

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-66
SENATE BILL 1741**

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2005, TO INCREASE TEACHER AND STATE EMPLOYEE PAY, TO REDUCE THE SALES TAX RATE AND THE INCOME TAX RATE APPLICABLE TO MOST SMALL BUSINESSES, TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUEL TAX RATE AT ITS CURRENT RATE, TO ENACT OTHER TAX REDUCTIONS, AND TO PROVIDE FOR THE FINANCING OF HIGHER EDUCATION FACILITIES AND PSYCHIATRIC HOSPITALS AND OTHER CAPITAL PROJECTS.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

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

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2006."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2007, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2006-2007 fiscal year.

Current Operations – General Fund

FY 2006-2007

EDUCATION

Community Colleges System Office	\$ 64,160,027
Department of Public Instruction	139,944,021
University of North Carolina – Board of Governors	
Appalachian State University	2,189
East Carolina University	
Academic Affairs	(1,589,622)
Health Affairs	0
Elizabeth City State University	(28,887)
Fayetteville State University	42,675
NC Agricultural and Technical University	(223,690)
North Carolina Central University	(312)
North Carolina School of the Arts	29,159
North Carolina State University	
Academic Affairs	(3,908,353)
Agricultural Extension	65,287
Agricultural Research	0
University of North Carolina at Asheville	(569,398)
University of North Carolina at Chapel Hill	
Academic Affairs	(846,370)
Health Affairs	(795,501)
Area Health Education Centers	0
University of North Carolina at Charlotte	(471,439)
University of North Carolina at Greensboro	(1,138)
University of North Carolina at Pembroke	(299,992)
University of North Carolina at Wilmington	(100,910)
Western Carolina University	(735,491)
Winston-Salem State University	0
General Administration	0
University Institutional Programs	138,037,440
Related Educational Programs	0
North Carolina School of Science and Mathematics	52,250
UNC Hospitals at Chapel Hill	0
Total	\$ 128,657,897

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Office of the Secretary	\$ (55,163,236)
Division of Aging	5,535,886
Division of Blind Services/Deaf/HH	75,000

Division of Child Development	29,061,908
Division of Education Services	996,783
Division of Facility Services	200,000
Division of Medical Assistance	(107,550,000)
Division of Mental Health	60,238,357
NC Health Choice	0
Division of Public Health	18,135,242
Division of Social Services	15,682,564
Division of Vocation Rehabilitation	0
Total	\$ (32,787,496)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ 3,583,562
Department of Commerce	
Commerce	36,367,483
Commerce State-Aid	7,203,138
NC Biotechnology Center	2,500,000
Rural Economic Development Center	(500,000)
Department of Environment and Natural Resources	
Environment and Natural Resources	14,851,962
Clean Water Management Trust Fund	0
Department of Labor	613,894

JUSTICE AND PUBLIC SAFETY

Department of Correction	\$ 34,911,704
Department of Crime Control and Public Safety	5,954,280
Judicial Department	27,091,712
Judicial Department – Indigent Defense	6,683,129
Department of Justice	4,706,838
Department of Juvenile Justice and Delinquency Prevention	3,454,520

GENERAL GOVERNMENT

Department of Administration	\$ 3,374,539
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Office of Administrative Hearings	281,367
Department of State Auditor	57,564
Office of State Controller	0
Department of Cultural Resources	
Cultural Resources	5,421,016
Roanoke Island Commission	0
State Board of Elections	786,620
General Assembly	38,284
Office of the Governor	
Office of the Governor	100,000
Office of State Budget and Management	409,938
OSBM – Reserve for Special Appropriations	1,353,253
Housing Finance Agency	17,437,500
Department of Insurance	
Insurance	455,846
Insurance – Volunteer Safety Workers' Compensation	0
Office of Lieutenant Governor	88,433
Department of Revenue	1,279,782
Department of Secretary of State	468,067
Department of State Treasurer	
State Treasurer	281,784
State Treasurer – Retirement for Fire and Rescue Squad Workers	514,000

TRANSPORTATION

Department of Transportation	\$ 0
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RESERVES, ADJUSTMENTS AND DEBT SERVICE

Reserve for Compensation Increases	\$ 688,494,519
Reserve for Teachers' and State Employees' Retirement Rate Adjustment	27,107,200

Nontax Revenues	
Investment Income	\$ 78,700,000
Judicial Fees	168,605,271
Disproportionate Share	100,000,000
Insurance	51,543,813
Other Nontax Revenues	202,719,921
Highway Trust Fund Transfer	252,663,009
Highway Fund Transfer	0
Subtotal Nontax Revenues	\$ 854,232,014
Total General Fund Availability	\$ 18,555,034,066
Adjustments to Availability: 2006 Session	
Adjustment to Baseline Revenue Forecast	\$ 698,864,995
Reduce Sales Tax from 4.5% to 4.25% – December 1, 2006	(140,100,000)
Reduce Top Personal Income Tax Rate from 8.25% to 8.0% - January 1, 2007	(28,600,000)
Mill Rehabilitation Income Tax Credit	(2,800,000)
529 Savings Plan Income Tax Deduction	(1,000,000)
Logging Machinery Sales Tax Exemption	(2,870,000)
IRC Update	(5,100,000)
Joint Filing Options Under Personal Income Tax	(1,000,000)
Railroad Cars Tax Exemption	(400,000)
Bill Lee Act Wage Standard – Certain Manufacturers	(800,000)
Bill Lee Act Adjustment – Clayton Project	(800,000)
Extend Aviation Fuel Tax Credit	(90,000)
Extend Real Property Donation Tax Credit	(100,000)
Small Business Health Insurance Credit of \$250 – January 1, 2007	(7,200,000)
Internet Facility Sales Tax Exemption	(2,250,000)
Oyster Tax Credit	(23,000)
Gas Cap Reserve	(367,000)
Reduce Transfer to Highway Trust Fund	(195,176,407)
Adjust Transfer from Insurance Regulatory Fund	455,846
Adjust Transfer from Treasurer's Office	281,784
Subtotal Adjustments to Availability: 2006 Session	\$ 310,926,218
Revised General Fund Availability for 2006-2007 Fiscal Year	\$ 18,865,960,284
Less: Total General Fund Appropriations	
2006-2007 Fiscal Year	(18,865,960,284)
Unappropriated Balance Remaining	\$ 0

SECTION 2.2.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer two hundred twenty-two million two hundred twenty-nine thousand one hundred eighty-nine dollars (\$222,229,189) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2006. This subsection becomes effective June 30, 2006.

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2006-2007 fiscal year to be used in accordance with G.S. 143-15.3A.

SECTION 2.2.(d) Section 2.2(e) of S.L. 2005-276 is repealed effective June 30, 2006.

This subsection becomes effective June 30, 2006

SECTION 2.2.(e) Section 2.2.(f) of S.L. 2005-276 reads as rewritten:

"**SECTION 2.2.(f)** Notwithstanding G.S. 105-187.9(b)(1), the sum to be transferred under that subdivision for the 2005-2006 fiscal year is two hundred fifty million dollars (\$250,000,000) and for the 2006-2007 fiscal year is two hundred fifty million dollars (\$250,000,000); ~~two hundred fifty million dollars (\$250,000,000)~~; fifty-five million dollars (\$55,000,000)."

SECTION 2.2.(f) Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred under that subdivision for the 2006-2007 fiscal year is two million four hundred eighty-six thousand six hundred two dollars (\$2,486,602).

SECTION 2.2.(g) There is created in the General Fund a Reserve for the Motor Fuels Tax Ceiling. The sum of twenty-two million nine hundred thirty-three thousand dollars (\$22,933,000) is hereby transferred from the Savings Reserve Account to the Reserve for the Motor Fuels Tax Ceiling for the 2006-2007 fiscal year

The State Treasurer shall transfer funds reserved to hold harmless the Highway Fund and the Highway Trust Fund from the Reserve for the Motor Fuels Tax Ceiling only if the variable wholesale component of the motor fuel excise tax rate in G.S. 105-449.80 would, without the imposition of the cap imposed by Section 24.3 of this act, exceed twelve and four-tenths cents (12.4¢) a gallon. A transfer required under this subsection must be made on a monthly basis. The amount to be transferred from the Reserve for the Motor Fuels Tax Ceiling to the Highway Fund is the difference between the amount of motor fuel excise tax revenue allocated to the Highway Fund under G.S. 105-449.125 for a month and the amount that would have been allocated to it if the variable wholesale component were not capped at twelve and four-tenths cents (12.4¢) a gallon. The total amount transferred to the Highway Fund under this subsection during fiscal year 2006-2007 may not exceed seventeen million six hundred thousand dollars (\$17,600,000). The amount to be transferred from the Reserve for the Motor Fuels Tax Ceiling to the Highway Trust Fund is the difference between the amount of motor fuel excise tax revenue allocated to the Highway Trust Fund under G.S. 105-449.125 for a month and the amount that would have been allocated to it if the variable wholesale component were not capped at twelve and four-tenths cents (12.4¢) a gallon. The total amount transferred to the Highway Trust Fund under this subsection during fiscal year 2006-2007 may not exceed five million seven hundred thousand dollars (\$5,700,000).

Funds remaining in the Reserve for the Motor Fuels Tax Ceiling on June 30, 2007, shall revert to the Savings Reserve Account on June 30, 2007.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the Highway Fund of the State for maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 2007, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Fund Appropriations for the 2006-2007 fiscal year.

Current Operations – Highway Fund	2006-2007
Department of Transportation	
Administration	\$ 0
Division of Highways	
Administration	0
Construction	39,439,500
Maintenance	179,731,200
Planning and Research	0
OSHA Program	0
Aeronautics	2,000,000
Ferry Operations	1,000,000
State Aid	
Municipalities	1,439,500
Public Transportation	(14,000,000)
Railroads	3,198,750
Governor's Highway Safety	0
Division of Motor Vehicles	1,886,701
Other State Agencies	11,612,420
Reserves and Transfers	28,523,000
TOTAL	\$254,831,071

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2005-2007 biennial budget is shown below:

Highway Fund Availability Statement	2006-2007
Beginning Credit Balance	26,600,000

Estimated Revenue	1,767,140,000
Total Highway Fund Availability	\$ 1,793,740,000

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the Highway Trust Fund of the State for maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 2007, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2006-2007 fiscal year.

Current Operations – Highway Trust Fund	2006-2007
Intrastate System	100,567,595
Urban Loops	40,665,346
Aid to Municipalities	10,551,886
Secondary Roads	9,271,360
Program Administration	(1,189,780)
Transfer to General Fund	(195,176,407)
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	(\$35,310,000)

PART VI. GENERAL PROVISIONS

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 6.1.(a) Section 6.2 of S.L. 2005-276 is repealed.

SECTION 6.1.(b) Funds in the amount of five million dollars (\$5,000,000) for the 2006-2007 fiscal year are appropriated to the Contingency and Emergency Fund. Except as provided in subsection (c) of this section, these funds shall be expended only as:

- (1) Required by a court, Industrial Commission, or administrative hearing officer's order;
- (2) Required to call out the national guard; or
- (3) Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado, if funds for this purpose are not available in the Reserve for Disaster Expenses as authorized in G.S. 166A.

SECTION 6.1.(c) Up to five hundred thousand dollars (\$500,000) may be spent for purposes other than those set out in subsection (b) of this section. Notwithstanding any other provision of law authorizing expenditures from the Contingency and Emergency Fund, no more than five hundred thousand dollars

(\$500,000) of these funds shall be expended for purposes other than those set out in subsection (b) of this section.

AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS

SECTION 6.2. Notwithstanding G.S. 143-34.1(a1), a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of receipt-supported positions specified in this act without prior consultation with the Joint Legislative Commission on Governmental Operations.

CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES PURSUANT TO THE EXECUTIVE BUDGET ACT

SECTION 6.3. 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 the Current Operations and Capital Improvements Appropriations Act of 2006, or in the Senate and House of Representatives Appropriations Committee Reports on the Continuation, Expansion and Capital Budgets, that were distributed in the Senate and House of Representatives Appropriations and Base Budget Committees and used to explain this act.

NO FEE INCREASES WHICH THE GENERAL ASSEMBLY HAS REJECTED

SECTION 6.4. Chapter 143 of the General Statutes is amended by adding a new section to read:

§ 143-16.7. No fee increases that the General Assembly has rejected.

Notwithstanding any other provision of law, no fee shall be increased if the General Assembly has rejected an increase of that fee for the current fiscal period. For the purpose of this section, the General Assembly has rejected a fee increase when that fee increase is included in a bill which fails a reading, or if the fee increase is included in the version of a bill that passes one house, but the bill is enacted without the fee increase."

STATE EMERGENCY RESPONSE ACCOUNT

SECTION 6.5.(a) G.S. 166A-6.01(b)(2) reads as rewritten:

"(b) Disaster Assistance Programs – Type I Disaster. – In the event that a Type I disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster area in the form of individual assistance and public assistance as provided in this subsection.

...

- (2) Public assistance. – State disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster area on the following terms and conditions:
- a. Eligible entities shall meet the following qualifications:
 1. The eligible entity suffers a minimum of ten thousand dollars (\$10,000) in uninsurable losses;
 2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding ~~one half percent (0.5%)~~ one percent (1%) of the annual operating budget;
 3. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and
 4. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.
 - b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.
 - c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the following purposes only:
 1. Debris clearance.
 2. Emergency protective measures.
 3. Roads and bridges.
 4. Crisis counseling.
 5. Assistance with public transportation needs."

