  
18 under subsection (a) of this section, the Department may adjust the allocations among projects  
19 as needed. If any projects funded under subsection (a) of this section are delayed and the  
20 budgeted State funds cannot be used during the 2009-2010 fiscal year, or if the projects funded  
21 under subsection (a) of this section are accomplished at a lower cost, the Department may use  
22 the resulting fund availability to fund any of the following:

- 23           (1) U.S. Army Corps of Engineers project feasibility studies.
- 24           (2) U.S. Army Corps of Engineers projects whose schedules have advanced and  
25           require State-matching funds in fiscal year 2009-2010.
- 26           (3) State-local water resources development projects.

27 Funds not expended or encumbered for these purposes shall revert to the General Fund at the  
28 end of the 2010-2011 fiscal year.

29           **SECTION 27.3.(c)** The Department shall make semiannual reports on the use of  
30 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal  
31 Research Division, and the Office of State Budget and Management. Each report shall include  
32 all of the following:

- 33           (1) All projects listed in this section.
- 34           (2) The estimated cost of each project.
- 35           (3) The date that work on each project began or is expected to begin.
- 36           (4) The date that work on each project was completed or is expected to be  
37           completed.
- 38           (5) The actual cost of each project.

39           The semiannual reports also shall show those projects advanced in schedule, those  
40 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the  
41 General Fund.

42           **SECTION 27.3.(d)** Of the American Recovery and Reinvestment Act of 2009  
43 funds appropriated to the Department of Environment and Natural Resources, an amount  
44 necessary to complete any operations and maintenance water resources development projects  
45 approved by the U.S. Army Corps of Engineers may be allocated by the Department for that  
46 purpose and such projects are hereby authorized.

#### 47 **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

48           **SECTION 27.4.(a)** The General Assembly authorizes the following capital  
49 projects to be funded with receipts or from other non-General Fund sources available to the  
50 appropriate department:  
51

Name of Project	Amount of Non-General Fund Funding Authorized for 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
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
Lewelyn Branch New Boating Access Area	150,000
Manns Harbor Bridge Marina Acquisition	5,750,000
Marion Depot Drainage Repairs	200,000
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
Pisgah Hatchery Water System Renovation	100,000
Rhodes Pond Dam Repairs	500,000
Sneads Ferry Land Acquisition	6,500,000
Sunset Harbor Land Acquisition	925,000
Swan Quarter Land Acquisition	1,700,000
Sykes Depot Pond, Office, Storage Construction	350,000
Table Rock Hatchery Office and Workshop Replacement	345,000
<b>TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED</b>	<b>\$116,036,542</b>



1           **SECTION 27.4.(b)** From funds deposited with the State Treasurer in a capital  
2 improvement account to the credit of the Department of Agriculture and Consumer Services  
3 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2009-2010 fiscal  
4 year shall be transferred to the Department of Agriculture and Consumer Services to be used,  
5 notwithstanding G.S. 146-30, by the Department for its plant conservation program under  
6 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of  
7 land, such as land appraisals, land surveys, title searches, environmental studies, and for the  
8 management of the plant conservation program preserves owned by the Department.

9  
10 **ARRA FUNDS FOR REPAIRS AND RENOVATIONS RESERVE**

11           **SECTION 27.5.(a)** The following American Recovery and Reinvestment Act of  
12 2009 (ARRA), P.L. 111-5 funds are transferred to the Reserve for Repairs and Renovations:

- 13           (1) Twelve million dollars (\$12,000,000) of the State Energy Program funds  
14           appropriated in this act.
- 15           (2) Eight million seven hundred seventy thousand one hundred twenty dollars  
16           (\$8,770,120) of the Energy Efficiency and Conservation Block Grant funds  
17           appropriated in this act.

18           **SECTION 27.5.(b)** Of the funds transferred in subsection (a) of this section,  
19 forty-six percent (46%) shall be allocated to the Board of Governors of The University of North  
20 Carolina and fifty-four percent (54%) shall be allocated to the Office of State Budget and  
21 Management.

22           Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the  
23 repair and renovation of facilities not supported from the General Fund if the Board determines  
24 that sufficient funds are not available from other sources and that conditions warrant General  
25 Fund assistance. Any such finding shall be included in the Board's submission to the Joint  
26 Legislative Commission on Governmental Operations on the proposed allocation of funds.

27           The Board of Governors and the Office of State Budget and Management shall  
28 consult with the Joint Legislative Commission on Governmental Operations prior to the  
29 allocation or reallocation of these funds.

30           **SECTION 27.5.(c)** Notwithstanding G.S. 143C-4-3(b), funds allocated in  
31 subsection (b) of this section shall be used for repairs and renovations to State and university  
32 facilities that will make those facilities more energy efficient. Eligible projects under this  
33 subsection include:

- 34           (1) Replacement of incandescent light bulbs with compact fluorescent light  
35           bulbs, installation of exit signs that employ light-emitting diode (LED)  
36           technology, the installation of occupancy sensors or optical sensors, and  
37           other lighting efficiency improvements.
- 38           (2) For windows that need replacement, installation of more energy-efficient  
39           windows.
- 40           (3) Insulation improvements when practicable.
- 41           (4) Renovation, replacement, and upgrading of heating, ventilation, and  
42           air-conditioning (HVAC) systems.
- 43           (5) Energy infrastructure renovation projects.
- 44           (6) Any other retrofit or replacement projects that make State or university  
45           facilities more energy efficient for which the incremental cost of the project  
46           will be equal to or less than the energy or water savings that result over a  
47           period of three years after completion.

48           **SECTION 27.5.(d)** Funds allocated in this section shall only be used consistently  
49 with any applicable limitations contained in the American Recovery and Reinvestment Act of  
50 2009, P.L. 111-5, and regulations adopted pursuant to that act.

**PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

**SECTION 27.6.** The appropriations made by the 2009 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2009 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2009 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

**CENTER FOR DESIGN AND FILM SCHOOL AMENDMENTS**

**SECTION 27.7.(a)** Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of S.L. 2005-276, Section 2.1 of S.L. 2006-146, and Section 27.8 of S.L. 2008-107, is amended by deleting the language:

"11,500,000	10,000,000	Land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a Center for Design Innovation in the Piedmont Triad Research Park to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts."
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and substituting the language:

"11,500,000	10,000,000	Land acquisition, site preparation, engineering, architectural, and other consulting services, acquisition of an existing building, construction, or renovation of a Center for Design Innovation to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts."
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**SECTION 27.7.(b)** Section 27.8(a)(8) of S.L. 2008-107 reads as rewritten:

"(8) In the maximum aggregate principal amount of twelve million nine hundred thousand dollars (\$12,900,000) to finance the capital facility costs of completing—constructing or purchasing and/or renovating an existing building for a film school production facility at the of the University of North Carolina School of the Arts. No special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of two million dollars (\$2,000,000) of special

1 indebtedness may be issued or incurred under this subdivision prior to July  
 2 1, 2010. No more than a maximum aggregate amount of seven million nine  
 3 hundred thousand dollars (\$7,900,000) of special indebtedness may be  
 4 issued or incurred under this subdivision prior to July 1, 2011."  
 5

#### 6 **DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING CONSTRUCTION**

7 **SECTION 27.8.** Notwithstanding Item 61, Page M-11, of the Joint Conference  
 8 Committee Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the  
 9 General Fund shall service the debt for the Green Square Complex parking deck during the  
 10 2009-2011 fiscal biennium.  
 11

#### 12 **TRANSFER OF UNENCUMBERED CASH BALANCES IN VARIOUS CAPITAL** 13 **FUNDS**

14 **SECTION 27.11.** Notwithstanding any other provision of law to the contrary,  
 15 effective July 1, 2009, unencumbered cash balances remaining in Capital Funds shall be  
 16 transferred to the State Controller to be deposited in the General Fund according to the  
 17 schedule that follows. These funds shall be used to support General Fund appropriations for the  
 18 2009-2010 fiscal year.  
 19

20 <b>Project/Fund</b>	<b>Amount Transferred</b>
21	
22 Department of Administration	
23 Renovation of Deerfield Cottage (Budget Code 40701)	\$3,283,500
24 Museum of History Security Improvements & Door Repairs (Budget	
25 Code 40701-4J20)	545,800
26 Ocracoke Shoreline Revetment & Restoration (Budget Code	
27 40401-4410)	317,500
28 Spring Lake Vet Cemetery Site & Building Improvements (Budget	
29 Code 40601-4G14)	283,200
30 Garner Road Building #2 – Mechanical Room Renovations	1,112,900
31 UNC-TV Server Room – HVAC Upgrades	79,000
32 Energy Savings Reserve (Budget Code 40701-4J32)	4,000,000
33 Five New Youth Development Centers Planning (Budget Code	
34 40701-4J28)	1,500,000
35	
36 Department of Agriculture and Consumer Services	
37 Constable Lab Humidity Repairs	798,266
38 Constable Lab Equipment Upgrades	833,315
39 Oxford Complex Planning & Design (Budget Code 40617-4F02)	91,778
40 Eastern Ag Center Horse Barn (Budget Code 40717-4G02)	377,418
41 Barn Renovation (Budget Code 40717)	283,499
42 Barn Renovation (Budget Code 40717)	161,554
43	
44 Department of Commerce	
45 Portswide Improvements (Budget Code 40710-1)	716,323
46	
47 Department of Cultural Resources	
48 Horne Creek Farm Visitors Center (Budget Code 40714-4L02)	2,847
49	
50 Department of Crime Control & Public Safety	
51 Phase 3 Kitchen Hoods (Budget Code 40372)	381,123

1	Camp Butner Land Buffers (Budget Codes 40707-4F02, 40807-4G01)	188,350
2	Statewide Master Planning (Budget Code 40807-4G03)	300,300
3		
4	Department of Corrections	
5	Piedmont CI – Humidity Control for Chronic Care Units	268,100
6	Swannanoa Conversion R&R (Budget Code 40613-K/40713-L)	1,550,000
7	Burke – Perimeter Security Fence Modifications (Budget Code 40513)	1,762,584
8	Northhampton – Perimeter Fence System Upgrade (Budget Code 40513)	1,581,300
9	McCain Correctional Hospital Elevator Modernization (Budget	
10	Code 40413-4F04)	529,238
11	Prison Additions Planning Reserve	2,972,656
12		
13	Department of Environment and Natural Resources	
14	Maintenance Facility for Bladen Lakes (Budget Code 40716)	855,000
15	Metal Storage Building (Budget Code 40516)	81,000
16	Modular Office (Budget Code 40516)	250
17	Claridge Nursery Facility Renovations (Budget Code 40616)	24,086
18	Linville Nursery Facility Renovations (Budget Code 40616)	8,100
19	Bladen Lakes SF – Residence Renovation (Budget Code 40616)	141,730
20	Turnbull Creek ESF Renovation (Budget Code 40616)	3,510
21	Clemmons ESF Renovation (Budget Code 40616)	16,430
22	Holmes ESF Renovation (Budget Code 40616)	15,943
23	Wake Co Headquarters Storage Building (Budget Code 40716)	157,754
24	Jordan Lake Training Center (Budget Code 40716)	455,860
25	Mt. Training Facility & Linville Nursery Restroom Upgrades	
26	(Budget Code 40616)	195,765
27	Drainage Improvements (Budget Code 40716)	80,865
28	Children's Nature Discovery Center (Budget Code 40616)	686,588
29	Storage Building (Budget Code 40616)	373,574
30	African Amphitheater Renovation (Budget Code 40616)	2,500
31	Picnic Area Bus Parking Renovation (Budget Code 40616)	261,490
32	Horticulture Storage Facility (Budget Code 40716)	373,574
33	HVAC Repairs (Budget Code 40716)	177,496
34	Aviary HVAC Renovation (Budget Code 40716)	361,200
35		
36	Department of Health and Human Services	
37	Medical Care Unit HVAC Upgrades (Budget Code 44344-4E02)	593,775
38	HVAC Upgrades for Vocational Enterprises Bldg (Budget Code	
39	40759-4F01)	25,000
40	New Heating Plant (Budget Code 40645-4E01)	49,936
41	Moore Building – Chiller Replacement	505,000
42	HVAC Upgrades for Vocational Enterprises Bldg (Budget Code	
43	40759-4F01)	1,198,685
44	Fisher and Cooke Renovations (Budget Code 40664-4D01)	2,538,705
45	Edgerton Building Upgrades	619,871
46	Harvey Building Upgrades	593,775
47	McBryde Building – Elevator Upgrades	725,550
48	DDC Interface between Dix Campus and GMS	176,000
49	Willow Cottage Renovations (Budget Code 40644-4H01)	4,009,091
50	Stair Tower (Budget Code 40553-4E01)	408,772
51	Standby Generator Upgrades (Budget Codes 40453-4D01/44353-4C03)	609,302

1	Renovation of ELC-4 (Budget Code 40745-4F01)	4,111,561
2	Public Health Lab and Medical Examiners Office (Budget Code	
3	40668-4601)	49,936
4		
5	Department of Juvenile Justice and Delinquency Prevention	
6	Dillon Security Grilles (Budget Code 40647-4K01)	200,000
7	Det & New Hanover Septic System (Budget Code 40647-4K04)	150,000
8	Dillon Asbestos & New Roof (Budget Code 40647-4K07)	500,000
9	Stonewall Jackson Rd Rep (Budget Code 40647-4K08)	233,500
10	Butner New Roof & Asbestos (Budget Code 40647-4K12)	300,000
11	Samarkand Bldg Demolition (Budget Code 40647-4K13)	200,000
12	Dobbs Road Repairs (Budget Code 40647-4K14)	64,927
13	CA Dillon Maintenance Building (Budget Code 40747-4L01)	375,000
14	Buncombe Det Cnt Boiler & Repairs (Budget Code 40647-4K10)	142,478
15	Cumberland Det. Renovat (Budget Code 40447-4L01)	5,881
16	SV/DOC Campus Transfer (Budget Code 40647-4K02)	9,741
17	Security Camera Fixtures (Budget Code 40547-4J03)	268,425
18	Multipurpose Homes Renovations (Budget Code 40647-4K06)	9,084
19	Security Cameras YDC (Budget Code 40547-4J02)	2,300,530
20	Security Cameras Detentn (Budget Code 40547-4J01)	55,268
21	Samarkand HVAC Nordan (Budget Code 40647-4K03)	474,793
22		
23	Office of State Budget and Management	
24	OSBM R&R Reserve (Budget Codes 49702, 49802, 49902, 40002, 40102,	
25	40202, 40302, 40402, 40502, 40602, 40702)	1,471,717
26		
27	University of North Carolina	
28	New Conference Center (Budget Code 40724 302)	2,606,943
29	4-H Camps (Budget Code 40724-4F02)	5,488,312
30	Hospital – Campus Master Plan (Budget Codes: 40639:	
31	406392-729010, 406392-684410)	1,326,894
32	Piedmont Triad Research Park Land Acquisition	1,979,550
33	Electric Plumbing HVAC Design (Budget Code 40719-4F24)	56,079
34	Repairs to Electrical, Plumbing and Heating, Ventilating and Air	
35	Conditioning Systems (Budget Codes 40538, 40638)	75,000
36	4M22 2007 Reserve for Coker Lab Renov (Budget Code 40729)	360,000
37	Utility Metering (Budget Code 40629)	19,869
38	CI 08-24 Kenan Auditorium Replace Air Handler (Budget	
39	Code 40628)	124,947
40	CI 09-08 Trask Coliseum Replace Heat Exchange (Budget	
41	Code 40628)	11,100
42	Replace Windows – Messick Building (Budget Code 40736)	43,348
43	Repair HVAC System (Construction) – Greenville Center (Budget	
44	Code 40736)	143,700
45	Repair HVAC System – Brewster Building (Budget Code 40736)	57,274
46	Replace HVAC System (Design) – Spilman Building (Budget Code 40736)	10,000
47	Expand Central Chilled Water Loop (Design) – Main Campus (Budget	
48	Code 40736)	90,000
49	HSC-Upgrade Steam Systems (Construction) (Budget Code 40736)	761,021
50	MEP: Boiler #1 Repairs (Budget Code 40736)	10,022
51	Replace Condensate Line (Design) – to MH-MC3 (Budget Code 40736)	3,300

1	Install New Steam Distribution (Design) – Steam Plant to MH-CH-9	
2	(Budget Code 40736)	264,200
3	Repair Heating, Ventilating, and Air Conditioning (Design) – Joyner	
4	Library (Budget Code 40736)	250,000
5	Brody P3 & AC7 HVAC Study (Budget Code 40636)	118,039
6	Replace Electrical Distribution Panels – Life Sciences Building (Budget	
7	Code 40636)	25,139
8	Upgrade Building Automation System – Brody Building (Budget	
9	Code 40636)	22,926
10	Repair/Replace Boiler Controls (Design) – Steam Plant (Budget	
11	Code 40636)	12,196
12	Replace Chilled Water Coils Air Handling Units 4,5, & 6 – Brody	
13	Building (Budget Code 40636)	240,055
14	MEP: Replace Main Switchboard West Academic Bldg (Budget Code	
15	40636)	48,500
16	Electrical Distribution System Repair – Education Building (Budget	
17	Code 487200)	8,000
18	Window Replacement – Library (Budget Code 487200)	261,793
19		
20	<b>TOTALS</b>	<b>\$65,587,775</b>

21  
22 **AMEND COPS AUTHORIZATION LANGUAGE/ALLOW POLICE OPERATIONS**  
23 **CENTER AT SCHOOL OF THE ARTS**

24 **SECTION 27.12.** Subdivision (7) of 27.8(a) of S.L. 2008-107 reads as rewritten:

25 "(7) In the maximum aggregate principal amount of eleven million one hundred  
26 thousand dollars (\$11,100,000) to finance the capital facility costs of  
27 completing-completing, separately or together, a central storage facility and  
28 a police operations center at the University of North Carolina School of the  
29 Arts."  
30

31 **AMEND COPS AUTHORIZATION LANGUAGE/APPALACHIAN STATE**  
32 **UNIVERSITY PROPERTY ACQUISITION**

33 **SECTION 27.12A.** Subdivision (1) of Section 29.13(a) of S.L. 2007-323 reads as  
34 rewritten:

35 "(1) In the maximum aggregate principal amount of thirty-four million dollars  
36 (\$34,000,000) to finance the capital facility costs of completing a new  
37 educational building at Appalachian State University-University and  
38 acquiring adjacent real property related to the project. No more than a  
39 maximum aggregate amount of three million dollars (\$3,000,000) of special  
40 indebtedness may be issued or incurred under this subdivision prior to July  
41 1, 2008."  
42

43 **REPORT ON STATUS OF CERTAIN UNC REPAIRS & RENOVATIONS PROJECTS**

44 **SECTION 27.13.(a)** The University of North Carolina Board of Governors shall  
45 prepare a report containing information on the status of each project subject to G.S. 116-31.11  
46 which was or is to be paid for in whole or in part with funds allocated to the Board from the  
47 Reserve for Repairs and Renovations and shall submit the report to the Chairs of the Senate  
48 Committee/Base Budget, the Chairs of the House of Representatives Committee on  
49 Appropriations, and the Fiscal Research Division no later than March 1, 2010. Specifically, the  
50 report shall include information about each project for which funds from the Reserve for

Repairs and Renovations were allocated at anytime after July 1, 2006, regardless of whether or not such funds were actually used for the project.

**SECTION 27.13.(b)** The report required by this section shall contain the following information about each project:

- (1) A brief description of the project.
- (2) The estimated cost of the project.
- (3) The sources of funds, and the amounts from each source, budgeted for the project.
- (4) Expenditures and encumbrances for the project.
- (5) The month and year in which funds were allocated to the project.
- (6) The project schedule. If the project is complete, the date of completion.
- (7) If the project is cancelled, an explanation of the reason for cancellation and of how funds were reallocated.

**PART XXVIIA. INDIVIDUAL INCOME TAX CHANGES**

**TWO NEW TAX BRACKETS FOR UPPER INCOME**

**SECTION 27A.1.(a)** G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and 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:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	<del>NA</del> \$200,000	7.75%
<u>\$200,000</u>	<u>\$500,000</u>	<u>8.25%</u>
<u>\$500,000</u>	<u>NA</u>	<u>8.5%</u>

- (2) For heads of households, as defined in section 2(b) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	<del>NA</del> \$160,000	7.75%
<u>\$160,000</u>	<u>\$400,000</u>	<u>8.25%</u>
<u>\$400,000</u>	<u>NA</u>	<u>8.5%</u>

- (3) For unmarried individuals other than surviving spouses and heads of households:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	<del>NA</del> \$120,000	7.75%
<u>\$120,000</u>	<u>\$300,000</u>	<u>8.25%</u>
<u>\$300,000</u>	<u>NA</u>	<u>8.5%</u>

- (4) For married individuals who do not file a joint return under G.S. 105-152:

	Over	Up To	Rate
1			
2	0	\$10,625	6%
3	\$10,625	\$50,000	7%
4	\$50,000	<del>NA</del> \$100,000	7.75%
5	\$100,000	\$250,000	8.25%
6	\$250,000	NA	8.5%"

7 **SECTION 27A.1.(b)** This section becomes effective for taxable years beginning  
8 on or after January 1, 2009. Notwithstanding G.S. 105-163.15, no addition to tax may be made  
9 under that statute for a taxable year beginning on or after January 1, 2009, and before January  
10 1, 2010, with respect to an underpayment of individual income tax to the extent the  
11 underpayment was created or increased by this section.