SECTION 6.5.(b) Article 1 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"§ 166A-6.02. State Emergency Response Account.

(a) Account Established. – There is established a State Emergency Response Account as a reserve in the General Fund. Any funds appropriated to the Account shall remain available for expenditure as provided by this section, unless directed otherwise by the General Assembly.

(b) Purpose of Funds. – The Governor may spend funds from the Account for the following purposes:

- (1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster as defined by G.S. 166A-6.

- (2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.

All other types of disaster assistance authorized by G.S. 166A-6 shall continue to be financed by the funds made available under G.S. 166A-6.01.

(c) Reporting Requirement. – The Governor shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and House of Representatives on any expenditures from the State Emergency Response Account no later than 30 days after making the expenditure. The report shall include a description of the emergency and type of action taken."

SECTION 6.5.(c) G.S. 166A-4(1) reads as rewritten:

"~~(1)~~(1a) Disaster. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military or paramilitary cause."

SECTION 6.5.(d) G.S. 166A-4 is amended by adding a new subdivision to read:

"(1) Account. – The State Emergency Response Account established in G.S. 166A-6.02."

INFORMATION TECHNOLOGY FUND AVAILABILITY AND APPROPRIATIONS

SECTION 6.6.(a) Section 6.13.(a) of S.L. 2005-276 reads as rewritten:

"**SECTION 6.13.(a)** The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2005-2006	FY 2006-2007
<u>Estimated Information Technology Fund Balance, June 30, 2006</u>		<u>\$4,212,225</u>
Receipts from Information Technology Enterprise Fee (G.S. 147-33.82)	\$5,000,000	\$5,000,000
Transfer from June 30, 2005, Information Technology Services Internal Service Fund cash balance to support statewide IT initiatives	\$5,000,000	
Appropriation from General Fund	\$24,375,000	\$8,025,000
<u>Appropriation from General Fund</u>	<u>\$24,375,000</u>	<u>\$50,112,229</u>
Total Funds Available	\$34,375,000	\$13,025,000
<u>Total Funds Available</u>	<u>\$34,375,000</u>	<u>\$59,324,454</u>

SECTION 6.6.(b) Additional appropriations are made from the Information Technology Fund established in G.S. 147-33.72H for the fiscal year ending June 30,

2007, in the amount of forty-six million two hundred ninety-nine thousand four hundred fifty-four dollars (\$46,299,454).

AMEND CIVIL PENALTY AND FORFEITURE FUND AVAILABILITY

SECTION 6.9.(a) Section 6.37(a) of S. L. 2005-276 reads as rewritten:

"**SECTION 6.37.(a)** Availability. – The availability used to support appropriations made in this act from the Civil Penalty and Forfeiture Fund is based upon estimated collections of fines and forfeitures from the agencies and in the amounts listed below:

	FY 2005-2006	FY 2006-2007
Department of Revenue	\$ 80,000,000	\$ 85,000,000 <u>63,000,000</u>
Department of Transportation	\$ 15,000,000	\$ 15,000,000
Employment Security Commission	\$ 3,000,000	\$ 3,000,000
Department of Insurance	\$ 3,000,000	\$ 3,000,000 <u>1,000,000</u>
University of North Carolina	\$ 5,000,000	\$ 5,000,000 <u>3,500,000</u>
Other Agencies	\$ 14,500,000	\$ 14,500,000 <u>10,000,000</u>
Total Funds Available	\$ 120,500,000	\$ 125,500,000 <u>95,500,000</u> "

SECTION 6.9.(b) Section 6.37(b) of S.L. 2005-276 reads as rewritten:

"**SECTION 6.37.(b)** Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2007, as follows:

	2005-2006	2006-2007
School Technology Fund	\$ 18,000,000	\$ 18,000,000
State Public School Fund	\$ 102,500,000	\$ 107,500,000 <u>77,500,000</u>
Total Appropriation	\$ 120,500,000	\$ 125,500,000 <u>95,500,000</u> "

SECTION 6.9.(c) G.S. 115C-457.2 reads as rewritten:

"§ 115C-457.2. Remittance of moneys to the Fund.

The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency and that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of these funds include the full amount of all civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed twenty percent (20%) of the amount collected. The collection cost percentage to be used by a State agency shall be established and approved by the Office of State Budget and Management on an annual basis based upon the computation of actual collection costs by each agency for the prior fiscal year."

FUNDS FOR ENROLLMENT INCREASES

SECTION 6.10. G.S. 143-11 is amended by adding a new subsection to read:

"(a1) In developing the budget, the Director shall consider the information on student enrollment increases submitted to the Director by the State Board of Education,

the State Board of Community Colleges, and the Board of Governors of The University of North Carolina. The Director shall include in the continuation budget the amount the Director proposes to fund for the enrollment increases for public schools, community colleges, and the university system."

EDUCATION LOTTERY FUND REVENUE AND APPROPRIATIONS

SECTION 6.15.(a) Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four hundred twenty-five million dollars (\$425,000,000) for the 2006-2007 fiscal year.

SECTION 6.15.(b) The appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2006-2007 fiscal year are as follows:

Class Size Reduction	\$ 127,864,291
Prekindergarten Program	84,635,709
Public School Building Capital Fund	170,000,000
Scholarships for Needy Students	42,500,000
Total Appropriation	\$ 425,000,000

FUNDS FOR INCREASED FUEL COSTS

SECTION 6.16. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Education may use any funds appropriated for State Aid to Local School Administrative units to cover increases in fuel costs.

Notwithstanding G.S. 143-23 or any other provision of law, all other State agencies may transfer funds within their budgets, including funds appropriated for salaries and wages, to cover the increases in fuel costs.

PART VII. PUBLIC SCHOOLS

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2006-2007 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (c) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2006-2007 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 31 steps with each step corresponding to one year of teaching experience.

2006-2007 Monthly Salary Schedule
 "A" Teachers

Years Of Experience	"A" Teachers	NBPTS Certification
0	\$2,851	N/A
1	\$2,893	N/A
2	\$2,937	N/A
3	\$3,093	\$3,464
4	\$3,233	\$3,621
5	\$3,367	\$3,771
6	\$3,496	\$3,916
7	\$3,600	\$4,032
8	\$3,648	\$4,086
9	\$3,697	\$4,141
10	\$3,747	\$4,197
11	\$3,796	\$4,252
12	\$3,847	\$4,309
13	\$3,898	\$4,366
14	\$3,951	\$4,425
15	\$4,005	\$4,486
16	\$4,060	\$4,547
17	\$4,115	\$4,609
18	\$4,174	\$4,675
19	\$4,232	\$4,740
20	\$4,290	\$4,805
21	\$4,352	\$4,874
22	\$4,413	\$4,943
23	\$4,479	\$5,016
24	\$4,543	\$5,088
25	\$4,608	\$5,161
26	\$4,674	\$5,235
27	\$4,742	\$5,311
28	\$4,813	\$5,391
29	\$4,884	\$5,470
30+	\$4,982	\$5,580.

2006-2007 Monthly Salary Schedule
 "M" Teachers

Years Of Experience	"M" Teachers	NBPTS Certification
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0	\$3,136	N/A
1	\$3,182	N/A
2	\$3,231	N/A
3	\$3,402	\$3,810
4	\$3,556	\$3,983
5	\$3,704	\$4,148
6	\$3,846	\$4,308
7	\$3,960	\$4,435
8	\$4,013	\$4,495
9	\$4,067	\$4,555
10	\$4,122	\$4,617
11	\$4,176	\$4,677
12	\$4,232	\$4,740
13	\$4,288	\$4,803
14	\$4,346	\$4,868
15	\$4,406	\$4,935
16	\$4,466	\$5,002
17	\$4,527	\$5,070
18	\$4,591	\$5,142
19	\$4,655	\$5,214
20	\$4,719	\$5,285
21	\$4,787	\$5,361
22	\$4,854	\$5,436
23	\$4,927	\$5,518
24	\$4,997	\$5,597
25	\$5,069	\$5,677
26	\$5,141	\$5,758
27	\$5,216	\$5,842
28	\$5,294	\$5,929
29	\$5,372	\$6,017
30+	\$5,480	\$6,138.

SECTION 7.1.(c) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(d) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M"

teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 7.1.(e) The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 7.1.(f) Speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 7.1.(g) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 7.1.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2006-2007 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2006-2007 fiscal year, commencing July 1, 2006, is as follows:

2006-2007
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,592				
5	\$3,741				
6	\$3,884				
7	\$4,000				
8	\$4,053	\$4,053			
9	\$4,108	\$4,108			
10	\$4,163	\$4,163	\$4,218		
11	\$4,218	\$4,218	\$4,274		
12	\$4,274	\$4,274	\$4,331	\$4,389	
13	\$4,331	\$4,331	\$4,389	\$4,450	\$4,511
14	\$4,389	\$4,389	\$4,450	\$4,511	\$4,572
15	\$4,450	\$4,450	\$4,511	\$4,572	\$4,637
16	\$4,511	\$4,511	\$4,572	\$4,637	\$4,702
17	\$4,572	\$4,572	\$4,637	\$4,702	\$4,766
18	\$4,637	\$4,637	\$4,702	\$4,766	\$4,835
19	\$4,702	\$4,702	\$4,766	\$4,835	\$4,903
20	\$4,766	\$4,766	\$4,835	\$4,903	\$4,976
21	\$4,835	\$4,835	\$4,903	\$4,976	\$5,047
22	\$4,903	\$4,903	\$4,976	\$5,047	\$5,120
23	\$4,976	\$4,976	\$5,047	\$5,120	\$5,192
24	\$5,047	\$5,047	\$5,120	\$5,192	\$5,268
25	\$5,120	\$5,120	\$5,192	\$5,268	\$5,347
26	\$5,192	\$5,192	\$5,268	\$5,347	\$5,426
27	\$5,268	\$5,268	\$5,347	\$5,426	\$5,535
28	\$5,347	\$5,347	\$5,426	\$5,535	\$5,646
29	\$5,426	\$5,426	\$5,535	\$5,646	\$5,759
30	\$5,535	\$5,535	\$5,646	\$5,759	\$5,874
31	\$5,646	\$5,646	\$5,759	\$5,874	\$5,991
32		\$5,759	\$5,874	\$5,991	\$6,111
33			\$5,991	\$6,111	\$6,233
34			\$6,111	\$6,233	\$6,358
35				\$6,358	\$6,485
36				\$6,485	\$6,615
37					\$6,747

Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	PrinV (44-54)	PrinVI (55-65)	PrinVII (66-100)	PrinVIII (101+)
0-14	\$4,637			
15	\$4,702			
16	\$4,766	\$4,835		
17	\$4,835	\$4,903	\$5,047	
18	\$4,903	\$4,976	\$5,120	\$5,192
19	\$4,976	\$5,047	\$5,192	\$5,268
20	\$5,047	\$5,120	\$5,268	\$5,347
21	\$5,120	\$5,192	\$5,347	\$5,426
22	\$5,192	\$5,268	\$5,426	\$5,535
23	\$5,268	\$5,347	\$5,535	\$5,646
24	\$5,347	\$5,426	\$5,646	\$5,759
25	\$5,426	\$5,535	\$5,759	\$5,874
26	\$5,535	\$5,646	\$5,874	\$5,991
27	\$5,646	\$5,759	\$5,991	\$6,111
28	\$5,759	\$5,874	\$6,111	\$6,233
29	\$5,874	\$5,991	\$6,233	\$6,358
30	\$5,991	\$6,111	\$6,358	\$6,485
31	\$6,111	\$6,233	\$6,485	\$6,615
32	\$6,233	\$6,358	\$6,615	\$6,747
33	\$6,358	\$6,485	\$6,747	\$6,882
34	\$6,485	\$6,615	\$6,882	\$7,020
35	\$6,615	\$6,747	\$7,020	\$7,160
36	\$6,747	\$6,882	\$7,160	\$7,303
37	\$6,882	\$7,020	\$7,303	\$7,449
38	\$7,020	\$7,160	\$7,449	\$7,598
39		\$7,303	\$7,598	\$7,750
40		\$7,449	\$7,750	\$7,905
41			\$7,905	\$8,063

SECTION 7.2.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers

Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 7.2.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 7.2.(f) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 7.2.(g) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 7.2.(h) Participants in an approved full-time masters in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 7.2.(i) During the 2006-2007 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

CENTRAL OFFICE SALARIES

SECTION 7.3.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2006-2007 fiscal year, beginning July 1, 2006.

School Administrator I	\$3,093	\$5,809
School Administrator II	\$3,283	\$6,161
School Administrator III	\$3,485	\$6,536
School Administrator IV	\$3,625	\$6,796
School Administrator V	\$3,771	\$7,071
School Administrator VI	\$4,001	\$7,499
School Administrator VII	\$4,162	\$7,801

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 2006.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2006-2007 fiscal year, beginning July 1, 2006.

Superintendent I	\$4,417	\$8,275
Superintendent II	\$4,689	\$8,775
Superintendent III	\$4,975	\$9,310
Superintendent IV	\$5,280	\$9,875
Superintendent V	\$5,604	\$10,477

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

SECTION 7.3.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 7.3.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this section.

SECTION 7.3.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 7.3.(f) The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be five and one-half percent (5.5%), commencing July 1, 2006. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARY AND FAIR MINIMUM PAY

SECTION 7.4.(a) The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be five and one-half percent (5.5%), commencing July 1, 2006.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2005-2006 and who continue their employment for fiscal year 2006-2007 by providing an annual salary increase for employees of five and one-half percent (5.5%).

SECTION 7.4.(c) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of five and one-half percent (5.5%) for the 2006-2007 fiscal year.

SECTION 7.4.(d) Effective July 1, 2006, permanent full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be paid a minimum salary of at least twenty thousand one hundred twelve dollars (\$20,112) per year. Permanent, full-time employees working on a schedule requiring less than 12 months' service per year and permanent part-time employees, whose salaries are supported from the State's General Fund, shall be paid the minimum salary pro rata. The fair minimum wage salary adjustment provided by this section shall be calculated and awarded after any across-the-board salary increases authorized by this act.

BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY SCHEDULES

SECTION 7.5. Effective July 1, 2006, any permanent personnel employed on July 1, 2006, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.6.(a) The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2005-2006 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

- (1) Incentive awards in schools that achieve higher than expected improvements may be up to:
 - a. One thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
 - b. Five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be up to:
 - a. Seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
 - b. Three hundred seventy-five dollars (\$375.00) for each teacher assistant.

SECTION 7.6.(b) Notwithstanding G.S. 143-23, the State Board of Education may use funds appropriated to the Department of Public Instruction and to the State Public School Fund to establish a consolidated, comprehensive program through which to provide assistance to low-performing schools. For this purpose only, the Board may, with approval from the Office of State Budget and Management, transfer funds between personal service and nonpersonal service line items currently supporting positions, related operating costs, and contracts for school improvement teams and for assistance teams. Funds transferred pursuant to this section shall not be used to raise the salary of existing employees.

The Board shall report to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Governmental Operations by January 15, 2007, on any restructuring of the assistance program pursuant to this section.

SECTION 7.6.(c) The State Board of Education shall review the incentive award structure described in this section to ensure that extraordinary performance is rewarded. In addition, the Board shall determine whether the relationship between awards for teachers and teacher assistants and the Board's strategic priorities is appropriate. The Board shall provide a preliminary report of its findings and recommendations to the Joint Legislative Education Oversight Committee by December 15, 2006.

CHILDREN WITH DISABILITIES

SECTION 7.7. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand nine hundred seventy-two dollars and fifty-two cents (\$2,972.52) per child for a maximum of 170,240 children for the 2006-2007 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities, or (ii) twelve and five-tenths percent (12.5%) of the 2006-2007 allocated average daily membership in the local school administrative unit.

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

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.8. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of nine hundred sixty-one dollars and sixty cents (\$961.60) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2006-2007 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 57,419 children for the 2006-2007 school year.

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

DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING

SECTION 7.10. Section 7.8 of S.L. 2005-276 is amended by adding a new subsection to read:

"SECTION 7.8.(c) Beginning in the 2006-2007 fiscal year, funds appropriated to a local education agency (LEA) for disadvantaged student supplemental funding (DSSF) shall be allotted based on: (i) the LEA's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

- (1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:20.5;
- (2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:20;
- (3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.5; and
- (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs shall receive no less than the DSSF amount allotted in 2005-2006.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula."

LEARN AND EARN HIGH SCHOOLS

SECTION 7.11. Section 7.32 of S.L. 2005-276 is amended by adding the following new subsections:

SECTION 7.32.(e) Enrollment fees and tuition for The University of North Carolina courses in which Learn and Earn students are enrolled are allowable uses of these funds. Tuition costs may include laboratory fees assessed to all students enrolled in the course or a similar course.

SECTION 7.32.(f) Textbooks required for college courses in which Learn and Earn students are enrolled may be purchased with these funds.

SECTION 7.32.(g) Payment of fees from these funds by local school administrative units to partnering community colleges and universities are restricted to technology or course fees. Funds appropriated in this act shall not be used to support the cost of athletic or other student activity or campus fees not required by enrollment in a specific course.

SECTION 7.32.(h) The State Board of Education shall allot funds for university enrollment, tuition and fees, and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in university courses. The State Board of Education shall allot funds for community college fees and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in community college courses."

NC WISE POSITIONS

SECTION 7.12.(a) Notwithstanding G.S. 143-23, the State Board of Education may, in consultation with the Office of Information Technology Services, use funds appropriated in this act for NC WISE to create a maximum of 20 positions and incur expenditures necessary to transfer the maintenance and administration of the NC WISE system from the vendor to the Department of Public Instruction.

SECTION 7.12.(b) The Department of Public Instruction shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the NC WISE project.

LITERACY COACHES

SECTION 7.13. Funds are appropriated in this act to support the selection and hiring of 100 literacy coaches. The State Board of Education shall allocate these positions to the 100 schools with the lowest average scores on the eighth grade end-of-grade reading test over the most recent three years for which data is available.

EXPAND LEA ACCESS TO EDUCATION VALUE ADDED ASSESSMENT SYSTEM (EVAAS)

SECTION 7.14.(a) The State Board of Education shall identify local school administrative units to receive funds for purchasing licenses to EVAAS diagnostic software based on criteria that shall include (i) identified need, (ii) readiness, and (iii)

county wealth, as defined in the Low-Wealth Supplemental Funding Formula. The Board shall identify as many units as possible within funds available for this purpose.

SECTION 7.14.(b) Funds appropriated for EVAAS in the 2005-2006 fiscal year shall not revert, but shall be carried forward to the 2006-2007 fiscal year for expenditures for training related to expanding local school administrative units' access to the EVAAS tool. Any such funds not spent by June 30, 2007, shall revert to the General Fund.

SECTION 7.14.(c) This section becomes effective June 30, 2006.

CLARIFY DEFINITION: PUBLIC SCHOOL CAPITAL FUNDS

SECTION 7.15. G.S. 115C-546.2(d)(2)a. reads as rewritten:

- "a. "Effective county tax rate" means the actual county tax ~~rate~~ rate, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies."

NORTH CAROLINA VIRTUAL PUBLIC SCHOOL

SECTION 7.16.(a) The North Carolina Virtual Public School (NCVPS) program shall report to the State Board of Education and shall maintain an administrative office at the Department of Public Instruction

SECTION 7.16.(b) The Director of NCVPS will ensure that course quality standards are established and met and that all e-learning opportunities offered by State-funded entities to public school students are consolidated under the NC Virtual Public School Program, eliminating course duplication. The Director shall report on the proposed consolidation and operating plan for 2007-2008 to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than January 15, 2007. Consolidation will be completed by June 30, 2007. Notwithstanding G.S 143-23, the State Board of Education may move funds within the budget to implement the consolidation.

SECTION 7.16.(c) Subsequent to course consolidation, the Director will prioritize e-learning course offerings for students residing in rural and low-wealth county LEAs, in order to expand available instructional opportunities. First-available e-learning instructional opportunities should include courses required as part of the standard course of study for high school graduation and AP offerings not otherwise available.

SECTION 7.16.(d) The State Board of Education shall develop an allotment formula for funding e-learning, effective in the 2007-2008 fiscal year. In developing the formula, the Board shall consider, at a minimum, the following:

- (1) The number of students in average daily membership (ADM) projected to enroll in e-learning,
- (2) The projected cost of fees for e-learning courses,
- (3) The extent to which projected enrollment in e-learning courses affects funding required for other allotments that are based on ADM.

SECTION 7.16.(e) Any funds appropriated in this act for the NCVPS program that are not expended in fiscal year 2006-2007 shall be carried forward for expenditure in fiscal year 2007-2008. Any such funds that remain unexpended on June 30, 2008, shall revert to the General Fund.

DISTANCE EDUCATION

SECTION 7.17. Notwithstanding G.S. 143-23, the State Board of Education may use monies from the State Public School Fund in the 2006-2007 fiscal year only to pay for the additional costs associated with an increased number of registration fees for students enrolling in Distance Education courses.

TRANSFER MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS TO THE DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.18.(a) The More at Four program and the Office of School Readiness are transferred from the Office of the Governor to the Department of Public Instruction effective July 1, 2006. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The Office of School Readiness will provide oversight to the More at Four program and other related early childhood and prekindergarten education experiences. An Executive Director for the Office of School Readiness will be appointed by the State Board of Education.

SECTION 7.18.(b) Section 10.67(a) of S.L. 2005-276 is repealed.

SECTION 7.18.(c) Section 10.67(b) of S.L. 2005-276 reads as rewritten:

"SECTION 10.67.(b) ~~The Department of Health and Human Services and the Department of Public Instruction, with guidance from the Task Force,~~ shall continue the implementation of the "More at Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services and the Department of Public Instruction. The program shall include:

- (1) A process and system for identifying children at risk of academic failure.
- (2) A process and system for identifying children who are not being served ~~first priority~~ in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.
- (3) A curriculum or several curricula that are research-based and/or built on sound instructional theory ~~recommended by the Task Force. The Task Force will identify and approve appropriate research-based curricula.~~ These curricula shall: (i) focus primarily on oral language

and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.

- (4) An emphasis on ongoing family involvement with the prekindergarten program.
- (5) Evaluation of child progress through a preassessment and postassessment of children in the statewide evaluation, as well as ongoing assessment of the children by teachers.
- (6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.
- (7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.
- (8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services and the Department of Public Instruction, ~~and the Task Force~~. The Department may use the child care rating system to assist in determining program participation.
- (9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth-to-kindergarten education.
- (10) A local contribution. Programs must demonstrate that they are accessing resources other than "More at Four".
- (11) A system of accountability.
- (12) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services and the Department of Public Instruction, ~~and the Task Force~~ shall consider the reallocation of existing funds from State and local programs that provide prekindergarten-related care and services."

SECTION 7.18.(d) Section 10.67(c) of S.L. 2005-276 reads as rewritten:

"SECTION 10.67.(c) ~~The Department of Health and Human Services~~ Department of Public Instruction shall implement a plan to expand plan for expansion of the "More at Four" program standards within existing resources to include four- and five-star-rated centers and schools serving four-year-olds and develop guidelines for these programs. ~~The Department shall analyze guidelines for use of the "More at Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a complementary plan for administration of funds for all four year old classrooms. The "NC Prekindergarten Program Standards" initiative shall recognize~~ four- and five-star-rated centers that

choose to apply and meet equivalent "More at Four" program standards as high quality pre-k classrooms. Classrooms meeting these standards shall, ~~have at a minimum, receive curricula and access to training and workshops for "More at Four" programs.~~ Whenever expansion slots are available, these classrooms shall have first priority to receive them and be considered along with other "More at Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual receives funding from more than one source for the same purpose or activity during the same funding period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$., and T.E.A.C.H. Health Insurance programs for individual recipients.

The "More at Four" program shall review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. The shifting of slots shall occur through ~~December 30, 2005,~~ January 31 of each year, at which time any remaining funds for slots unfilled shall be used to meet the needs of the waiting list for subsidized child care."

SECTION 7.18.(e) Section 10.67(d) of S.L. 2005-276 reads as rewritten:

~~"SECTION 10.67.(d) The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall submit a report by February 1, 2006~~ The Department of Public Instruction shall submit a report by February 1, 2007, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on ~~Health and Human Services Education,~~ the House of Representatives Appropriations Subcommittee on ~~Health and Human Services Education,~~ and the Fiscal Research Division. This final report shall include the following:

- (1) The number of children participating in the program.
- (2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
- (3) The expected expenditures for the programs and the source of the local match for each grantee.
- (4) The location of program sites and the corresponding number of children participating in the program at each site.
- ~~(5) Activities involving Child Find in counties.~~
- ~~(6)~~(5) A comprehensive cost analysis of the program, including the cost per child served by the program.
- ~~(7)~~(6) The plan for expansion of "More at Four" through existing resources status of the NC Prekindergarten initiatives as outlined in this section."

SECTION 7.18.(f) Section 10.67(e) of S.L. 2005-276 reads as rewritten:

~~"SECTION 10.67.(e) For the 2005-2006 and the 2006-2007 fiscal years, the "More at Four" program shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income to make the program consistent with the child care subsidy requirements. Up to twenty percent (20%) of~~

children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors."

SECTION 7.18.(g) Section 10.67(f) of S.L. 2005-276 reads as rewritten:

"SECTION 10.67.(f) The "More at Four" program funding shall not supplant any funding for classrooms serving four-year-olds as of the ~~2003-2004~~ 2005-2006 fiscal year. Support of existing four-year-old classrooms with "More at Four" program funding shall be permitted when current funding is eliminated, reduced or redirected as required to meet other specified federal or State educational mandates."

SECTION 7.18.(h) Section 10.67(g) of S.L. 2005-276 is repealed.