## 13 PART XXVIIB. CORPORATE INCOME TAX CHANGES

### 15 SINGLE INCOME TAX RETURN FOR UNITARY BUSINESS

16 **SECTION 27B.1.(a)** G.S. 105-130.2 reads as rewritten:

#### 17 "§ 105-130.2. Definitions.

18 The following definitions apply in this Part:

19 (1) Code. – Defined in G.S. 105-228.90.

20 (1a) Common ownership. – The direct or indirect control or ownership of more  
21 than fifty percent (50%) of the outstanding voting stock of the persons  
22 carrying on a unitary business activity.

23 ~~(1a)~~(1b) Corporation. – A joint-stock company or association, an insurance company,  
24 a domestic corporation, a foreign corporation, a unitary business group, or a  
25 limited liability company.

26 ~~(1b)~~(1c) C Corporation. – A corporation that is not an S Corporation.

27 ~~(1e)~~(1d) Department. – The Department of Revenue.

28 (1e) Principal reporting member. – A member of the unitary business group  
29 appointed by the group to act in its own name in all matters relating to the  
30 tax liability for the unitary business group. The principal reporting member  
31 continues to act for the group until a new principal reporting member is  
32 appointed.

33 (2) Domestic corporation. – A corporation organized under the laws of this  
34 State.

35 (3) Fiscal year. – An income year, ending on the last day of any month other  
36 than December. A corporation that pursuant to the provisions of the Code  
37 has elected to compute its federal income tax liability on the basis of an  
38 annual period varying from 52 to 53 weeks shall compute its taxable income  
39 under this Part on the basis of the same period used by the corporation in  
40 computing its federal income tax liability for the income year.

41 (4) Foreign corporation. – Any corporation other than a domestic corporation.

42 (4a) Gross income. – Defined in section 61 of the Code.

43 (4b) Income year. – The calendar year or the fiscal year upon the basis of which  
44 the net income is computed under this Part. If no fiscal year has been  
45 established, the income year is the calendar year. In the case of a return  
46 made for a fractional part of a year under the provisions of this Part or under  
47 rules adopted by the Secretary, the income year is the period for which the  
48 return is made.

49 (5) Limited liability company. – Either a domestic limited liability company  
50 organized under Chapter 57C of the General Statutes or a foreign limited  
51 liability company authorized by that Chapter to transact business in this



1 State that is classified for federal income tax purposes as a corporation. As  
2 applied to a limited liability company that is a corporation under this Part,  
3 the term 'shareholder' means a member of the limited liability company and  
4 the term 'corporate officer' means a member or manager of the limited  
5 liability company.

6 (5a) Person. – Defined in G.S. 105-228.90.

7 ~~(5a)~~(5b) S Corporation. – Defined in G.S. 105-131(b).

8 ~~(5b)~~(5c) Secretary. – The Secretary of Revenue.

9 ~~(5e)~~(5d) State net income. – The taxpayer's federal taxable income as determined  
10 under the Code, adjusted as provided in G.S. 105-130.5 and, in the case of a  
11 ~~corporation~~ taxpayer that has income from business activity that is taxable  
12 both within and without this State, allocated and apportioned to this State as  
13 provided in G.S. 105-130.4.

14 ~~(5d)~~(5e) Taxable year. – Income year.

15 (6) Taxpayer. – A corporation subject to the tax imposed by this Part.

16 (7) Tax haven country. – A country identified in G.S. 143-59.1(c)(2), or a  
17 country that has no or nominal effective tax on the relevant income and  
18 meets at least one of the following conditions:

19 a. Has laws or practices that prevent effective exchange of information  
20 for tax purposes with other governments on taxpayers benefiting  
21 from the tax regime.

22 b. Has a tax regime which lacks transparency. A tax regime lacks  
23 transparency if the details of legislative, legal, or administrative  
24 provisions are not open and apparent or are not consistently applied  
25 among similarly situated taxpayers, or if the information needed by  
26 tax authorities to determine a taxpayer's correct tax liability, such as  
27 accounting records and underlying documentation, is not adequately  
28 available.

29 c. Facilitates the establishment of foreign-owned entities without the  
30 need for a local substantive presence or prohibits these entities from  
31 having any commercial impact on the local economy.

32 d. Explicitly or implicitly excludes the jurisdiction's resident taxpayers  
33 from taking advantage of the tax regime's benefits or prohibits  
34 enterprises that benefit from the regime from operating in the  
35 jurisdiction's domestic market.

36 e. Has a tax regime which is favorable for tax avoidance, based upon an  
37 overall assessment of relevant factors, including whether the  
38 jurisdiction has a significant untaxed offshore financial/other services  
39 sector relative to its overall economy.

40 (8) Unitary business. – Business activities that meet one or more of the  
41 following conditions:

42 a. Activities of the members are in the same general line of business.

43 b. Activities of the members are steps in a vertically structured  
44 enterprise or process.

45 c. Activities of members that provide mutual benefit and produce a  
46 significant sharing or exchange of value among them or a significant  
47 flow of value between them.

48 d. Centralized management.

49 (9) Unitary business group. – One or more persons related through common  
50 ownership who engage in a unitary business. The term does not include any  
51 of the following persons:

- 1           a.     A corporation exempt from taxation under Code section 501.  
 2           b.     An S-Corporation.  
 3           c.     A partnership.  
 4           d.     An insurance company subject to tax under Article 8B of this  
 5                 Chapter.  
 6           e.     A corporation whose business activity outside the United States is  
 7                 eighty percent (80%) or more of any such corporation's total business  
 8                 activity is excluded from the unitary business group unless that  
 9                 corporation is in a tax haven country. 'United States' means the 50  
 10                states of the United States, the District of Columbia, and the United  
 11                States' territories and possessions."

12           **SECTION 27B.1.(b)** G.S. 105-130.3 reads as rewritten:

13    **"§ 105-130.3. Corporations.**

14           A tax is imposed on the State net income of every C Corporation or unitary business group  
 15    doing business in this State. An S Corporation is not subject to the tax levied in this section.  
 16    The tax rate is six and nine-tenths percent (6.9%) of the taxpayer's State net income.~~is a~~  
 17    ~~percentage of the taxpayer's State net income computed as follows:~~

Income Years Beginning	Tax
18 <del>In 1997</del>	<del>7.5%</del>
19 <del>In 1998</del>	<del>7.25%</del>
20 <del>In 1999</del>	<del>7%</del>
21 <del>After 1999</del>	<del>6.9%.</del>

22           **SECTION 27B.1.(c)** Part 1 of Article 4 of Chapter 105 of the General Statutes is  
 23    amended by adding a new section to read:

24    **"§ 105-130.3A. Taxation of unitary business group.**

25           (a)    Return. – A unitary business group with business activity in this State must file an  
 26    income tax return that includes the State net income of the unitary business group. The unitary  
 27    business group's return must be filed by the principal reporting member as defined in  
 28    G.S.105-130.2. The accounting period of the unitary business group is the accounting period  
 29    used by members of the unitary business group for federal consolidated return purposes.

30           (b)    Federal Taxable Income. – The federal taxable income of a unitary business group is  
 31    determined by adding together the federal taxable income of each member of the unitary  
 32    business group as if that member filed a separate federal income tax return and eliminating all  
 33    intercompany transactions. The federal taxable income of the unitary business group shall be  
 34    adjusted as required under G.S. 105-130.5 except that no adjustments shall be made with  
 35    respect to intercompany transactions that have been eliminated pursuant to this subsection. If a  
 36    unitary business group has income from business activity that is taxable both within and  
 37    without this State, the unitary business group's federal taxable income as adjusted pursuant to  
 38    G.S. 105-130.5 is allocated and apportioned to North Carolina pursuant to G.S. 105-130.4. The  
 39    property, payroll, and sales factors for the unitary business group are determined by adding  
 40    together the property, payroll, and sales of each member of the unitary business group after  
 41    eliminating intercompany transactions. The appropriate apportionment methodology as set out  
 42    in G.S. 105-130.4(m) through (s) to be used by the unitary business group is based on the  
 43    unitary business group, not the individual member.

44           (c)    Tax Credits. – Tax credits earned by a member of the group, but not fully used by or  
 45    allowed to that member prior to becoming a member of the unitary business group, may be  
 46    used by the group, subject to the provisions of the specific credits. Tax credits brought into the  
 47    group or earned by the group remain with the group and may not be claimed by a member that  
 48    is no longer a member of the group.

49           (d)    Net Economic Losses. – Net economic losses sustained by a member of the group,  
 50    but not fully used by that member prior to becoming a member of the unitary business group,  
 51

1 may be used by the group subject to the provisions of G.S. 105-130.8. Net economic losses  
 2 brought into the group or earned by the group remain with the group and may not be claimed  
 3 by a member that is no longer a member of the group.

4 (e) Liability. – Every member of the unitary business group is jointly and severally  
 5 liable for the unitary business group's tax liability under this Part, including any interest and  
 6 penalties."

7 **SECTION 27B.1.(d)** G.S. 105-228.3 reads as rewritten:

8 "**§ 105-228.3. Definitions.**

9 The following definitions apply in this Article:

10 (1) Article 65 corporation. – A corporation subject to Article 65 of Chapter 58  
 11 of the General Statutes, regulating hospital, medical, and dental service  
 12 corporations.

13 (1a) Captive insurance company. – An insurer that receives more than fifty  
 14 percent (50%) of its gross premiums from affiliates as defined in  
 15 G.S. 105-130.6.

16 (2) Insurer. – An insurer as defined in ~~G.S. 58-1-5~~ G.S. 58-1-5, other than a  
 17 captive insurance company, or a group of employers who have pooled their  
 18 liabilities pursuant to G.S. 97-93 of the Workers' Compensation Act.

19 (3) Self-insurer. – An employer that carries its own risk pursuant to G.S. 97-93  
 20 of the Workers' Compensation Act."

21 **SECTION 27B.1.(e)** G.S. 105-228.5 is amended by adding a new subsection to  
 22 read:

23 "(a1) A captive insurance company is not subject to the tax levied by this section if the  
 24 captive insurance company is part of a unitary business group with business activity in this  
 25 State."