SECTION 7.18.(i) G.S. 115C-242(1) reads as rewritten:

"(1) A school bus may be used for the transportation of pupils enrolled in and employees in the operation of the school to which such bus is assigned by the superintendent of the local school administrative unit. Except as otherwise herein provided, such transportation shall be limited to transportation to and from such school for the regularly organized school day, and from and to the points designated by the principal of the school to which such bus is assigned, for the receiving and discharging of passengers. No pupil or employee shall be so transported upon any bus other than the bus to which such pupil or employee has been assigned pursuant to the provisions of this Article: Provided, that children enrolled in a Headstart program or any More at Four program ~~which is housed in a building owned and operated by a local school administrative unit where school is being conducted~~ may be transported on public school buses, and any additional costs associated with such so long as the contractual arrangements shall be incurred by the benefitting Head Start or More at Four program ~~made cause no extra expense to the State~~: Provided further, that children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education."

ADMINISTRATIVE FUNDING FOR TEACHING FELLOWS PROGRAM

SECTION 7.19.(a) G.S. 115C-363.23A(f) reads as rewritten:

"(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds, shall be placed in a revolving fund. This revolving fund shall be used for scholarship loans granted under the Teaching Fellows Program. With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used for campus and summer program support, and costs related to disbursement of awards and collection of loan repayments.

~~The~~ With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used by the Public School Forum, as administrator for the Teaching Fellows Program, may use up to one hundred fifty thousand dollars (\$150,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program."

SECTION 7.19.(b) The Public School Forum, as administrator for the Teaching Fellows Program, may use up to eight hundred ten thousand dollars (\$810,000) for the 2006-2007 fiscal year from the balance in the revolving fund established in G.S. 115C-363.23A(f) for costs associated with administration of the Teaching Fellows Program. The funding provided for administration of the Teaching Fellows Program in this subsection shall be used to meet current administrative expenses of the Program, expand minority recruitment initiatives, and expand the Program to up to four additional campuses using a merit-based selection process developed by the North Carolina Teaching Fellows Commission.

The Teaching Fellows Program shall report to the Joint Legislative Education Oversight Committee by March 15, 2007, on:

- (1) Actual expenditures for the 2005-2006 fiscal year and budgeted expenditures for the 2006-2007 fiscal year for administration of the Program;
- (2) Initiatives to recruit minorities to the Program; and
- (3) The additional campuses selected to participate in the Program and the selection process.

REFUND OF LOCAL SALES AND USE TAXES TO A LOCAL SCHOOL ADMINISTRATIVE UNIT

SECTION 7.20.(a) G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax holiday contained in G.S. 105-164.13C, and the State refund provisions contained in G.S. 105-164.14 apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is

due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

SECTION 7.20.(b) Section 7.51(c) of S.L. 2005-276, as amended by Section 7 of S.L. 2005-345, reads as rewritten:

"**SECTION 7.51.(c)** Subsection (b) of this section becomes effective July 1, 2006. Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal year, the amount transferred to the State Public School Fund each quarter shall equal one-fourth of the amount refunded under G.S. 105-164.14(c)(2b) and (2c) during the 2005-2006 fiscal year for State sales and use taxes only plus or minus the percentage of that amount by which the total collection of State sales and use tax increased or decreased during the preceding fiscal year. The remainder of this section becomes effective July 1, 2005, and applies to sales made on or after that date."

SECTION 7.20.(c) This section becomes effective July 1, 2005, and applies to sales made on or after that date.

SALARY SUPPLEMENT FOR MATH AND SCIENCE TEACHERS PILOT PROGRAM

SECTION 7.21.(a) Funds in the amount of five hundred fifteen thousand one hundred fifteen dollars (\$515,115) are appropriated in this act for a pilot program providing for a salary supplement for newly hired teachers (as defined by the State Board of Education) of mathematics or science at the middle or high school level. The State Board of Education shall develop the pilot program and select three local school administrative units to participate in the pilot program. In selecting the units, the Board shall target low-performing local school administrative units and take geographical diversity into account. Selected local school administrative units shall use salary supplement funds for newly hired teachers at low-performing schools.

Each of the pilot units shall receive funds to provide for a salary supplement of fifteen thousand dollars (\$15,000) to up to 10 newly hired teachers at the middle or high school level who have nonprovisional certification in and are teaching in one or more of the following areas of teacher certification:

- (1) Middle grades mathematics,
- (2) Middle grades science,
- (3) Mathematics (9-12),
- (4) Science (9-12),
- (5) Earth science (9-12),
- (6) Biology (9-12),
- (7) Physics (9-12), and
- (8) Chemistry (9-12).

SECTION 7.21.(b) In accordance with G.S. 115C-325 and by way of clarification, it shall not constitute a demotion as that term is defined in G.S. 115C-325(a)(4) if:

- (1) A teacher who receives a salary supplement pursuant to subsection (a) of this section is reassigned to a school at which there is no such salary supplement;

- (2) A teacher who receives a salary supplement pursuant to subsection (a) of this section moves to a different local school administrative unit; or
- (3) A teacher receives a salary supplement pursuant to subsection (a) of this section and the salary supplement is subsequently discontinued or reduced.

SECTION 7.21.(c) Funds not needed to pay for salary supplements shall revert to the General Fund.

SECTION 7.21.(d) The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the design of the pilot program prior to implementation. The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the implementation of the pilot program by January 15, 2007.

STUDY THE COMPENSATION OF SCHOOL PSYCHOLOGISTS WITH NATIONAL CERTIFICATION

SECTION 7.22. The State Board of Education shall study the adequacy of the compensation of school psychologists who are designated as Nationally Certified School Psychologists by the National School Psychology Certification Board. In the course of the study, the State Board of Education shall consider (i) whether these school psychologists should be compensated at the same level as teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) and (ii) the cost of compensating them at that level.

The State Board of Education shall report the results of its study to the Joint Legislative Education Oversight Committee prior to January 15, 2007.

PART VIII. COMMUNITY COLLEGES

SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF

SECTION 8.1.(a) Section 8.3 of S.L. 2005-276 is amended by adding a new subsection to read:

"SECTION 8.3.(b1) For the 2006-2007 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

<u>Education Level</u>	<u>Minimum Salary</u> <u>2006-2007</u>
<u>Vocational Diploma/Certificate or Less</u>	<u>\$31,728</u>
<u>Associate Degree or Equivalent</u>	<u>\$32,195</u>
<u>Bachelors Degree</u>	<u>\$34,220</u>
<u>Masters Degree or Education Specialist</u>	<u>\$36,016</u>
<u>Doctoral Degree</u>	<u>\$38,607</u>

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members."

SECTION 8.1.(b) Section 8.3(g) of S.L. 2005-276 reads as rewritten:

"SECTION 8.3.(g) ~~Funds~~ For the 2005-2006 fiscal year, funds appropriated in this act for salary increases shall be used to increase faculty and professional staff salaries by an average of two percent (2%). These increases are in addition to other salary increases provided for in this act and shall be calculated on the average salaries prior to the issuance of the compensation increase. For the 2006-2007 fiscal year, funds appropriated in this act for salary increases shall be used to increase faculty and professional staff annual salaries by six percent (6%). Colleges may provide additional increases from funds available.

The State Board of Community Colleges shall adopt rules to ensure that these funds are used only to move faculty and professional staff to the respective national averages. These funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges."

USE OF FUNDS APPROPRIATED FOR ISOTHERMAL COMMUNITY COLLEGE

SECTION 8.2. Funds appropriated for composite testing at Isothermal Community College and not used for that purpose may be used to purchase equipment for the Lifelong Learning Center located at Isothermal Community College.

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT

SECTION 8.3.(a) Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2005-2006 fiscal year but shall remain available until expended.

SECTION 8.3.(b) Notwithstanding G.S. 143-23, the Community Colleges System Office may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for the College Information System Project to create a maximum of 20 positions or incur expenditures necessary to transfer the maintenance and administration of the College Information System Project from the vendor to the System Office.

SECTION 8.3.(c) The Community Colleges System Office shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the College Information System Project.

SECTION 8.3.(d) Subsection (a) of this section becomes effective June 30, 2006.

CARRYFORWARD FOR EQUIPMENT

SECTION 8.4.(a) Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System Office may carry forward an amount not to exceed ten million dollars (\$10,000,000) of the operating funds that were not reverted in fiscal year 2005-2006 to be reallocated to

the State Board of Community Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.4.(b) This section becomes effective June 30, 2006.

NC COMMUNITY COLLEGE SYSTEM MAY USE STATE FUNDS IN LIEU OF FEDERAL FUNDS DUE TO FEDERAL MANDATES

SECTION 8.5. Notwithstanding G.S. 143-23, the Community Colleges System Office may use State literacy funds to fund the State administration of the GED office. Federal funds previously used to support the State administration functions shall be reallocated to the colleges.

REPORT ON THE NCCCS BIONETWORK

SECTION 8.6. The Community Colleges System Office shall report by November 1, 2006, to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division on the implementation of the NCCCS BioNetwork. This report shall include an explanation of the BioNetwork's activities, accomplishments, and expenditures.

STUDY OF NEW AND EXPANDING INDUSTRY TRAINING

SECTION 8.7. The Office of State Budget and Management shall conduct a study to analyze and evaluate the New and Expanding Industry Training program of the North Carolina Community College System. This study shall examine the companies served, the number of times each company has been served, the number of jobs created, the length of time the company has remained in North Carolina after receiving New and Expanding Industry Training funds, and whether the company has maintained employment levels at the same level promised when training was received. The findings of the study shall be reported to the Joint Legislative Education Oversight Committee no later than April 1, 2007.

MATCHING REQUIREMENT FOR BOND FUNDS

SECTION 8.8. Section 3(d) of S.L. 2000-3 reads as rewritten:

"Section 3.(d) If the State Board of Community Colleges determines that a community college has not met its matching requirements by July 1, ~~2006~~2007, with respect to a capital improvement project for which bond proceeds are allocated in this act, the Board shall certify that fact to the State Treasurer by October 1, ~~2006~~2007. All of these bond proceeds with respect to which the Board certifies that the matching requirement has not been met by July 1, ~~2006~~2007, shall be placed by the State Treasurer in a special account within the Community Colleges Bond Fund and shall be used for making grants to community colleges. Bond proceeds in the special account shall be allocated among the community colleges in accordance with the following conditions:

- (1) The State Board of Community Colleges shall generate, by October 1, ~~2006~~2007, a priority ranking of legitimate community college capital improvement needs using a formula based on objective meaningful

factors relevant to capital needs, including actual and projected enrollment, space requirements, current capacity, construction costs, and any other factors the State Board considers relevant.

- (2) The State Board of Community Colleges shall provide the State Treasurer a projected allocation of the proceeds in the special account in accordance with this priority ranking, except that:
 - a. No projected allocation shall be made for a community college that the Board certified in accordance with this subsection had failed to meet a matching requirement.
 - b. No more than four million dollars (\$4,000,000) shall be allocated to a single community college.
 - c. Funds shall not be allocated for more than one project per community college.
- (3) The proceeds of grants made from bond proceeds in the special account shall be allocated and expended for paying the cost of community college capital improvements in accordance with this allocation by the State Board of Community Colleges, to the extent and as provided in this act. The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget shall consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes."

COMMUNITY COLLEGE LOW-WEALTH FUNDING

SECTION 8.9.(a) G.S. 115D-31.3 is amended by adding a new subsection to read:

"(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located:

- (1) Is designated as a Tier 1 or Tier 2 county in accordance with G.S. 105-129.3;
- (2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year; and

- (3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

SECTION 8.9.(b) This section becomes effective June 30, 2006.

COMMUNITY COLLEGE FACILITIES AND EQUIPMENT

SECTION 8.10.(a) Of the funds appropriated to the Community Colleges System Office for facilities and equipment needs, the sum of fifteen million dollars (\$15,000,000) shall be used to create the Community College Facilities and Equipment Fund. This Fund shall be used for the purpose of awarding grants to community colleges for facility and equipment needs. The Community Colleges System Office, in consultation with the State Board of Community Colleges shall develop a competitive grant application process and guidelines for facility or equipment needs. The State Board of Community Colleges shall award grants on the merit of the applications received. No individual grant may exceed the sum of one million dollars (\$1,000,000).

These grants shall be awarded on a matching basis of one State dollar for every one non-State dollar.

SECTION 8.10.(b) Beginning September 1, 2006, the Community Colleges System Office shall submit a report to the Office of State Budget and Management and the Fiscal Research Division containing the following information about each grant that was awarded: (i) the name of the community college; (ii) a description of the project; (iii) the project location; (iv) the cost-benefit analysis conducted by the Community Colleges System Office and the rationale for awarding the grant; and (v) the amount of the grant.

SECTION 8.10.(c) The Community Colleges System Office shall develop guidelines related to the administration of the Community College Facilities and Equipment Fund and to the selection of projects to receive grants from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the System Office must publish the proposed guidelines on the System Office's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the State Board shall accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

SECTION 8.10.(d) G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

- (14) The Community Colleges System Office in developing guidelines for the Community College Facilities and Equipment Fund."