26 **SECTION 27B.1.(f)** G.S. 105-130.14 reads as rewritten:

27 "**§ 105-130.14. Corporations filing consolidated returns for federal income tax purposes.**

28 Any corporation electing or required to file a consolidated income tax return with the  
 29 Internal Revenue Service shall not file a consolidated return with the Secretary of Revenue,  
 30 unless specifically directed to do so in writing by the ~~Secretary, and Secretary.~~ If the  
 31 corporation is a member of a unitary business group, it, along with the other members of the  
 32 group, shall file an income tax return for the unitary business group. If the corporation is not a  
 33 member of a unitary business group, it shall determine its State net income as if a separate  
 34 return had been filed for federal purposes."

35 **SECTION 27B.1.(g)** This section becomes effective for taxable years beginning on  
 36 or after January 1, 2010.

### 37 38 **EXPAND FRANCHISE TAX TO INCLUDE LIMITED LIABILITY BUSINESS** 39 **ENTITIES**

40 **SECTION 27B.2.(a)** G.S. 105-114 reads as rewritten:

41 "**§ 105-114. Nature of taxes; definitions.**

42 (a) Nature of Taxes. – ~~The taxes levied in this Article upon persons and partnerships are~~  
 43 ~~for the privilege of engaging in business or doing the act named.~~ This Article imposes a tax on a  
 44 business entity for the privilege of doing business in this State in an ownership form that  
 45 confers limited liability on the owners of the entity.

46 (a1) Scope. – The taxes levied in this Article ~~upon corporations~~ are privilege or excise  
 47 taxes levied upon:

48 (1) ~~Corporations~~ A corporation organized under the laws of this State for the  
 49 existence of the corporate rights and privileges granted by their charters, and  
 50 the enjoyment, under the protection of the laws of this State, of the powers,

- 1 rights, privileges and immunities derived from the State by the form of such  
2 existence; and/or of another state.
- 3 (2) ~~Corporations not organized under the laws of this State for doing business in~~  
4 ~~this State and for the benefit and protection which these corporations receive~~  
5 ~~from the government and laws of this State in doing business in this State.~~A  
6 limited liability company.
- 7 (3) A limited partnership.
- 8 (4) A limited liability partnership.
- 9 (5) A limited liability limited partnership.
- 10 (a2) ~~Condition for Doing Business. – If the corporation is organized under the laws of~~  
11 ~~this State, the payment of the taxes levied by this Article is a condition precedent to the right to~~  
12 ~~continue in the corporate form of organization. If the corporation is not organized under the~~  
13 ~~laws of this State, payment of these taxes is a condition precedent to the right to continue to~~  
14 ~~engage in doing business in this State.~~Payment of the taxes levied by this Article is a condition  
15 precedent to the right to do business in this State.
- 16 (a3) ~~Tax Year. – The taxes levied in this Article are for the fiscal year of the State in~~  
17 ~~which the taxes become due, except that the taxes levied in G.S. 105-122 are for the income~~  
18 ~~year of the corporation-business entity in which the taxes become due.~~
- 19 (a4) ~~No Double Taxation. – G.S. 105-122 does not apply to holding companies taxed~~  
20 ~~under G.S. 105-120.2. G.S. 105-122 applies to a corporation-business entity taxed under~~  
21 ~~another section of this Article only to the extent the taxes levied on the corporation-business~~  
22 ~~entity in G.S. 105-122 exceed the taxes levied in other sections of this Article on the~~  
23 ~~corporation or on a limited liability company whose assets must be included in the corporation's~~  
24 ~~tax base under G.S. 105-114.1.~~business entity.
- 25 (b) ~~Definitions. – The following definitions apply in this Article:~~
- 26 (1) Business entity. – A corporation, a limited liability company, a limited  
27 partnership, a limited liability partnership, or a limited liability limited  
28 partnership.
- 29 ~~(1a)~~ City. – Defined in G.S. 105-228.90.
- 30 ~~(1b)~~ Code. – Defined in G.S. 105-228.90.
- 31 (2) ~~Corporation. – A domestic corporation, a foreign corporation, an electric~~  
32 ~~membership corporation organized under Chapter 117 of the General~~  
33 ~~Statutes or doing business in this State, or an association that is organized for~~  
34 ~~pecuniary gain, has capital stock represented by shares, whether with or~~  
35 ~~without par value, and has privileges not possessed by individuals or~~  
36 ~~partnerships. The term includes a mutual or capital stock savings and loan~~  
37 ~~association or building and loan association chartered under the laws of any~~  
38 ~~state or of the United States. The term includes a limited liability company~~  
39 ~~that elects to be taxed as a corporation under the Code, but does not~~  
40 ~~otherwise include a limited liability company.~~
- 41 (3) ~~Doing business. – Each and every act, power, or privilege exercised or~~  
42 ~~enjoyed in this State, as an incident to, or by virtue of the powers and~~  
43 ~~privileges granted by the laws of this State.~~
- 44 (4) ~~Income year. – Defined in G.S. 105-130.2(4b).~~
- 45 (5) Limited liability company. – An entity formed under Chapter 57C of the  
46 General Statutes.
- 47 (6) Limited liability limited partnership. – A limited partnership registered under  
48 G.S. 59-210.
- 49 (7) Limited liability partnership. – An entity registered under Article 3B of  
50 Chapter 59 of the General Statutes.

1           (8) Limited partnership. – A partnership formed with one or more general  
2           partners and one or more limited partners.  
3       (c) Recodified as G.S. 105-114.1 by Session Laws 2002-126, s. 30G.2.(b), effective  
4 January 1, 2003."

5       **SECTION 27B.2.(b)** G.S. 105-114.1 is repealed.

6       **SECTION 27B.2.(c)** G.S. 105-120.2 reads as rewritten:

7       "**§ 105-120.2. Franchise or privilege tax on holding companies.**

8       (a) Requirement. – Every corporation, domestic and foreign, incorporated or, by an act,  
9 domesticated under the laws of this State or doing business in this State A business entity  
10 which, at the close of its taxable year is a holding company as defined in subsection (c) of this  
11 section, shall, pursuant to the provisions of ~~G.S. 105-122;~~G.S. 105-122, do all of the following:

12           (1) Make a report and ~~statement, and~~statement.

13           (2) Determine the total amount of its ~~issued and outstanding capital stock,~~  
14 ~~surplus and undivided profits, and~~capital base.

15           (3) Apportion ~~such outstanding capital stock, surplus and undivided profits~~ its  
16 capital base to this State.

17       (b) Tax. – A business entity taxed under this section must pay the tax due under this  
18 subsection at the time a report is due under G.S. 105-122.

19           (1) ~~Every corporation taxed under this section shall annually pay to the~~  
20 ~~Secretary of Revenue, at the time the report and statement are due, a~~  
21 ~~franchise or privilege tax, which is hereby levied, at the rate of~~ The tax rate  
22 is one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the  
23 amount determined under subsection (a) of this section, but in no case shall  
24 the tax be more than seventy-five thousand dollars (\$75,000) nor less than  
25 thirty-five dollars (\$35.00).

26           (2) ~~Notwithstanding the provisions of subdivision (1) of this subsection, if~~ If the  
27 tax produced pursuant to application of under this paragraph (2) subdivision  
28 exceeds the tax produced pursuant to application of subdivision (1), under  
29 subdivision (1) of this subsection, then the tax shall be is levied at the rate of  
30 one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) on the  
31 greater of the amounts of following two amounts:

32           a. Fifty-five percent (55%) of the appraised value as determined for ad  
33 valorem taxation of all the real and tangible personal property in this  
34 State of each such corporation plus the total appraised value of  
35 intangible property returned for taxation of intangible personal  
36 property as computed under ~~G.S. 105-122(d); or~~G.S. 105-122(d).

37           b. The total actual investment in tangible property in this State of such  
38 corporation as computed under G.S. 105-122(d).

39       (c) Definition. – The following definitions apply in this section:~~For purposes of this~~  
40 ~~section, a~~

41           (1) Capital interest. – The right of a business entity that is not a corporation to  
42 receive a percentage of the business entity's assets upon dissolution after  
43 payments to creditors.

44           (2) ~~'holding company' is a~~ Holding company. – A corporation business entity  
45 that receives during its taxable year more than eighty percent (80%) of its  
46 gross income from ~~corporations~~ a business entity in which it owns directly or  
47 indirectly more than fifty percent (50%) of the outstanding voting stock or  
48 voting capital interests.

49       (d) Repealed by Session Laws 1985, c. 656, s. 39.

50       (e) Prohibition on Local Tax. – Counties, cities and towns shall not levy a franchise tax  
51 on corporations a business entity taxed under this section. The tax imposed under the

1 provisions of G.S. 105-122 shall not apply to businesses taxed under the provisions of this  
2 section.

3 (f) Credit. – In determining the total tax payable by any holding company under this  
4 section, there shall be allowed as a credit on such tax the amount of the credit authorized under  
5 Part 5 of Article 4 of this Chapter."

6 **SECTION 27B.2.(d)** G.S. 105-122 reads as rewritten:

7 "**§ 105-122. Franchise or privilege tax on domestic and foreign corporations a business**  
8 **entity.**

9 (a) Tax Imposed. – An annual franchise or privilege tax is imposed on a corporation  
10 business entity doing business in this State. The tax is determined on the basis of the books and  
11 records of the corporation business entity as of the close of its income year. A corporation  
12 subject to the tax must file a return under affirmation with the Secretary at the place and in the  
13 manner prescribed by the Secretary. The return must be signed by the president, vice president,  
14 treasurer, or chief financial officer of the corporation. The tax rate is one dollar and fifty cents  
15 (\$1.50) per one thousand dollars (\$1,000) of the capital base of the business entity and may not  
16 be less than thirty-five dollars (\$35.00). The return is due on or before the fifteenth day of the  
17 fourth month following the end of the corporation's business entity's income year.

18 (b) Determination of Capital Base. Base of Corporation. – A corporation taxed under  
19 this section shall determine the total amount of its issued and outstanding capital stock, surplus,  
20 and undivided profits. Every corporation doing business in this State which is a parent,  
21 subsidiary, or affiliate of another corporation shall add to its capital stock, surplus, and  
22 undivided profits all indebtedness owed to a parent, subsidiary, or affiliated corporation as a  
23 part of its capital used in its business and as a part of the base for franchise tax under this  
24 section. If any part of the capital of the creditor corporation is capital borrowed from a source  
25 other than a parent, subsidiary, or affiliate, the debtor corporation, which is required under this  
26 subsection to include in its tax base the amount of debt by reason of being a parent, subsidiary,  
27 or affiliate of the creditor corporation, may deduct from the debt included a proportionate part  
28 determined on the basis of the ratio of the borrowed capital of the creditor corporation to the  
29 total assets of the creditor corporation. If the creditor corporation is also taxable under the  
30 provisions of this section, the creditor corporation is allowed to deduct from the total of its  
31 capital, surplus, and undivided profits the amount of any debt owed to it by a parent, subsidiary,  
32 or affiliated corporation to the extent that the debt has been included in the tax base of the  
33 parent, subsidiary, or affiliated debtor corporation reporting for taxation under the provisions of  
34 this section. No

35 No reservation or allocation from surplus or undivided profits is allowed except as provided  
36 below:

- 37 (1) Definite and accrued legal liabilities.
- 38 (2) Taxes accrued, dividends declared, and reserves for depreciation of tangible  
39 assets as permitted for income tax purposes.
- 40 (3) When including deferred tax liabilities, a corporation may reduce the amount  
41 included in its base by netting against that amount deferred tax assets. The  
42 reduction may not decrease deferred tax liabilities below zero (0).
- 43 (4) Reserves for the cost of any air-cleaning device or sewage or waste  
44 treatment plant, including waste lagoons, and pollution abatement equipment  
45 purchased or constructed and installed which reduces the amount of air or  
46 water pollution resulting from the emission of air contaminants or the  
47 discharge of sewage and industrial wastes or other polluting materials or  
48 substances into the outdoor atmosphere or streams, lakes, or rivers, upon  
49 condition that the corporation claiming such deductible liability shall furnish  
50 to the Secretary a certificate from the Department of Environment and  
51 Natural Resources or from a local air pollution control program for

1 air-cleaning devices located in an area where the Environmental  
2 Management Commission has certified a local air pollution control program  
3 pursuant to G.S. 143-215.112 certifying that the Environmental Management  
4 Commission or local air pollution control program has found as a fact that  
5 the air-cleaning device, waste treatment plant or pollution abatement  
6 equipment purchased or constructed and installed as above described has  
7 actually been constructed and installed and that such plant or equipment  
8 complies with the requirements of the Environmental Management  
9 Commission or local air pollution control program with respect to such  
10 devices, plants or equipment, that such device, plant or equipment is being  
11 effectively operated in accordance with the terms and conditions set forth in  
12 the permit, certificate of approval, or other document of approval issued by  
13 the Environmental Management Commission or local air pollution control  
14 program and that the primary purpose thereof is to reduce air or water  
15 pollution resulting from the emission of air contaminants or the discharge of  
16 sewage and waste and not merely incidental to other purposes and functions.

17 (5) Reserves for the cost of purchasing and installing equipment or constructing  
18 facilities for the purpose of recycling or resource recovering of or from solid  
19 waste or for the purpose of reducing the volume of hazardous waste  
20 generated shall be treated as deductible for the purposes of this section upon  
21 condition that the corporation claiming such deductible liability shall furnish  
22 to the Secretary a certificate from the Department of Environment and  
23 Natural Resources certifying that the Department of Environment and  
24 Natural Resources has found as a fact that the equipment or facility has  
25 actually been purchased, installed or constructed, that it is in conformance  
26 with all rules and regulations of the Department of Environment and Natural  
27 Resources, and the recycling or resource recovering is the primary purpose  
28 of the facility or equipment.

29 (6) Reserves for the cost of constructing facilities of any private or public utility  
30 built for the purpose of providing sewer service to residential and outlying  
31 areas shall be treated as deductible for the purposes of this section; the  
32 deductible liability allowed by this section shall apply only with respect to  
33 such pollution abatement plants or equipment constructed or installed on or  
34 after January 1, 1955.

35 (7) The cost of treasury stock.

36 (8) In the case of an international banking facility, the capital base shall be  
37 reduced by the excess of the amount as of the end of the taxable year of all  
38 assets of an international banking facility which are employed outside the  
39 United States over liabilities of the international banking facility owed to  
40 foreign persons. For purposes of such reduction, foreign persons shall have  
41 the same meaning as defined in G.S. 105-130.5(b)(13)d.

42 ~~Every corporation doing business in this State which is a parent, subsidiary, or affiliate of~~  
43 ~~another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness~~  
44 ~~owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business~~  
45 ~~and as a part of the base for franchise tax under this section. If any part of the capital of the~~  
46 ~~creditor corporation is capital borrowed from a source other than a parent, subsidiary, or~~  
47 ~~affiliate, the debtor corporation, which is required under this subsection to include in its tax~~  
48 ~~base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor~~  
49 ~~corporation, may deduct from the debt included a proportionate part determined on the basis of~~  
50 ~~the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor~~  
51 ~~corporation. If the creditor corporation is also taxable under the provisions of this section, the~~

1 creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided  
2 profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the  
3 extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated  
4 debtor corporation reporting for taxation under the provisions of this section.

5 (b1) The following definitions apply in ~~this subsection~~: subsection (b) of this section:

6 (1) Affiliate. – The same meaning as specified in G.S. 105-130.6.

7 (2) Indebtedness. – All loans, credits, goods, supplies, or other capital of  
8 whatsoever nature furnished by a parent, subsidiary, or affiliated  
9 corporation, other than indebtedness endorsed, guaranteed, or otherwise  
10 supported by one of these corporations.

11 (3) Parent. – The same meaning as specified in G.S. 105-130.6.

12 (4) Subsidiary. – The same meaning as specified in G.S. 105-130.6.

13 (b2) Capital Base for Noncorporate Business Entity. – A business entity that is not a  
14 corporation must determine its net worth. Its net worth is equal to its members' and partners'  
15 capital accounts, computed in accordance with generally accepted accounting principles. If the  
16 business entity does not maintain its book and records in accordance with generally accepted  
17 accounting principles, its net worth is computed in accordance with the accounting method  
18 used by the entity for federal tax purposes, so long as the method fairly reflects the taxpayer's  
19 net worth for purposes of the tax levied by this section. A business entity must add to its net  
20 worth all indebtedness owed to it by a related person, as defined in G.S. 105-163.010.

21 (c) Repealed by Session Laws 2007-491, s. 2, effective January 1, 2008.

22 (c1) Apportionment. – A business entity that is doing business in this State and in one or  
23 more other states must apportion its tax base to this State. A corporation that is subject to  
24 income tax under Article 4 of this Chapter must use the fraction it applies in apportioning its  
25 income under that Article. A business entity that is not subject to income tax under Article 4 of  
26 this Chapter must apportion its net worth by using the fraction it would be required to apply in  
27 apportioning its income if it were subject to that Article. A business entity that believes this  
28 apportionment method subjects a greater portion of its net worth to tax under this section than  
29 is attributable to its business in this State may make a written request to the Secretary for  
30 permission to use an alternative method of apportionment, in the same manner as provided in  
31 G.S. 105-130.4(t1). A corporation that is doing business in this State and in one or more other  
32 states must apportion its capital stock, surplus, and undivided profits to this State. A  
33 corporation must use the apportionment method set out in subdivision (1) of this subsection  
34 unless the Department has authorized it to use a different method under subdivision (2) of this  
35 subsection. The portion of a corporation's capital stock, surplus, and undivided profits  
36 determined by applying the appropriate apportionment method is considered the amount of  
37 capital stock, surplus, and undivided profits the corporation uses in its business in this State.

38 (1) ~~Statutory. – A corporation that is subject to income tax under Article 4 of~~  
39 ~~this Chapter must apportion its capital stock, surplus, and undivided profits~~  
40 ~~by using the fraction it applies in apportioning its income under that Article.~~  
41 ~~A corporation that is not subject to income tax under Article 4 of this~~  
42 ~~Chapter must apportion its capital stock, surplus, and undivided profits by~~  
43 ~~using the fraction it would be required to apply in apportioning its income if~~  
44 ~~it were subject to that Article. The apportionment method set out in this~~  
45 ~~subdivision is considered the statutory method of apportionment and is~~  
46 ~~presumed to be the best method of determining the amount of a corporation's~~  
47 ~~capital stock, surplus, and undivided profits attributable to the corporation's~~  
48 ~~business in this State.~~

49 (2) ~~Alternative. – A corporation that believes the statutory apportionment~~  
50 ~~method set out in subdivision (1) of this subsection subjects a greater portion~~  
51 ~~of its capital stock, surplus, and undivided profits to tax under this section~~



1 than is attributable to its business in this State may make a written request to  
2 the Secretary for permission to use an alternative method. The request must  
3 set out the reasons for the corporation's belief and propose an alternative  
4 method. The corporation has the burden of establishing by clear, cogent, and  
5 convincing proof that the statutory apportionment method subjects a greater  
6 portion of the corporation's capital stock, surplus, and undivided profits to  
7 tax under this section than is attributable to its business in this State and that  
8 the proposed alternative method is a better method of determining the  
9 amount of the corporation's capital stock, surplus, and undivided profits  
10 attributable to the corporation's business in this State.

11 The Secretary must issue a written decision on a corporation's request for  
12 an alternative apportionment method. If the decision grants the request, it  
13 must describe the alternative method the corporation is authorized to use and  
14 state the tax years to which the alternative method applies. A decision may  
15 apply to no more than three tax years. A corporation may renew a request to  
16 use an alternative apportionment method by following the procedure in this  
17 subdivision. A decision of the Secretary on a request for an alternative  
18 apportionment method is final and is not subject to administrative or judicial  
19 review. A corporation authorized to use an alternative method may apportion  
20 its capital stock, surplus, and undivided profits in accordance with the  
21 alternative method or the statutory method.