PART IX. UNIVERSITIES

UNC-NCCCS 2+2 E-LEARNING INITIATIVE

SECTION 9.1. The University of North Carolina and Community Colleges System Office shall report by September 1, 2006, to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division of the General Assembly on the implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report shall include:

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

TEACHER EDUCATION PROGRAM ENROLLMENT PLANS

SECTION 9.2. The University of North Carolina Board of Governors' Task Force on Meeting Teacher Supply and Demand called for the President to develop a plan for enrollment growth in the University System's teacher education programs to respond to the State's shortage of teachers. In a presentation to the Joint Legislative Education Oversight Committee and to the Board of Governors, a commitment was made to increase the number of teacher education graduates. The University of North Carolina General Administration shall obtain plans from each constituent institution as to how they will maintain their current enrollment in the teacher education programs and achieve their growth targets to ensure such increases in those programs occur. Plans may include using enrollment growth funds for targeted admissions, enhanced student support, and advising, recruiting, increases in faculty in necessary instructional areas that lead to certification, and other methods General Administration believes will achieve those results. The University of North Carolina General Administration shall

report back to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee no later than December 30, 2006, on each constituent institution's plan. No later than March 31, 2007, The University of North Carolina General Administration shall submit a report on progress towards meeting this priority for the 2007-2008 academic year, based on each constituent institution's current students in the education programs, and the students who have been accepted for the 2007-2008 fiscal year who are enrolling in the education programs. The report shall also explain the distribution of enrollment growth funds by specific initiative.

NORTH CAROLINA IN THE WORLD PROJECT

SECTION 9.3. In collaboration with the State Board of Education and the Department of Commerce, the NC Center for International Understanding shall develop a plan to ensure that public K-12 international education efforts such as teacher and student exchanges, curriculum development, and other initiatives for students, teachers, and administrators are focused on key countries and regions of strategic economic interest to North Carolina. The North Carolina Center for International Understanding shall report to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee on the activities and accomplishments of the two hundred thousand dollar (\$200,000) nonrecurring appropriation for North Carolina in the World Project no later than March 31, 2007.

A+ SCHOOLS – BUDGET TECHNICAL CORRECTION

SECTION 9.3A. Recurring funds in the amount of one hundred thousand dollars (\$100,000) appropriated to the Department of Public Instruction for the 2006-2007 fiscal year in S.L. 2005-276 as pass-through funds for A+ Schools shall be transferred to the Board of Governors of The University of North Carolina to provide pass-through funds for A+ Schools for the same purpose of providing support for the program that assists schools in implementing comprehensive school reform by integrating arts into the curriculum.

STUDY THE FEASIBILITY OF ADDING NORTH CAROLINA WESLEYAN COLLEGE TO UNC SYSTEM

SECTION 9.4.(a) The Board of Governors of The University of North Carolina shall study the feasibility of making North Carolina Wesleyan College a constituent institution of The University of North Carolina. The study shall include all of the following:

- (1) Mission. – The Board of Governors shall evaluate the potential missions of the campus that would meet the academic and economic needs of the region, the State, and of the University System. The Board of Governors shall take into account the need to avoid duplication of curriculum and programs at other campuses, particularly those within the same geographic area, unless the need for duplication is warranted. The Board of Governors shall seek recommendations, suggestions, and comments from community leaders, educational experts, and business

leaders in defining the mission of the new campus. Particular focus shall be placed on utilizing the campus in a manner that addresses both the economic and educational challenges of the region in a unique and focused manner, such as in the areas of science, technology, education, and economic development.

- (2) Cost. – The Board of Governors shall analyze the potential operating costs of the campus. Factors such as the mission, staff and faculty salaries, benefits, total faculty and staff levels, total projected student enrollment, facility needs, and tuition rates shall be taken into account.
- (3) Facility Needs. – The Board of Governors shall consider what additional facility needs there may be, taking into account the proposed mission of the campus. Examples of those needs may be lab facility upgrades, new buildings to house an expanded student population, and associated infrastructure expansion.
- (4) Asset Transfer. – The Board of Governors shall obtain legal and financial analyses to determine if there are any restrictions attached to any of the College's assets (title to property, gifts to endowment, assets purchased with restricted grant funds, etc.) that would prohibit the transfer of the assets to the State. If there are restrictions, then the analyses shall also include the steps necessary to lift the restrictions and the costs of obtaining a clear title.
- (5) Liability Analysis. – The Board of Governors shall also obtain a legal analysis to determine whether there are pending liabilities against the campus or reasonably foreseeable future liabilities against the campus. If there are such liabilities, the legal analysis shall also address the action needed to avoid transfer of any liability to the State.
- (6) Transition of Current Students/Programs. – The Board of Governors shall consider how best to handle the transition of the currently enrolled student population, both on and off campus, into continuing or new curriculum programs during the conversion period.
- (7) Personnel. – The Board of Governors shall assess the employment status of current personnel to determine what, if any, contractual and other employment issues may arise in the conversion.
- (8) Legislative Action. – The Board of Governors shall determine the legislative action and statutory amendments needed to authorize and implement the conversion.

SECTION 9.4.(b) Of the funds available to the Board of Governors of The University of North Carolina, the sum of fifty thousand dollars (\$50,000) for the 2006-2007 fiscal year shall be used to conduct the study required by this act.

GRADUATE NURSE SCHOLARSHIP PROGRAM FOR FACULTY PRODUCTION

SECTION 9.6. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 9H.

"Graduate Nurse Scholarship Program for Faculty Production.

"§ 90-171.95. Graduate Nurse Scholarship Program for Faculty Production established; administration.

(a) There is established the Graduate Nurse Scholarship Program for Faculty Production. The North Carolina Nursing Scholars Commission shall determine selection criteria, methods of selection, and shall select recipients of scholarship loans made under the Graduate Nurse Scholarship Program for Faculty Production.

(b) The Graduate Nurse Scholarship Program for Faculty Production shall be used to provide the following:

- (1) A scholarship loan for up to two years in the amount of fifteen thousand dollars (\$15,000) per year, per recipient, to students enrolled in a masters degree program in nursing education or any other area of the nursing field that would permit them to become a nursing instructor at a North Carolina community college or university.
- (2) A scholarship loan for up to three years in the amount of fifteen thousand dollars (\$15,000) per year, per recipient, to students enrolled in a doctoral degree program in nursing education or any other area of the nursing field that would permit them to become a nursing instructor at a North Carolina community college or university.

The State Education Assistance Authority shall adopt specific rules to regulate these scholarship loans.

(c) If a recipient is awarded a scholarship loan under this program and is enrolled, or accepted for enrollment, in an eligible program, but is unable to pursue the course of study in nursing for a semester due to limited faculty resources at the institution for that semester, then the recipient shall continue to receive the scholarship loan for that semester and shall not be required to forfeit or repay the scholarship loan for that semester, provided that the recipient remains otherwise eligible for the program. This waiver shall be valid for only one semester of study and may extend a recipient's eligibility for funding under the program by no more than one semester.

(d) The Commission shall adopt stringent standards, which may include minimum grade point average, scholastic aptitude test scores, and other standards deemed appropriate by the Commission, to ensure that only the best potential students receive loans under the Graduate Nurse Scholarship Program for Faculty Production. Standards adopted by the Commission shall include provisions for ensuring that the qualifications of applicants who are or would be nontraditional students are considered fairly in providing them with opportunities to compete for the loans. Loans under the Graduate Nurse Scholarship Program for Faculty Production shall be awarded only to applicants who meet the standards set by the Commission and who agree to teach in a North Carolina public or private nursing program upon completion of the nursing education program supported by the loan.

(e) The Commission shall develop and administer the Graduate Nurse Scholarship Program for Faculty Production in cooperation with nursing schools at institutions approved by the Commission and the North Carolina Board of Nursing. The

Graduate Nurse Scholarship Program for Faculty Production shall provide for participants to be exposed to a range of extracurricular activities while in school, which activities shall be aimed at instilling in students a strong motivation to remain in the practice of nursing education and to provide leadership for the nursing profession.

(f) The Commission shall make an effort to identify and encourage minority students and students who may not otherwise consider a career in nursing to apply for the Graduate Nurse Scholarship Program for Faculty Production.

(g) Upon the naming of recipients of loans from the Graduate Nurse Scholarship Program for Faculty Production, the Commission shall inform the State Education Assistance Authority (SEAA) of its decisions. The SEAA shall perform all of the administrative functions necessary to implement this Article, which functions shall include: rulemaking, dissemination of information to the public, distribution and receipt of applications for scholarship loans, and the functions necessary for the execution, payment, and enforcement of promissory notes required under this Article.

"§ 90-171.96. Terms of loans; receipt and disbursement of funds.

(a) All scholarship loans shall be evidenced by notes made payable to the State Education Assistance Authority that bear interest at the rate of ten percent (10%) per year beginning 90 days after completion of the nursing education program, or 90 days after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated upon the recipient's withdrawal from school or by the recipient's failure to meet the standards set by the Commission.

(b) The State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a public or private nursing education program in a public or private educational institution in North Carolina for one year for every year a scholarship loan was provided. If the recipient repays the scholarship loan by cash payments, all indebtedness shall be repaid within 10 years. The Authority may provide for accelerated repayment and for less than full-time employment options to encourage the practice of nursing education in either geographic or nursing specialty shortage areas. The Authority shall adopt specific rules to designate these geographic areas and these nursing specialty shortage areas, upon recommendations of the North Carolina Center for Nursing. The North Carolina Center for Nursing shall base its recommendations on objective information provided by interested groups or agencies and upon objective information collected by the Center. The Authority may forgive the scholarship loan if it determines that it is impossible for the recipient to teach in a public or private nursing program in North Carolina for a sufficient time to repay the loan because of the death or permanent disability of the recipient within 10 years following graduation or termination of enrollment in a nursing education program.

(c) All funds appropriated to or otherwise received by the Graduate Nurse Scholarship Program for Faculty Production for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds shall be placed in a revolving fund. This revolving fund may be used only for scholarship loans granted under the Graduate Nurse Scholarship Program for Faculty Production."

**MANAGEMENT FLEXIBILITY TO REORGANIZE BUDGET CODE 16012
UNC BOARD OF GOVERNORS RELATED EDUCATIONAL PROGRAMS**

SECTION 9.7. Notwithstanding G.S. 143-23, for the 2006-2007 fiscal year, the General Administration of The University of North Carolina and the State Educational Assistance Authority shall, with the approval of the Office of State Budget and Management, reorganize budget code 16012, UNC Board of Governors Related Educational Programs, so that the budget reflects and segregates each specific program individually. The Office of State Budget and Management shall work with The University of North Carolina General Administration and the State Educational Assistance Authority to ensure that each program represented in code 16012 is identified and budgeted separately.

TRANSFERS OF APPROPRIATION

SECTION 9.8. G.S. 116-30.2(a) reads as rewritten:

"(a) All General Fund appropriations made by the General Assembly for continuing operations of a special responsibility constituent institution of The University of North Carolina shall be made in the form of a single sum to each budget code of the institution for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 120-76(8), each special responsibility constituent institution may expend monies from the overhead receipts special fund budget code and the General Fund monies so appropriated to it in the manner deemed by the Chancellor to be calculated to maintain and advance the programs and services of the institutions, consistent with the directives and policies of the Board of Governors. Special responsibility constituent institutions may transfer appropriations between budget codes. These transfers shall be considered certified even if as a result of agreements between special responsibility constituent institutions. The preparation, presentation, and review of General Fund budget requests of special responsibility constituent institutions shall be conducted in the same manner as are requests of other constituent institutions. The quarterly allotment procedure established pursuant to G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of each special responsibility constituent institution. All General Fund monies so appropriated to each special responsibility constituent institution shall be recorded, reported, and audited in the same manner as are General Fund appropriations to other constituent institutions."

NURSING SCHOLARS PROGRAM MODIFICATION

SECTION 9.9.(a) G.S. 90-171.61 reads as rewritten:

"§ 90-171.61. Nursing Scholars Program established; administration.

(a) There is established the Nursing Scholars Program. The North Carolina Nursing Scholars Commission shall determine selection criteria, methods of selection, and shall select recipients of scholarship loans made under the Nursing Scholars Program.

(b) The Nursing Scholars Program shall be used to provide the following:

- (1) ~~A four year scholarship loan~~Scholarship loans in the amount amounts of up to of five thousand dollars (\$5,000)six thousand five hundred dollars (\$6,500) per year, for each scholarship of no more than four years per recipient, to North Carolina high school seniors or other personsresidents interested in preparing to become a registered nurse nurses through a associate or baccalaureate degree program.programs or through diploma programs.
- (2) ~~A two year scholarship loan in the amount of three thousand dollars (\$3,000) per year, per recipient, to persons interested in preparing to be a registered nurse through an associate degree nursing program or a diploma nursing program.~~
- (3) ~~A two year scholarship loan in the amount of three thousand dollars (\$3,000) per year, per recipient, for two years of baccalaureate nursing study for college juniors or community college graduates interested in preparing to be a registered nurse.~~
- (4) ~~A two year scholarship loan of three thousand dollars (\$3,000) per year, per recipient, for two years of baccalaureate study in nursing for registered nurses who do not hold a baccalaureate degree in nursing.~~
- (5) ~~A two year scholarship loan~~Scholarship loans of six thousand five hundred dollars (\$6,000)(\$6,500) per year, per recipient, for two years of study leading to a master of science in nursing degree for peopleresidents already holding a baccalaureate degree in nursing.

~~In addition to the awarding scholarship loans awarded pursuant to subdivisions (1) through and (5) of this subsection, the Commission may award pro rata scholarship loans to recipients enrolled at least half-time in study to become registered nurses or to attain a master of science in nursing degree.in study leading to a master of science in nursing degree who already hold a baccalaureate degree in nursing and to recipients enrolled at least half time in study leading to a baccalaureate degree in nursing who already are licensed as registered nurses. In awarding all scholarship loans, the Commission shall give priority to full-time students over part-time students. The State Education Assistance Authority shall adopt specific rules to regulate scholarship loans to part-time master of science in nursing students and part time baccalaureate degree students.students.~~

Within current funds available or with any additional funds provided by the General Assembly for this purpose, the Commission may set aside slots for scholarship loans prescribed by ~~subdivisions (1) and (2)~~ subdivision (1) of this subsection to enable licensed practical nurses to become registered nurses. The State Education Assistance Authority shall adopt specific rules to regulate these scholarship loans.

(b1) If a recipient is awarded a scholarship loan under this program and is enrolled, or accepted for enrollment, in a baccalaureate nursing program, but is unable to pursue the course of study in nursing for a semester due to limited faculty resources at the institution for that semester, then the recipient shall continue to receive the scholarship loan for that semester and shall not be required to forfeit or repay the scholarship loan for that semester provided that the recipient remains otherwise eligible

for the program. This waiver shall be valid for only one semester of study and may extend a recipient's eligibility for funding under the program by no more than one semester.

(c) The Commission shall adopt stringent standards, which may include minimum grade point average, scholastic aptitude test scores, and other standards deemed appropriate by the Commission, to ensure that only the best potential students receive and retain loans under the Nursing Scholars Program. Standards adopted by the Commission shall include provisions for ensuring that the qualifications of applicants who are or would be nontraditional students are considered fairly in providing them with opportunities to compete for the loans. Loans under the Nursing Scholars Program shall be awarded only to applicants who meet the standards set by the Commission and who agree to practice nursing in North Carolina upon completion of the nursing education program supported by the loan.

(d) The Commission shall develop and administer the Nursing Scholars Program in cooperation with nursing schools at institutions approved by the Commission and the North Carolina Board of Nursing. The Nursing Scholars Program shall provide for participants to be exposed to a range of extracurricular activities while in school, which activities shall be aimed at instilling in students a strong motivation to remain in the practice of nursing and to provide leadership for the nursing profession.

(e) The Commission may form regional review committees within North Carolina to assist it in identifying the best high school seniors and other applicants for the program. The Commission and the review committees shall make an effort to identify and encourage minority students and students who may not otherwise consider a career in nursing to apply for the Nursing Scholars Program.

(f) Upon the naming of recipients of loans from the Nursing Scholars Program, the Commission shall inform the State Education Assistance Authority (SEAA) of its decisions. The SEAA shall perform all of the administrative functions necessary to implement this Article, which functions shall include: rule-making, dissemination of information to the public, distribution and receipt of applications for scholarship loans, and the functions necessary for the execution, payment, and enforcement of promissory notes required under this Article."

SECTION 9.9.(b) This section applies to all scholarship loans awarded or renewed on or after July 1, 2006.

UNC BOARD OF GOVERNORS MEDICAL AND DENTAL SCHOLARSHIPS

SECTION 9.10.(a) Section 9.9(a) of S.L. 2005-276 reads as rewritten:

"SECTION 9.9.(a) The current Board of Governors' Dental Scholarship Program, under the purview of the Board of Governors of The University of North Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship loan awards. The Board of Governors' Dental Scholarship Program is administered by the Board of Governors of The University of North Carolina. The Board of Governors' Dental Scholarship Program shall be used to provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers for first-year students, required dental equipment, and an annual payment of five thousand dollars

(\$5,000) per year to students who have been accepted for admission to the School of Dentistry at the University of North Carolina at Chapel Hill. The Board may adopt standards, including minimum grade point average and DAT scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program. All scholarship loans shall be evidenced by notes made payable to the Board that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board. The Board shall forgive the loan if, within seven years after graduation, the recipient practices dentistry in North Carolina for four years. An extension of the seven-year period for satisfaction of the service requirements for the scholarship loan may be granted subject to the approval on the finding of extenuating circumstances by the State Education Assistance Authority. Such extenuating circumstances may include, but are not be limited to, participation in a dental residency program. The Board shall also forgive the loan if it finds that it is impossible for the recipient to practice dentistry in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient. All unused funds appropriated to or otherwise received by the Board for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

SECTION 9.10.(b) Section 9.10(a) of S.L. 2005-276 reads as rewritten:

"SECTION 9.10.(a) The current Board of Governors' Medical Scholarship Program, under the purview of the Board of Governors of The University of North Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship loan awards. The Board of Governors' Medical Scholarship Program is administered by the Board of Governors of The University of North Carolina. The Board of Governors' Medical Scholarship Program shall be used to provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers, and an annual payment of five thousand dollars (\$5,000) per year to students who have been accepted for admission to either Duke University School of Medicine, Brody School of Medicine at East Carolina University, the University of North Carolina at Chapel Hill School of Medicine, or the Wake Forest University School of Medicine. The Board may adopt standards, including minimum grade point average and MCAT scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program. All scholarship loans shall be evidenced by notes made payable to the Board that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board. The Board shall forgive the loan if, within seven years after graduation, the recipient practices medicine in North Carolina

for four years. An extension of the seven-year period for satisfaction of the service requirements of the scholarship loan may be granted subject to the approval of the State Education Assistance Authority. Such extenuating circumstances may include, but not be limited to, participation in a medical residency program. The Board shall also forgive the loan if it finds that it is impossible for the recipient to practice medicine in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient. All unused funds appropriated to or otherwise received by the Board for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

SECTION 9.10.(c) This section is effective when it becomes law and applies to all scholarship loans issued after July 1, 2005.

NC SCHOOL OF SCIENCE AND MATH/HIGH SCHOOL CONSTITUENT INSTITUTION

SECTION 9.11.(a) G.S. 116-2 reads as rewritten:

"§ 116-2. Definitions.

As used in this Article, unless the context clearly indicates a contrary intent:

- (1) "Board" means the Board of Governors of the University of North Carolina.
- (2) "Board of trustees" means the board of trustees of a constituent institution.
- (3) "Chancellor" means the chancellor of a constituent institution.
- (4) "Constituent institution" or "institution" means one of the 16 public ~~senior institutions,~~ institutions of higher education, to wit, the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University, and Winston-Salem State ~~University.~~University, and the constituent high school, the North Carolina School of Science and Mathematics.
- (5) "President" means the President of the University of North Carolina.
- (6) "Vending facilities" has the same meaning as it does in G.S. 143-12.1."

SECTION 9.11.(b) G.S. 116-4 reads as rewritten:

"§ 116-4. Constituent institutions of the University of North Carolina.

~~On July 1, 1972, the~~ The University of North Carolina shall be composed of the following ~~institutions:~~institutions of higher education: the University of North Carolina

at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University and Winston-Salem State University, University, and the constituent high school, the North Carolina School of Science and Mathematics."

SECTION 9.11.(c) G.S. 116-12 reads as rewritten:

"§ 116-12. Property and obligations.

All property of whatsoever kind and all rights and privileges held by the Board of Higher Education and by the Boards of Trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University and Winston-Salem State University, as said property, rights and privileges may exist immediately prior to July 1, 1972, shall be, and hereby are, effective July 1, 1972, transferred to and vested in the Board of Governors of the University of North Carolina. All obligations of whatsoever kind of the Board of Higher Education and of the Boards of Trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, redesignated effective July 1, 1996, as the "University of North Carolina at Pembroke", Western Carolina University and Winston-Salem State University, as said obligations may exist immediately prior to July 1, 1972, shall be, and the same hereby are, effective July 1, 1972, transferred to and assumed by the Board of Governors of the University of North Carolina. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries and shall continue to be held subject to the provisions of the respective instruments, grants or other means or process by which any property right was acquired. All property of whatsoever kind and all rights and privileges held by the Board of Trustees of the North Carolina School of Science and Mathematics, as said property, rights and privileges may exist immediately prior to July 1, 2007, shall be and hereby are, effective July 1, 2007, transferred to and vested in the Board of Governors of The University of North Carolina. All obligations of whatsoever kind of the Board of Trustees of the North Carolina School of Science and Mathematics as said obligations may exist immediately prior to July 1, 2007, shall be,

and the same hereby are, effective July 1, 2007, transferred to and assumed by the Board of Governors of The University of North Carolina. In case a conflict arises as to which property, rights or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights or privileges were so held, the Board of Governors shall determine the issue, and the determination of the Board shall constitute final administrative action. Nothing in this Article shall be deemed to increase or diminish the income, other revenue or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, it being the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof."

SECTION 9.11.(d) G.S. 116-17 reads as rewritten:

"§ 116-17. Purchase of annuity or retirement income contracts for faculty members, officers and employees.

Notwithstanding any provision of law relating to salaries and/or salary schedules for the pay of faculty members, administrative officers, or any other employees of universities, ~~colleges~~ colleges, constituent institutions, and other institutions of higher learning as named and set forth in this Article, and other State agencies qualified as educational institutions under section 501(c)(3) of the United States Internal Revenue Code, the governing boards of any such universities, ~~colleges~~ colleges, constituent institutions, and other institutions of higher learning may authorize the business officer or agent of same to enter into annual contracts with any of the faculty members, administrative officers and employees of said institutions ~~of higher learning~~ which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the faculty member, administrative officer or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said faculty member, administrative officer or employee of said universities, colleges and ~~institutions of higher learning~~ institutions. A faculty member, administrative officer or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the faculty member, administrative officer or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the various governing boards of the various institutions ~~of higher learning~~ and on forms prepared by said governing boards. Notwithstanding any other provision of this section or law, the amount by which the salary of any faculty member, administrative officer or employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes.

In lieu of the annuity and related contracts provided for under this section, interests in custodial accounts pursuant to Section 401(f), Section 403(b)(7), and related sections

of the Internal Revenue Code of 1986 as amended may be purchased for the benefit of qualified employees under this section with the funds derived from the reduction in the salaries of such employees."

SECTION 9.11.(e) The catch line of G.S. 116-30.2 reads as rewritten:

"§ 116-30.2. Appropriations to special responsibility constituent ~~institutions and to the North Carolina School of Science and Mathematics.~~institutions."

SECTION 9.11.(f) G.S. 116-30.2(b) is repealed.

SECTION 9.11.(g) G.S. 116-31(d) reads as rewritten:

"(d) ~~Effective~~Except as provided in G.S. 116-65, effective July 1, 1973, each of the 16 constituent institutions of higher education set out in G.S. 116-2(4) shall have board of trustees composed of 13 persons chosen as follows:

- (1) Eight elected by the Board of Governors,
- (2) Four appointed by the Governor, and
- (3) The president of the student government ex officio.

The Board of Trustees of the North Carolina School of Science and Mathematics shall be established in accordance with G.S. 116-233."

SECTION 9.11.(h) G.S. 116-40.22(c) reads as rewritten:

"(c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the General Statutes to the contrary, in addition to any tuition and fees set by the Board of Governors pursuant to G.S. 116-11(7), the Board of Trustees of the institution may recommend to the Board of Governors tuition and fees for program-specific and institution-specific needs at that institution without regard to whether an emergency situation exists and not inconsistent with the actions of the General Assembly. The institution shall retain any tuition and fees set pursuant to this subsection for use by the institution. Notwithstanding this subsection, neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any tuition or mandatory fee at the North Carolina School of Science and Mathematics without the approval of the General Assembly."

SECTION 9.11.(i) G.S. 116-143 reads as rewritten:

"§ 116-143. State-supported institutions of higher education required to charge tuition and fees.

The Board of Governors of ~~the~~The University of North Carolina shall fix the tuition and fees, not inconsistent with actions of the General Assembly, at the institutions of higher education enumerated in G.S. 116-4 in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term.

In the event that said students are unable to pay the cost of tuition and required academic fees as the same may become due, in cash, the said several boards of trustees are hereby authorized and empowered, in their discretion, to accept the obligation of the student or students together with such collateral or security as they may deem necessary and proper, it being the purpose of this Article that all students in State institutions of higher learning shall be required to pay tuition, and that free tuition is hereby abolished.

Notwithstanding this section, neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any tuition or mandatory fee at the North Carolina School of Science and Mathematics without the approval of the General Assembly.

Inasmuch as the giving of tuition and fee waivers, or especially reduced rates, represent in effect a variety of scholarship awards, the said practice is hereby prohibited except when expressly authorized by statute or by the Board of Governors of ~~the~~The University of North Carolina; and, furthermore, it is hereby directed and required that all budgeted funds expended for scholarships of any type must be clearly identified in budget reports.

Notwithstanding the above provision relating to the abolition of free tuition, the Board of Governors of ~~the~~The University of North Carolina may, in its discretion, provide regulations under which a full-time faculty member of the rank of full-time instructor or above, and any full-time staff member of ~~the~~The University of North Carolina may during the period of normal employment enroll for not more than one course per semester in ~~the~~The University of North Carolina free of charge for tuition, provided such enrollment does not interfere with normal employment obligations and further provided that such enrollments are not counted for the purpose of receiving general fund appropriations."

SECTION 9.11.(j) G.S. 116-230.1 reads as rewritten:

"§ 116-230.1. Policy.

It is hereby declared to be the policy of the State to foster, encourage, promote, and provide assistance in the development of skills and careers in science and mathematics among the people of the State."

SECTION 9.11.(k) G.S. 116-231 reads as rewritten:

"§ 116-231. Reestablishment of the North Carolina School of Science and Mathematics as an Affiliated School a Constituent High School of The University of North Carolina.