22 (d) Alternative Tax Base. – After determining the proportion of its total capital stock,  
23 surplus and undivided profits as set out in subsection (c) of this section, which amount ~~The tax~~  
24 imposed by this section shall not be less than fifty-five percent (55%) of the appraised value as  
25 determined for ad valorem taxation of all the real and tangible personal property in this State of  
26 each ~~corporation~~ business entity nor less than its total actual investment in tangible property in  
27 this State, ~~every corporation taxed under this section shall annually pay to the Secretary of~~  
28 Revenue, at the time the report and statement are due, a franchise or privilege tax at the rate of  
29 one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of  
30 capital stock, surplus and undivided profits as provided in this section. The tax imposed in this  
31 section shall not be less than thirty five dollars (\$35.00) and shall be for the privilege of  
32 carrying on, doing business, and/or the continuance of articles of incorporation or  
33 domestication of each corporation in this State. Appraised value of tangible property including  
34 real estate is the ad valorem valuation for the calendar year next preceding the due date of the  
35 franchise tax return. The term 'total actual investment in tangible property' as used in this  
36 section means the total original purchase price or consideration to the reporting taxpayer of its  
37 tangible properties, including real estate, in this State plus additions and improvements thereto  
38 less reserve for depreciation as permitted for income tax purposes, and also less any  
39 indebtedness incurred and existing by virtue of the purchase of any real estate and any  
40 permanent improvements made thereon. In computing 'total actual investment in tangible  
41 personal property' there shall also be deducted reserves for the entire cost of any air-cleaning  
42 device or sewage or waste treatment plant, including waste lagoons, and pollution abatement  
43 equipment purchased or constructed and installed which reduces the amount of air or water  
44 pollution resulting from the emission of air contaminants or the discharge of sewage and  
45 industrial wastes or other polluting materials or substances into the outdoor atmosphere or into  
46 streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall  
47 furnish to the Secretary a certificate from the Department of Environment and Natural  
48 Resources or from a local air pollution control program for air-cleaning devices located in an  
49 area where the Environmental Management Commission has certified a local air pollution  
50 control program pursuant to G.S. 143-215.112 certifying that said Department or local air  
51 pollution control program has found as a fact that the air-cleaning device, waste treatment plant

1 or pollution abatement equipment purchased or constructed and installed as above described  
2 has actually been constructed and installed and that the device, plant or equipment complies  
3 with the requirements of the Environmental Management Commission or local air pollution  
4 control program with respect to the devices, plants or equipment, that the device, plant or  
5 equipment is being effectively operated in accordance with the terms and conditions set forth in  
6 the permit, certificate of approval, or other document of approval issued by the Environmental  
7 Management Commission or local air pollution control program and that the primary purpose is  
8 to reduce air or water pollution resulting from the emission of air contaminants or the discharge  
9 of sewage and waste and not merely incidental to other purposes and functions. The cost of  
10 constructing facilities of any private or public utility built for the purpose of providing sewer  
11 service to residential and outlying areas is treated as deductible for the purposes of this section;  
12 the deductible liability allowed by this section shall apply only with respect to pollution  
13 abatement plants or equipment constructed or installed on or after January 1, 1955.

14 (d1) Credits. – A corporation is allowed a credit against the tax imposed by this section  
15 for a taxable year equal to one-half of the amount of tax payable during the taxable year under  
16 Article 5E of this Chapter. The credit allowed by this subsection may not exceed the amount of  
17 tax imposed by this section for the taxable year, reduced by the sum of all other credits allowed  
18 against that tax, except tax payments made by or on behalf of the taxpayer.

19 (e) Change in Income Year. – ~~Any corporation~~ A business entity which changes its  
20 income year, and files a 'short period' income tax return pursuant to G.S. 105-130.15 shall file a  
21 franchise tax return in accordance with the provisions of this section in the manner and as of  
22 the date specified in subsection (a) of this section. ~~Such corporation shall be~~ The business entity  
23 is entitled to deduct from the total franchise tax computed (on an annual basis) on such return  
24 the amount of franchise tax previously paid which is applicable to the period subsequent to the  
25 beginning of the new income year.

26 (f) ~~The report, statement and tax required by this section shall be in addition to all other~~  
27 ~~reports required or taxes levied and assessed in this State.~~

28 (g) Prohibition on Local Tax. – Counties, cities and towns shall not levy a franchise tax  
29 on ~~corporations~~ a business entity taxed under this section.

30 (h) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1211, s. 5."

31 **SECTION 27B.2.(e)** G.S. 105-125(b) reads as rewritten:

32 "(b) Certain Investment Companies. – A ~~corporation~~ business entity doing business in  
33 North Carolina that meets one or more of the following conditions may, in determining its basis  
34 for franchise tax, deduct the aggregate market value of its investments in the stocks, bonds,  
35 debentures, or other securities or evidences of debt of other corporations, partnerships,  
36 individuals, municipalities, governmental agencies, or governments:

37 (1) A regulated investment company. – A regulated investment company is an  
38 entity that qualifies as a regulated investment company under section 851 of  
39 the Code.

40 (2) A REIT, unless the REIT is a captive REIT. – The terms 'REIT' and 'captive  
41 REIT' have the same meanings as defined in G.S. 105-130.12."

42 **SECTION 27B.2.(f)** G.S. 105-127 reads as rewritten:

43 **"§ 105-127. When franchise or privilege taxes payable.**

44 (a) Tax Due. – The taxes imposed under this Article are due when a return is due. A  
45 taxpayer may ask the Secretary for an extension of time to file a return under  
46 G.S. 105-263. ~~Every corporation, domestic or foreign, from which a report is required by law to~~  
47 ~~be made to the Secretary of Revenue, shall, unless otherwise provided, pay to said Secretary~~  
48 ~~annually the franchise tax as required by G.S. 105-122.~~

49 (b) Repealed by Session Laws 1998-98, s. 78, effective August 14, 1998.

1 (e) ~~It shall be the duty of the treasurer or other officer having charge of any such~~  
2 ~~corporation, domestic or foreign, upon which a tax is herein imposed, to transmit the amount of~~  
3 ~~the tax due to the Secretary of Revenue within the time provided by law for payment of same.~~

4 (d), (e) Repealed by Session Laws 2002-72, s. 11, effective August 12, 2002.

5 (f) Dissolution. – After the end of the income year in which a domestic corporation is  
6 dissolved pursuant to Article 14 of Chapter 55 of the General Statutes, the corporation is no  
7 longer subject to the tax levied in this Article unless the Secretary of Revenue finds that the  
8 corporation has engaged in business activities in this State not appropriate to winding up and  
9 liquidating its business and affairs."

10 **SECTION 27B.2.(g)** G.S. 105-128 and G.S. 105-129 are repealed.

11 **SECTION 27B.2.(h)** This section is effective for taxable years beginning on or  
12 after January 1, 2010.

#### 13 14 **THROWBACK RULE**

15 **SECTION 27B.3.(a)** G.S. 105-130.4(1)(2) reads as rewritten:

16 "(2) Sales of tangible personal property are in this State if (i) the property is  
17 received in this State by ~~the purchaser.~~ a purchaser other than the United  
18 States government or (ii) the property is shipped from a place in this State  
19 and the purchaser is the United States government or the taxpayer is not  
20 taxable in the state of the purchaser. In the case of delivery of goods by  
21 common carrier or by other means of transportation, including transportation  
22 by the purchaser, the place at which the goods are ultimately received after  
23 all transportation has been completed shall be considered as the place at  
24 which the goods are received by the purchaser. Direct delivery into this State  
25 by the taxpayer to a person or firm designated by a purchaser from within or  
26 without the State shall constitute delivery to the purchaser in this State."

27 **SECTION 27B.3.(b)** This section is effective for taxable years beginning on or  
28 after January 1, 2010.

#### 29 30 **CONFORM BANK EXPENSE DEDUCTION**

31 **SECTION 27B.4.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision to  
32 read:

33 "(a) The following additions to federal taxable income shall be made in determining  
34 State net income:

35 ...

36 (2a) That portion of a financial institution's interest expense that is allocable to  
37 interest income exempt from taxation under this Part. The allocable portion  
38 of the interest expense is the portion for which deduction would be  
39 disallowed pursuant to section 265(b) of the Code if the interest were earned  
40 on a tax-exempt obligation as defined in section 265(b) of the Code.

41 ...."

42 **SECTION 27B.4.(b)** This section is effective for taxable years beginning on or  
43 after January 1, 2010.

#### 44 45 **PART XXVIIC. SALES TAX CHANGES**

#### 46 47 **INCREASE STATE SALES TAX BY ONE-QUARTER CENT**

48 **SECTION 27C.1.(a)** The introductory language of G.S. 105-164.4(a) reads as  
49 rewritten:

1 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
2 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and  
3 ~~one-half percent (4.5%)-three-quarters percent (4.75%).~~"

4 **SECTION 27C.1.(b)** Subsection (a) of this section increasing the general rate of  
5 State sales tax does not apply to construction materials purchased to fulfill a lump-sum or  
6 unit-price contract entered into or awarded before the effective date of the increase or entered  
7 into or awarded pursuant to a bid made before the effective date of the increase when the  
8 construction materials would otherwise be subject to the increased rate of tax provided under  
9 that subsection.

10 **SECTION 27C.1.(c)** The introductory language of G.S. 105-164.4(a) reads as  
11 rewritten:

12 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
13 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four and~~  
14 ~~three-quarters percent (4.75%)-five percent (5%).~~"

15 **SECTION 27C.1.(d)** Subsections (a) and (b) of this section become effective  
16 August 1, 2009, and apply to sales made on or after that date. Subsection (a) of this section is  
17 repealed October 1, 2009. Subsection (c) of this section is effective October 1, 2009, and  
18 applies to sales made on or after that date. The remainder of this section is effective when it  
19 becomes law. This section does not affect the rights or liabilities of the State, a taxpayer, or  
20 another person arising under a statute amended or repealed by this section before the effective  
21 date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that  
22 accrued under the amended or repealed statute before the effective date of its amendment or  
23 repeal.

## 24 NEXUS CLARIFICATION AND CLICK-THROUGHS

25 **SECTION 27C.2.(a)** G.S. 105-164.3(18) is recodified as G.S. 105-164.3(33g) and  
26 reads as rewritten:

### 27 **"§ 105-164.3. Definitions.**

28 The following definitions apply in this Article:

29 ...

30  
31 (33g) ~~Mail-order Remote sale.~~ – A sale of tangible personal property, ordered by  
32 mail, by telephone, computer link, via the Internet, or other by another  
33 similar method, to a purchaser who is in this State at the time the order is  
34 remitted, from a retailer who receives the order in another state and  
35 transports the property or causes it to be transported to a person in this State.  
36 It is presumed that a resident of this State who remits an order was in this  
37 State at the time the order was remitted.

38 ...."

39 **SECTION 27C.2.(b)** The catch line of G.S. 105-164.8 reads as rewritten:

### 40 **"§ 105-164.8. Retailer's obligation to collect tax; ~~mail-order remote sales subject to tax.~~"**

41 **SECTION 27C.2.(c)** G.S. 105-164.8(b) reads as rewritten:

42 "(b) ~~Mail-Order Remote Sales.~~ – A retailer who makes a ~~mail-order-remote sale~~ is  
43 engaged in business in this State and is subject to the tax levied under this Article if at least one  
44 of the following conditions is met:

- 45 (1) The retailer is a corporation engaged in business under the laws of this State  
46 or a person domiciled in, a resident of, or a citizen of, this State.
- 47 (2) The retailer maintains retail establishments or offices in this State, whether  
48 the ~~mail-order-remote sales~~ thus subject to taxation by this State result from  
49 or are related in any other way to the activities of ~~such~~ the establishments or  
50 offices.

- 1           (3)    The retailer ~~has representatives in this State who solicit business or transact~~  
2           ~~business on behalf of the retailer, solicits or transacts business in this State~~  
3           by employees, independent contractors, agents, or other representatives  
4           whether the ~~mail order remote~~ sales thus subject to taxation by this State  
5           result from or are related in any other way to such the solicitation or  
6           transaction of business. A retailer is presumed to be soliciting or transacting  
7           business by an independent contractor, agent, or other representative if the  
8           retailer enters into an agreement with a resident of this State under which the  
9           resident, for a commission or other consideration, directly or indirectly refers  
10           potential customers, whether by a link on an Internet Web site or otherwise,  
11           to the retailer, if the cumulative gross receipts from sales by the retailer to  
12           purchasers in this State who are referred to the retailer by all residents with  
13           this type of agreement with the retailer is in excess of ten thousand dollars  
14           (\$10,000) during the preceding four quarterly periods. This presumption  
15           may be rebutted by proof that the resident with whom the retailer has an  
16           agreement did not engage in any solicitation in the State on behalf of the  
17           seller that would satisfy the nexus requirement of the United States  
18           Constitution during the four quarterly periods in question.
- 19           (4)    Repealed by Session Laws 1991, c. 45, s. 16.
- 20           (5)    The retailer, by purposefully or systematically exploiting the market  
21           provided by this State by any media-assisted, media-facilitated, or  
22           media-solicited means, including direct mail advertising, distribution of  
23           catalogs, computer-assisted shopping, television, radio or other electronic  
24           media, telephone solicitation, magazine or newspaper advertisements, or  
25           other media, creates nexus with this State.
- 26           (6)    Through compact or reciprocity with another jurisdiction of the United  
27           States, that jurisdiction uses its taxing power and its jurisdiction over the  
28           retailer in support of this State's taxing power.
- 29           (7)    The retailer consents, expressly or by implication, to the imposition of the  
30           tax imposed by this Article. For purposes of this subdivision, evidence that a  
31           retailer engaged in the activity described in subdivision (5) ~~shall be~~ is prima  
32           facie evidence that the retailer consents to the imposition of the tax imposed  
33           by this Article.
- 34           (8)    The retailer is a holder of a wine shipper permit issued by the ABC  
35           Commission pursuant to G.S. 18B-1001.1."

36           **SECTION 27C.2.(d)** This section is effective when it becomes law.

### 37 38 SALES TAX BASE EXPANSION

39           **SECTION 27C.3.(a)** G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

40           **SECTION 27C.3.(b)** G.S. 105-164.3 reads as rewritten:

#### 41 "§ 105-164.3. Definitions.

42           The following definitions apply in this Article:

43           ...

44           (1b) Audio work. – A series of musical, spoken, or other sounds, including a  
45           ringtone.

46           (1c) Audiovisual. – A series of related images and any sounds accompanying the  
47           images that impart an impression of motion when shown in succession.

48           ~~(1b)~~(1d) Bundled transaction. – A retail sale of two or more distinct and identifiable  
49           products, at least one of which is taxable and one of which is exempt, for  
50           one nonitemized price. Products are not sold for one nonitemized price if an  
51           invoice or another sales document made available to the purchaser separately

- 1 identifies the price of each product. A bundled transaction does not include  
 2 the retail sale of any of the following:
- 3 a. A product and any packaging item that accompanies the product and  
 4 is exempt under G.S. 105-164.13(23).
  - 5 b. A sale of two or more products whose combined price varies, or is  
 6 negotiable, depending on the products the purchaser selects.
  - 7 c. A sale of a product accompanied by a transfer of another product  
 8 with no additional consideration.
  - 9 d. A product and the delivery or installation of the product.
  - 10 e. A product and any service necessary to complete the sale.
- 11 ~~(1d)~~(1e) Business. – Includes any activity engaged in by any person or caused to be  
 12 engaged in by him with the object of gain, profit, benefit or advantage, either  
 13 direct or indirect. The term 'business' shall not be construed in this Article to  
 14 include occasional and isolated sales or transactions by a person who does  
 15 not hold himself out as engaged in business.
- 16 ...
- 17 (7a) Digital code. – A code that gives a purchaser of the code a right to receive an  
 18 item by electronic delivery or electronic access. A digital code may be  
 19 obtained by an electronic means or by a tangible means. A digital code does  
 20 not include a gift certificate or a gift card.
- 21 ~~(7a)~~(7h) Direct mail. – Printed material delivered or distributed by the United States  
 22 Postal Service or other delivery service to a mass audience or to addresses  
 23 on a mailing list provided by the purchaser or at the direction of the  
 24 purchaser when the cost of the items is not billed directly to the recipients.  
 25 The term includes tangible personal property supplied directly or indirectly  
 26 by the purchaser to the direct mail seller for inclusion in the package  
 27 containing the printed material. The term does not include multiple items of  
 28 printed material delivered to a single address.
- 29 ...
- 30 (33e) Repair, maintenance, and installation services. – The term includes the  
 31 activities listed in this subdivision:
- 32 a. Repairing tangible personal property to restore it to proper working  
 33 order.
  - 34 b. Maintaining tangible personal property to keep the property in  
 35 working order, to avoid breakdown, or to prevent unnecessary  
 36 repairs.
  - 37 c. Installing tangible personal property.
- 38 ...
- 39 (35f) Ringtone. – A digitized sound file that is downloaded onto a device and that  
 40 may be used to alert the user of the device with respect to a communication.
- 41 (36) Sale or selling. – The transfer of title or possession of ~~tangible personal~~  
 42 ~~property, an item,~~ conditional or otherwise, in any manner or by any means  
 43 whatsoever, for a consideration paid or to be paid. ~~The~~ ~~The~~ term includes the  
 44 ~~fabrication~~ following:
- 45 a. Fabrication of tangible personal property for consumers by persons  
 46 engaged in business who furnish either directly or indirectly the  
 47 materials used in the fabrication work. ~~The term also includes the~~  
 48 ~~furnishing~~
  - 49 b. Furnishing or preparing for a consideration of ~~any~~ tangible personal  
 50 property consumed on the premises of the person furnishing or

1 preparing the property or consumed at the place at which the  
2 property is furnished or prepared. ~~The term also includes a~~

3 c. A transaction in which the possession of the property an item is  
4 transferred but the seller retains title or security for the payment of  
5 the consideration.

6 d. Transfer of a digital code.

7 ~~If a retailer engaged in the business of selling prepared food and drink~~  
8 ~~for immediate or on premises consumption also gives prepared food or drink~~  
9 ~~to its patrons or employees free of charge, for the purposes of this Article the~~  
10 ~~property given away is considered sold along with the property sold. If a~~  
11 ~~retailer gives an item of inventory to a customer free of charge on the~~  
12 ~~condition that the customer purchase similar or related property, the item~~  
13 ~~given away is considered sold along with the item sold. In all other cases,~~  
14 ~~property given away or used by any retailer or wholesale merchant is not~~  
15 ~~considered sold, whether or not the retailer or wholesale merchant recovers~~  
16 ~~its cost of the property from sales of other property.~~

17 ...

18 (38b) Service contract. – A warranty agreement, a maintenance agreement, a repair  
19 contract, or a similar agreement or contract by which the seller agrees to  
20 maintain or repair tangible personal property.

21 ...."

22 **SECTION 27C.3.(c)** G.S. 105-164.4(a), as amended by Section 3.1 of this act,  
23 reads as rewritten:

24 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
25 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is five  
26 percent (5%).

27 ...

28 (6b) The general rate applies to the sales price of an item that is listed in this  
29 subdivision, is delivered or accessed electronically, and would be taxable  
30 under this Article if sold in a tangible medium. The tax applies regardless of  
31 whether the purchaser of the item has a right to use it permanently or to use  
32 it without making continued payments. The tax does not apply to  
33 telecommunications service, video programming service, satellite digital  
34 audio radio service, or any other service that is taxed under another  
35 subdivision of this subsection. A person who sells an item that is taxable  
36 under this subdivision is considered a retailer under this Article. The  
37 following items are subject to tax under this subdivision:

38 a. An audio work.

39 b. An audiovisual work.

40 c. A book.

41 ...

42 (9) The general rate of tax applies to the gross receipts derived from a service  
43 contract and from repair, maintenance, and installation services.

44 (10) The general rate of tax applies to the gross receipts from charges for any of  
45 the activities listed in this subdivision. Gross receipts may take the form of a  
46 single or multioccasion ticket, a seasonal pass, a permanent seat license, a  
47 charge for a luxury suite, a cover charge, a membership fee, periodic dues,  
48 or any other form of payment. A person engaged in the business of providing  
49 any of these activities is considered a retailer under this Article:

50 a. Admission to a live performance or other live event of any kind.

51 b. Admission to a movie or other audiovisual work.

(11) The general rate of tax applies to the gross receipts derived from providing air, surface, or combined courier delivery services of parcels."

**SECTION 27C.3.(d)** Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.4E. When an item given away is considered sold.**

An item that is given away or used by a retailer or a wholesale merchant is not considered sold, whether or not the retailer or wholesale merchant receives its cost of the item from sales of other items, except as follows:

(1) If a retailer engaged in the business of selling prepared food and drink for immediate or on-premises consumption also gives prepared food or drink to its patrons or employees free of charge, for the purposes of this Article the property given away is considered sold along with the property sold.

(2) If a retailer gives an item of inventory to a customer free of charge on the condition that the customer purchase similar or related property, the item given away is considered sold along with the item sold."

**SECTION 27C.3.(e)** G.S. 105-164.7 reads as rewritten:

**"§ 105-164.7. ~~Sales tax part of purchase price.~~Retailer to collect sales tax from purchaser as trustee for State.**

~~Every retailer subject to the tax levied in G.S. 105-164.4 shall at the time of selling or delivering or taking an order for the sale or delivery of taxable tangible personal property or a taxable service, or collecting the sales price, add to the sales price the amount of tax due. The tax constitutes a part of the purchase price, is a debt from the purchaser to the retailer until paid, and is recoverable at law in the same manner as other debts. The tax must be stated and charged separately from the sales price, shown separately on the retailer's sales records, and paid by the purchaser to the retailer as trustee for and on account of the State. The retailer is liable for the collection of the tax and for its payment to the Secretary. The retailer's failure to charge the tax to or to collect the tax from the purchaser does not affect this liability. It is the intent of this Article that the tax be added to the sales price of tangible personal property and services when sold at retail and be borne and passed on to the customer, instead of being borne by the retailer.~~

The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable item and borne by the purchaser instead of by the retailer. A retailer must collect the tax due on an item when the item is sold at retail. The tax is a debt from the purchaser to the retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A retailer is considered to act as a trustee on behalf of the State when it collects tax from the purchaser of a taxable item."