The North Carolina School of Science and Mathematics is hereby reestablished, as ~~an affiliated~~ a constituent high school of The University of North Carolina, and shall be governed by the Board of Governors as prescribed in this Chapter and a Board of Trustees as prescribed in this Article."

SECTION 9.11.(l) G.S. 116-232 reads as rewritten:

"§ 116-232. Purposes.

The purposes of the School shall be to foster the educational development of North Carolina high school students who are academically talented in the areas of science and mathematics and show promise of exceptional development and global leadership through participation in a residential educational setting emphasizing instruction in the areas of science and mathematics; ~~to develop, evaluate, and disseminate experimental instructional programs; and to serve all schools of the State through research and outreach activities~~ and to provide instruction, methods, and curricula designed to improve teaching and learning in North Carolina and the nation with an emphasis on distance education and programs that expand pathways for students into careers in science and mathematics."

SECTION 9.11.(m) The introductory language of G.S. 116-233(a) reads as rewritten:

"(a) ~~There~~ Notwithstanding the provisions of G.S. 116-31(d), there shall be a Board of Trustees of the School, which shall consist of 27 members as follows:
..."

SECTION 9.11.(n) G.S. 116-234 reads as rewritten:

"§ **116-234. Board of Trustees; meetings; rules of procedure; officers.**

(a) The Board of Trustees shall meet at least ~~four~~ three times a year and may hold special meetings at any time, at the call of the chairman or upon petition addressed to the chairman by at least four of the members of the Board.

(b) ~~The~~ Notwithstanding the provisions of G.S. 116-32, the Board of Trustees shall elect a chairman and a vice-chairman; no ex officio member may hold such an office.

(c) The Board of Trustees shall determine its own rules of procedure and may delegate to such committees as it may create such of its powers as it deems appropriate.

(d) Members of the Board of Trustees, other than ex officio members under G.S. 116-233(a)(3), shall receive such per diem compensation and necessary travel and subsistence expenses while engaged in the discharge of their official duties as is provided by law for members of State boards and commissions. Ex officio members under G.S. 116-233(a)(3) shall be reimbursed for travel expenses as provided by G.S. 138-6."

SECTION 9.11.(o) The catch line of G.S. 116-235 reads as rewritten:

"§ **116-235. Board of Trustees; additional powers and duties.**"

SECTION 9.11.(p) G.S. 116-235 is amended by adding a new subsection to read:

"(a) In addition to the powers enumerated in Chapter 116, Article I, Part 3, the Board of Trustees shall have the powers and duties set out in this section."

SECTION 9.11.(q) G.S. 116-235(a) reads as rewritten:

"~~(a)~~(a1) Academic Program. –

(1) The Board of Trustees shall establish the standard course of study for the School. This course of study shall set forth the subjects to be taught in each grade and the texts and other educational materials on each subject to be used in each grade.

(2) The Board of Trustees shall adopt regulations governing class size, the instructional calendar, the length of the instructional day, and the number of instructional days in each term."

SECTION 9.11.(r) G.S. 116-235(b) reads as rewritten:

"(b) Students. –

(1) Admission of Students. – The School shall admit students in accordance with criteria, standards, and procedures established by the Board of Trustees. To be eligible to be considered for admission, an applicant must be either a legal resident of the State, as defined by G.S. 116-143.1(a)(1), or a student whose parent is an active duty member of the armed services, as defined by G.S. 116-143.3(2), who

is abiding in this State incident to active military duty at the time the application is submitted, provided the student shares the abode of that parent; eligibility to remain enrolled in the School shall terminate at the end of any school year during which a student becomes a nonresident of the State. The Board of Trustees shall ensure, insofar as possible without jeopardizing admission standards, that an equal number of qualified ~~rising high school juniors~~ applicants is admitted to the program and to the residential summer institutes in science and mathematics from each of North Carolina's congressional districts. In no event shall the differences in the number of ~~rising high school juniors~~ qualified applicants offered admission to the program from each of North Carolina's congressional districts be more than two and one-half percentage points from the average number per district who are offered admission.

- (2) School Attendance. – Every parent, guardian, or other person in this State having charge or control of a child who is enrolled in the School and who is less than 16 years of age shall cause such child to attend school continuously for a period equal to the time which the School shall be in session. No person shall encourage, entice, or counsel any child to be unlawfully absent from the School. Any person who aids or abets a student's unlawful absence from the School shall, upon conviction, be guilty of a Class 1 misdemeanor. The ~~Director~~ Chancellor of the School shall be responsible for implementing such additional policies concerning compulsory attendance as shall be adopted by the Board of Trustees, including regulations concerning lawful and unlawful absences, permissible excuses for temporary absences, maintenance of attendance records, and attendance counseling.
- (3) Student Discipline. – Rules of conduct governing students of the School shall be established by the Board of Trustees. The ~~Director, Chancellor,~~ other administrative officers, and all teachers, substitute teachers, voluntary teachers, teacher aides and assistants, and student teachers in the School may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order.

SECTION 9.11.(s) G.S. 116-235(c) through G.S. 116-235(h) is repealed.

SECTION 9.11.(t) G.S. 116-236 is repealed.

SECTION 9.11.(u) G.S. 116-237 is repealed.

SECTION 9.11.(v) G.S. 116-238 is repealed

SECTION 9.11.(w) G.S.66-58(c)(3) reads as rewritten:

"(c) The provisions of subsection (a) shall not prohibit:

...

- (3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of

this section, the phrase "operation of endowment funds" shall include the operation by ~~public postsecondary educational~~ constituent institutions of The University of North Carolina of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of the stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that, notwithstanding this subsection, profits from a campus store operated by the endowment of the North Carolina School of Science and Mathematics are used exclusively for student activities, athletics, and other programs to enhance student life. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students of the campus at which a campus store is located and their immediate families, to duly enrolled students of other campuses of the University of North Carolina other than the campus at which the campus store is located, to other campus stores and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina."

SECTION 9.11.(x) G.S. 66-58(g) is repealed.

SECTION 9.11.(y) G.S. 126-5(c1)(8) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(8) Instructional and research staff, physicians, and dentists of The University of North ~~Carolina~~ Carolina, including the faculty of the North Carolina School of Science and Mathematics.

..."

SECTION 9.11.(z) G.S. 126-5(c1)(11) is repealed.

SECTION 9.11.(aa) RESERVED

SECTION 9.11.(bb) RESERVED

SECTION 9.11.(cc) G.S. 143-597(a) is amended by adding a new subdivision to read:

"(7) The North Carolina School of Science and Mathematics."

SECTION 9.11.(dd) This section becomes effective July 1, 2007.

EXPAND TUITION WAIVER PROGRAM FOR UNC FACULTY & STAFF

SECTION 9.12. G.S. 116-143 reads as rewritten:

"§ 116-143. State-supported institutions of higher education required to charge tuition and fees.

(a) The Board of Governors of the University of North Carolina shall fix the tuition and fees, not inconsistent with actions of the General Assembly, at the institutions enumerated in G.S. 116-4 in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term.

(b) In the event that said students are unable to pay the cost of tuition and required academic fees as the same may become due, in cash, the said several boards of trustees are hereby authorized and empowered, in their discretion, to accept the obligation of the student or students together with such collateral or security as they may deem necessary and proper, it being the purpose of this Article that all students in State institutions of higher learning shall be required to pay tuition, and that free tuition is hereby abolished.

(c) Inasmuch as the giving of tuition and fee waivers, or especially reduced rates, represent in effect a variety of scholarship awards, the said practice is hereby prohibited except when expressly authorized by statute or by the Board of Governors of the University of North Carolina; and, furthermore, it is hereby directed and required that all budgeted funds expended for scholarships of any type must be clearly identified in budget reports.

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

TUITION AND CONTRACTUAL GRANTS FOR TEACHING/NURSING

SECTION 9.13.(a) G.S. 116-19 reads as rewritten:

"§ 116-19. Contracts with private institutions to aid North Carolina ~~students;~~students and licensure students; reporting requirement.

(a) In order to encourage and assist private institutions to continue to educate North Carolina ~~students;~~students and licensure students, the State Education Assistance Authority may enter into contracts with the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received, the institution would provide and administer scholarship funds for needy North Carolina students and licensure students in an amount at least equal to the amount paid to the institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the State

Education Assistance Authority would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student and licensure student enrolled at the institutions for the regular academic year, said sum to be determined by appropriations that might be made from time to time by the General Assembly pursuant to this section. Funds appropriated pursuant to this section shall be paid by the State Education Assistance Authority to an institution on certification of the institution showing the number of North Carolina students and licensure students enrolled at the institution as of October 1 of any year for which funds may be appropriated. For purposes of this subsection, "needy North Carolina ~~students~~" students and licensure students are those eligible students and licensure students who have financial need as determined by the institution under the institutional methodology or the federal methodology as defined by the State Education Assistance Authority. For purposes of this subsection, "institutional methodology" means a need-analysis formula, developed by College Scholarship Service, that determines the student's ~~and-or licensure student's~~ and his or her family's capacity to pay for postsecondary education each year.

(b) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students and full-time and less than full-time licensure students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students and licensure students enrolled in off-campus programs. An "off-campus program" is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program."

SECTION 9.13.(b) G.S. 116-20 reads as rewritten:

"§ 116-20. Scholarship and contract terms; base period.

In order to encourage and assist private institutions to educate additional numbers of North Carolinians, the Board of Governors of the University of North Carolina is hereby authorized to enter into contracts within the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received, the institution would provide and administer scholarship funds for needy North Carolina students and licensure students in an amount at least equal to the amount paid to the institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the Board of Governors of the University of North Carolina would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student and licensure student enrolled as of October 1 of any year for which appropriated funds may be available, over and above the number of North Carolina students enrolled in that institution as of October 1, 1997, which shall be the base date for the purpose of this calculation. Funds appropriated pursuant to this section shall be paid by the State Education Assistance Authority to an institution upon recommendation of the Board of Governors of the University of North Carolina and on certification of

the institution showing the number of North Carolina students and licensure students enrolled at the institution as of October 1 of any year for which funds may be appropriated over the number enrolled on the base date. In the event funds are appropriated for expenditure pursuant to this section and funds are also appropriated, for the same fiscal year, for expenditure pursuant to G.S. 116-19, students and licensure students who are enrolled at an institution in excess of the number enrolled on the base date may be counted under this section for the purpose of calculating the amount to be paid to the institution, but the same students and licensure students may also be counted under G.S. 116-19, for the purpose of calculating payment to be made under that section."

SECTION 9.13.(c) G.S. 116-21.1 reads as rewritten:

"§ 116-21.1. Financial aid for North Carolina students and licensure students attending private institutions of higher education in North Carolina.

(a) Funds shall be appropriated each fiscal year in the Current Operations Appropriations Act to the Board of Governors of The University of North Carolina for aid to institutions and shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22.

(b) The funds appropriated in compliance with this section shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in the account shall be provided as scholarship funds for needy North Carolina students and licensure students during the fiscal year. Each student and licensure student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant program as defined in G.S. 116-21.2."

SECTION 9.13.(d) G.S. 116-21.2 reads as rewritten:

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

(a) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to institutions, or to ~~students~~ persons attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, to be determined by the General Assembly for each academic year which shall be distributed to the full-time undergraduate student as provided by this subsection.

(a1) The legislative tuition grant provided by this section shall also be granted to each full-time licensure student who is enrolled in a program intended to result in a license in teaching or nursing at an approved institution. The legislative tuition grant provided by this section shall be awarded on a pro rata basis to any licensure student who is enrolled less than full-time in a program intended to result in a license in teaching or nursing at an approved institution. The legislative tuition grant and prorated legislative tuition grant authorized under this subsection shall be paid for undergraduate courses only.

(b) The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance

Authority shall not approve any grant until it receives proper certification from an approved institution that the student or licensure student applying for the grant is ~~an eligible student~~ eligible. Upon receipt of the certification, the State Education Assistance Authority shall remit at the times as it prescribes the grant to the approved institution on behalf, and to the credit, of the ~~student~~ student or licensure student.

(c) ~~In~~ Except as provided in subsection (a1) of this section, in the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If a licensure student on whose behalf a prorated grant has been paid in accordance with subsection (a1) of this section is not enrolled in the undergraduate class as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and licensure students and credited grants paid on behalf of ~~the students~~ them.

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

(1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections ~~(a)~~ (a), (a1), and (b) of this section; and

(2) Each eligible student and licensure student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

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

SECTION 9.13.(e) G.S. 116-21.3 reads as rewritten:

"§ 116-21.3. Legislative tuition grant limitations.

(a) For purposes of this section, an "off-campus program" is any program offered for degree credit away from the institution's main permanent campus.

(b) No legislative tuition grant funds shall be expended for a program at an off-campus site of a private institution, as defined in G.S. 116-22(1), established after May 15, 1987, unless (i) the private institution offering the program has previously notified and secured agreement from other private institutions operating degree programs in the county in which the off-campus program is located or operating in the counties adjacent to that county or (ii) the degree program is neither available nor planned in the county with the off-campus site or in the counties adjacent to that county.