**SECTION 27C.3.(f)** G.S. 105-164.13 reads as rewritten:

**"§ 105-164.13. Retail sales and use tax.**

~~The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services items~~ are specifically exempted from the tax imposed by this Article:

...  
(25) ~~Sales by merchants~~a merchant on the Cherokee Indian Reservation ~~when such merchants are who~~ is authorized to do business on the Reservation and ~~are paying~~pays the tribal gross receipts levy to the Tribal Council.

...  
(60) A service contract for, and the repair, maintenance, or installation of, an item that is exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).

(61) Admission charges to any of the following recreational or entertainment activities:

a. An event at an elementary or secondary school.



- 1           **b.**     A commercial agricultural fair that meets the requirements of  
2                 G.S. 106-520.1, as determined by the Commissioner of Agriculture.  
3           **c.**     A festival or other recreational or entertainment activity that lasts no  
4                 more than seven consecutive days and is sponsored by a nonprofit  
5                 entity that is exempt from tax under Article 4 of this Chapter and  
6                 uses the entire proceeds of the activity exclusively for the entity's  
7                 nonprofit purpose. This exemption applies to no more than two  
8                 activities sponsored by the entity during a calendar year.  
9           **d.**     An entertainment activity produced by local talent exclusively, for  
10                the benefit of religious, charitable, benevolent, or educational  
11                purposes, as long as no compensation is paid to the local talent.  
12           **e.**     The North Carolina Symphony Society, Incorporated, as specified in  
13                 G.S. 140-10.1.  
14           **f.**     All outdoor historical dramas, as specified in Article 19C of Chapter  
15                 143 of the General Statutes.  
16           **g.**     A youth athletic contest with an admissions price that does not  
17                 exceed ten dollars (\$10.00) sponsored by a person exempt from  
18                 income tax under Article 4 of this Chapter. For the purpose of this  
19                 sub-subdivision, a youth athletic contest means a contest in which  
20                 each participating athlete is less than 20 years of age.  
21           **h.**     A choral or theatrical performance promoted and managed by a  
22                 nonprofit entity that is exempt from tax under Article 4 of this  
23                 Chapter.  
24           **i.**     A recreational or an entertainment activity exclusively for teenagers  
25                 and sponsored by a nonprofit entity that is exempt from tax under  
26                 Article 4 of this Chapter.  
27           **j.**     A farm-related entertainment activity offered on land used for bona  
28                 fade farm purposes as defined in G.S. 153A-340."

29           **SECTION 27C.3.(g)** G.S. 105-467(a) is amended by adding two new subdivisions

30 to read:

- 31           **"(8)**    The sales price of an item that is delivered or accessed electronically and is  
32                 subject to the general rate of tax under G.S. 105-164.4(a)(6b).  
33           **(9)**     The gross receipts derived from providing a service subject to the general  
34                 rate of tax under G.S. 105-164.4(a)(9), (a)(10), or (a)(11)."

35           **SECTION 27C.3.(h)** Section 4 of Chapter 1096 of the 1967 Session Laws, as  
36 amended, reads as rewritten:

37           "Sec. 4. Scope of Sales Tax. The sales tax which may be imposed under this division after  
38 the holding of a special election is limited to a tax at the rate of one per cent (1%) of: (1) the  
39 sale price of ~~those articles of tangible personal property now the items~~ subject to the general  
40 rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(1) and (4b);~~ G.S. 105-164.4(a)(1),  
41 (4b), and (6b); (2) the gross receipts derived from the lease or rental of tangible personal  
42 property when the lease or rental of the property is subject to the general rate of sales tax  
43 imposed by the State under G.S. 105-164.4(a)(2); (3) the gross receipts derived from the rental  
44 of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar public  
45 accommodations now subject to the general rate of sales tax imposed by the State under G. S.  
46 105-164.4(a)(3); (4) the gross receipts derived from services rendered by laundries, dry  
47 cleaners, cleaning plants and similar type businesses now subject to the general rate of sales tax  
48 imposed by the State under G.S. 105-164.4(a)(4); (5) The sales price of food and other items  
49 that are not otherwise exempt from tax pursuant to G.S. 105-164.13 but are exempt from the  
50 State sales and use tax pursuant to G.S. 105-164.13B; ~~and~~ (6) The sales price of prepaid  
51 telephone calling service taxed as tangible personal property under ~~G.S. 105-164.4(a)(4d).~~ G.S.

1 105-164.4(a)(4d); and (7) The gross receipts derived from providing a service subject to the  
2 general rate of tax under G.S. 105-164.4(a)(9), (a)(10), or (a)(11). The sales price of prepaid  
3 telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d). The  
4 taxes authorized by this division do not apply to sales that are taxable by the State under  
5 G.S. 105-164.4 but are not specifically listed in this section.

6 The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use tax  
7 holiday contained in G.S. 105-164.13C and G.S. 105-164.13D apply with equal force and like  
8 manner to the local sales tax authorized to be imposed and levied under this division. The  
9 county shall have no authority, with respect to the local sales and use tax imposed under this  
10 division, to change, alter, add, or delete any exemptions or exclusions contained under  
11 G.S. 105-164.13.

12 The local sales tax authorized to be imposed and levied under the provisions of this division  
13 shall be applicable to such retail sales, leases, rentals, rendering of services, furnishing of  
14 lodging or accommodations and other taxable transactions which are made, furnished or  
15 rendered by retailers whose place of business is located within the taxing county. The tax  
16 imposed shall apply to the furnishing of rooms, lodging or other accommodations within the  
17 county which are rented to transients. The sourcing principles in G.S. 105-164.4B apply in  
18 determining whether the local sales tax applies to a transaction. Provided, however, no tax shall  
19 be imposed where the tangible personal property sold is delivered by the retailer or his agent to  
20 the purchaser at a point outside this State."

21 **SECTION 27C.3.(i)** This section becomes effective October 1, 2009, and applies  
22 to sales occurring on or after that date. This act does not affect the rights or liabilities of the  
23 State, a taxpayer, or another person arising under a statute amended or repealed by this act  
24 before the effective date of its amendment or repeal; nor does it affect the right to any refund or  
25 credit of a tax that accrued under the amended or repealed statute before the effective date of its  
26 amendment or repeal. G.S. 105-164.4(a)(10), as enacted by this section, applies to gross  
27 receipts received from admissions purchased on or after that date and to gross receipts received  
28 on or after that date from other recreational and entertainment activities occurring on or after  
29 that date.

## 30 31 **PART XXVIID. ALCOHOL EXCISE TAX CHANGE**

### 32 33 **INCREASE TAX ON LIQUOR**

34 **SECTION 27D.2.(a)** G.S. 105-113.80(c) reads as rewritten:

35 "(c) Liquor. – An excise tax of ~~twenty five percent (25%)~~ twenty-six and one-half  
36 percent (26.5%) is levied on liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price  
37 of liquor on which this tax is computed is the distiller's price plus (i) the State ABC warehouse  
38 freight and bailment charges, and (ii) a markup for local ABC boards."

39 **SECTION 27D.2.(b)** This section becomes effective August 1, 2009.

## 40 41 **PART XXVIII. MISCELLANEOUS PROVISIONS**

### 42 43 **STATE BUDGET ACT APPLIES**

44 **SECTION 28.1.** The provisions of the State Budget Act, Chapter 143C of the  
45 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in  
46 this act by reference.

### 47 48 **COMMITTEE REPORT**

49 **SECTION 28.2.(a)** The N.C. House of Representatives Appropriations Committee  
50 Report on the Continuation, Expansion and Capital Budgets dated June 9, 2009, the N.C.  
51 House of Representatives Finance Committee Supplemental Report on the Continuation,

1 Expansion and Capital Budgets dated June 10, 2009, and the N.C. House of Representatives  
2 Committee Report on the Continuation, Expansion and Capital Budgets as Amended dated  
3 June 11, 2009, which were distributed in the House of Representatives and used to explain this  
4 act, shall indicate action by the General Assembly on this act and shall therefore be used to  
5 construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes,  
6 and for these purposes shall be considered a part of this act and as such shall be printed as a  
7 part of the Session Laws.

8 **SECTION 28.2.(b)** The budget enacted by the General Assembly is for the  
9 maintenance of the various departments, institutions, and other spending agencies of the State  
10 for the 2009-2011 biennial budget as provided in G.S. 143C-3-5. This budget includes the  
11 appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

12 The Director of the Budget submitted recommended adjustments to the budget to  
13 the General Assembly in March 2009 in the documents "The North Carolina State Budget,  
14 Recommended Operating Budget with Performance Management Information 2009-2011,  
15 Volumes 1 through 6," for the 2009-2011 fiscal biennium for the various departments,  
16 institutions, and other spending agencies of the State. The adjustments to these documents  
17 made by the General Assembly are set out in the Committee Report, the Supplemental  
18 Committee Report, and the final Committee Report.

19 **SECTION 28.2.(c)** The budget enacted by the General Assembly shall also be  
20 interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other  
21 appropriate legislation.

22 In the event that there is a conflict between the line-item budget certified by the  
23 Director of the Budget and the budget enacted by the General Assembly, the budget enacted by  
24 the General Assembly shall prevail.

#### 25 **MOST TEXT APPLIES ONLY TO THE 2009-2011 FISCAL BIENNIUM**

26 **SECTION 28.3.** Except for statutory changes or other provisions that clearly  
27 indicate an intention to have effects beyond the 2009-2011 fiscal biennium, the textual  
28 provisions of this act apply only to funds appropriated for, and activities occurring during, the  
29 2009-2011 fiscal biennium.

#### 30 **EFFECT OF HEADINGS**

31 **SECTION 28.4.** The headings to the parts and sections of this act are a  
32 convenience to the reader and are for reference only. The headings do not expand, limit, or  
33 define the text of this act, except for effective dates referring to a part.

#### 34 **SEVERABILITY CLAUSE**

35 **SECTION 28.5.** If any section or provision of this act is declared unconstitutional  
36 or invalid by the courts, it does not affect the validity of this act as a whole or any part other  
37 than the part so declared to be unconstitutional or invalid.

#### 38 **EFFECTIVE DATE**

39 **SECTION 28.6.** Except as otherwise provided, this act becomes effective July 1,  
40 2009.  
41  
42  
43  
44  
45