(c) Any member of the armed services, as defined in G.S. 116-143.3(a), abiding in this State incident to active military duty, who does not qualify as a resident for tuition purposes, as defined under G.S. 116-143.1, is eligible for a legislative tuition grant pursuant to this section if the member is enrolled as a full-time ~~student~~ undergraduate student or as a licensure student. The member's legislative tuition

grant shall not exceed the cost of tuition less any tuition assistance paid by the member's employer.

(d) A legislative tuition grant authorized under ~~G.S. 116-21.2~~ G.S. 116-21.2(a) shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours."

SECTION 9.13.(f) G.S. 116-21.4(b) reads as rewritten:

"(b) Expenditures made pursuant to G.S. 116-19, 116-20, 116-21.1, or 116-21.2 shall not be used for any student or licensure student who:

- (1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or
- (2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years."

SECTION 9.13.(g) G.S. 116-22 is amended by adding a new subdivision to read:

"(1b) Licensure student shall mean a person who:

- a. Has a bachelors degree;
- b. Is enrolled either full-time or less than full-time in a program intended to result in licensure in teaching or nursing;
- c. Attends an institution located in the State; and
- d. Qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board."

NORTH CAROLINA RESEARCH CAMPUS AT KANNAPOLIS

SECTION 9.14.(a) The Director of the Office of State Budget and Management shall not release funds appropriated in this act to the Board of Governors of The University of North Carolina for the North Carolina Research Campus (NCRC) at Kannapolis until the President of The University of North Carolina certifies to the Director that The University System and the developers of NCRC have entered into a Memorandum of Understanding concerning the participation in and use of space at the North Carolina Research Campus that is approved by the President.

SECTION 9.14.(b) The Director of the Office of State Budget and Management shall not release funds appropriated in this act to the North Carolina Community Colleges System Office for the North Carolina Research Campus (NCRC) at Kannapolis until the President of the North Carolina Community College System certifies to the Director that the Community College System and the developers of NCRC have entered into a Memorandum of Understanding concerning the participation in and use of space at the North Carolina Research Campus that is approved by the President.

NC CENTER FOR THE ADVANCEMENT OF TEACHING

SECTION 9.15.(a) G.S. 116-74.6 reads as rewritten:

"§ 116-74.6. North Carolina Center for the Advancement of Teaching established; powers and duties of trustees.

~~The sums of five hundred thousand dollars (\$500,000) in fiscal year 1985-86 and two million dollars (\$2,000,000) in fiscal year 1986-87 that are appropriated to the Board of Governors of The University of North Carolina in Section 2 of the 1985-87 Current Operations Appropriations Act shall be used to establish the North Carolina Center for the Advancement of Teaching at Western Carolina University in Jackson County.~~ The Board of Governors of The University of North Carolina established the North Carolina Center for the Advancement of Teaching pursuant to Section 74 of S.L. 1985-479. The Center shall ~~operate under the general auspices~~ be a center of The University of North Carolina Board of Governors. It shall be the function of the North Carolina Center for the Advancement of Teaching (hereinafter called "NCCAT"), through itself or agencies with which it may contract, to provide career teachers with opportunities to study advanced topics in the sciences, arts, and humanities and to engage in informed discourse, assisted by able mentors and outstanding leaders from all walks of life; and otherwise to offer opportunity for teachers to engage in scholarly pursuits, through a center dedicated exclusively to the advancement of teaching as an art and as a profession.

The Board of Governors of The University of North Carolina shall establish the North Carolina Center for the Advancement of Teaching Board of Trustees and shall delegate to the Board of Trustees all the powers and duties the Board of Governors considers necessary or appropriate for the effective discharge of the functions of NCCAT."

SECTION 9.15.(b) G.S. 116-74.7 reads as rewritten:

"§ 116-74.7. Composition of board of trustees; terms; officers.

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

- (1) Three ex officio members: the President of The University of North Carolina, the State Superintendent of Public Instruction, and the Chancellor of ~~Western Carolina University;~~University, or their designees;
- (2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate;
- (3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; and
- (4) Eight members appointed by the Board of Governors, one from each of the eight educational regions.

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

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

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

The executive director shall report to and serve at the pleasure of the President of The University of North Carolina; provided that the President shall not terminate the employment of the executive director without prior consultation with the NCCAT Board of Trustees."

PRINCIPAL FELLOWS PROGRAM

SECTION 9.16.(a) G.S. 116-74.42(c) reads as rewritten:

"(c) The Principal Fellows Program shall provide a two-year scholarship loan in the amount of ~~twenty thousand dollars (\$20,000) per year, per recipient, specified in subsection (c1) of this section~~ to persons who may be eligible to be selected as school administrators in the public schools of the State by completing a full-time program in school administration in an approved program. Approved programs are those chosen by the Commission from among school administrator programs within the State. No more than 200 principal fellow scholarship loan awards shall be made in each year. The final number of scholarship loan awards per year shall be made in accordance with the Board of Governors' findings concerning the supply and demand of administrators, the State's need for school administrator candidates and within funds appropriated for the scholarship loans. Effective September 1, 1995, and in accordance with school administrator training programs established by the Board of Governors of The University of North Carolina, recipients shall be required to complete an approved full-time academic program during the first year of the scholarship loan program and a full-time internship during the second year of the program. In order to attract fellows as interns, local school administrative units may use all or part of the funds allotted for an assistant principal salary for each intern accepted by the local school administrative unit; however, interns shall not serve as assistant principals."

SECTION 9.16.(b) G.S. 116-74.42 is amended by adding a new subsection to read:

"(c1) The scholarship loan shall be thirty thousand dollars (\$30,000) per participant for the first year of participation. For the second year of participation, the amount of the scholarship loan per participant shall be sixty percent (60%) of the beginning salary for an assistant principal plus four thousand one hundred dollars (\$4,100) for tuition, fees, and books. The Commission may adjust the amount of the scholarship loan specified in this subsection to take into account increases in tuition, fees, and the cost of books, increases in the State principal assistant salary schedule, and changes in the stipend paid to participants in the program during the second year internship."

SECTION 9.16.(c) This section is effective when it becomes law and applies to recipients of scholarship loans for the 2006-2007 academic year and each subsequent academic year.

TEACHER ACADEMY TRANSFER

SECTION 9.17.(a) G.S. 116-11(12b) reads as rewritten:

"(12b) The Board of Governors of The University of North Carolina shall ~~create a Board of Directors for~~ designate the UNC programs that will comprise the UNC Center for School Leadership Development. ~~The Board of Governors shall determine the powers and duties of the Board of Directors.~~ The Board of Governors shall submit to the Governor and the General Assembly a single, unified recommended budget for the continued operation and expansion of the programs in the Center for School Leadership Development."

SECTION 9.17.(b) For fiscal year 2006-2007, all funds appropriated to The University of North Carolina for the operations of the Principal's Executive Program, the Principal Fellows Program, NC TEACH, the Model Teacher Education Consortium, and the Math Science Education Network shall be combined into a single appropriation for the Center for School Leadership Development; provided that no funds which have been designated for scholarships, scholarship loans, or stipends for teachers or school administrators may be used for an administrative purpose.

SECTION 9.17.(c) G.S. 116-30.01 is recodified as G.S. 115C-296.4 and reads as rewritten:

"§ 115C-296.4. North Carolina Teacher Academy Board of Trustees.

(a) The North Carolina Teacher Academy Board of Trustees shall establish a statewide network of high quality, integrated, comprehensive, collaborative, and substantial professional development for teachers, which shall be provided through summer programs. This network shall include professional development programs that focus on teaching strategies for teachers assigned to at-risk schools.

~~(b) The Board of Governors of The University of North Carolina shall delegate to the Board of Trustees all the powers and duties the Board of Governors considers necessary or appropriate for the effective discharge of the functions of the North Carolina Teacher Academy.~~

(c) The Board of Trustees shall consist of 20 members appointed as follows:

- (1) The Superintendent of Public Instruction or the Superintendent's designee;
- (2) One member of the State Board of Education appointed by the Chair of the State Board;
- ~~(3) One member of the Board of Governors of The University of North Carolina appointed by the Chair of the Board of Governors;~~
- ~~(4) The Director of the North Carolina Center for the Advancement of Teaching;~~

- (5) ~~Two deans of Schools of~~ One dean of a School of Education from one of the constituent institutions, appointed by the ~~President of The University of North Carolina;~~ Governor;
- (6) Four public school teachers appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom teaches in preschool through grade 2, one of whom teaches in grades 3 through 5, one of whom teaches in grades 6 through 8, and one of whom teaches on grades 9 through 12;
- (7) Four public school teachers appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, one of whom teaches in preschool through grade 2, one of whom teaches in grades 3 through 5, one of whom teaches in grades 6 through 8, and one of whom teaches on grades 9 through 12;
- (8) ~~Two~~ Three public school teachers appointed by the Governor;
- (9) One superintendent of a local school administrative unit appointed by the Governor;
- (10) Two public school principals appointed by the Governor; and
- (11) The President of the North Carolina Association of Independent Colleges and Universities, or a designee.
- (12) Two at-large members appointed by the Governor.

(d) Members appointed prior to September 1, 1995, shall serve until June 30, 1997, except that the terms of members appointed pursuant to subdivisions (6) and (7) of subsection (d) of this section shall expire June 30, 1995. Subsequent appointments shall be for four-year terms, except that two of the members appointed by the 1995 General Assembly pursuant to subdivision (6) of subsection (d) of this section and two of the members appointed by the 1995 General Assembly pursuant to subdivision (7) of subsection (d) of this section shall serve for two-year terms. The two new members under subdivision (c)(12) of this section shall serve initial terms beginning January 1, 2007, and ending June 30, 2010. The additional member appointed under subdivision (c)(8) of this section shall serve a term beginning January 1, 2007, and ending June 30, 2010. The designation of two deans serving under subdivision (c)(5) of this section shall expire December 31, 2006, and the Governor shall make a new appointment under that subdivision for a term beginning January 1, 2007, and ending June 30, 2010.

Members may serve two consecutive four-year terms.

Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

The Board of Trustees shall elect a new chair every two years from its membership. The chair may serve two consecutive two-year terms as chair.

(e) The chief administrative officer of the Teacher Academy shall be ~~a~~ an executive director appointed by the Board of Trustees.

(f) ~~The Board of trustees shall collaborate and coordinate its programming with NCCAT [North Carolina Center for the Advancement of Teaching]."~~

SECTION 9.17.(d) The North Carolina Teacher Academy and all resources, assets, liabilities, operations, and personnel are transferred and shall be located administratively under the State Board of Education but shall exercise its powers and duties independently of the State Board of Education through its own board of trustees. This transfer shall have all of the elements of a Type II transfer, as that term is defined in G.S. 143A-6(b). Where a conflict arises regarding the transfer, the conflict shall be resolved by the Governor, and the decision of the Governor shall be final.

SECTION 9.17.(e) G.S. 126-5 (c1) is amended by adding a new subdivision to read:

"(26) The Executive Director, associate and assistant directors, and instructional staff of the North Carolina Teacher Academy."

SECTION 9.17.(f) The North Carolina Teacher Academy shall report annually on or before October 1 to the Joint Legislative Education Oversight Committee its expenditures for the prior fiscal year. The first report shall be due no later than October 1, 2006, covering expenditures for the 2005-2006 fiscal year.

SECTION 9.17.(g) Subsections (a) and (b) of this section become effective July 1, 2006. Subsections (c) through (e) of this section become effective January 1, 2007, except that the General Assembly and the Governor may make appointments prior to that date for terms to begin January 1, 2007. The remainder of this section is effective when it becomes law.

PROGRESS BOARD FUNDS MUST BE MATCHED

SECTION 9.18. Expansion budget funds appropriated to the Board of Governors of The University of North Carolina in this act for the North Carolina Progress Board shall be matched by funds from private sources on the basis of one dollar (\$1.00) of private funds for every one dollar (\$1.00) of State funds. Unmatched expansion budget funds shall revert to the General Fund at the end of the 2006-2007 fiscal year.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHANGE REPORTING DATE OF AGING STUDY COMMISSION

SECTION 10.1. The third paragraph of Section 10.40A.(p) of S.L. 2005-276 reads as rewritten:

"SECTION 10.40A.(p)

...

The Department shall submit a progress report to the North Carolina Study Commission on Aging and to the Senate Appropriations Committee on Health and Human Services and to the House of Representatives Subcommittee on Health and Human Services on or before ~~April 1, 2006.~~ January 1, 2007.

..."

RATE SETTING FOR CHILD CARING INSTITUTIONS

SECTION 10.2.(a) Section 10.47(b) of S.L. 2005-276 is repealed.

SECTION 10.2.(b) G.S. 110-93.1 is repealed.

SECTION 10.2.(c) G.S. 143B-153(2) reads as rewritten:

- "(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:
- a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);
 - b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;
 - c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the Department of Juvenile Justice and Delinquency Prevention, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48;
 - d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social ~~services;~~ ~~and services.~~ The Commission shall establish standardized rates for child caring institutions. In establishing standardized rates, the Commission shall consider the rate-setting recommendations provided by the Office of the State Auditor; and
 - e. For client assessment and independent case management pertaining to the functions of county departments of social services for public assistance programs authorized under paragraph a. of this subdivision."

SECTION 10.2.(d) The effective date for establishing standardized rates for child caring institutions in this State, as enacted in subsection (c) of this section, shall be July 1, 2007.

MEDICAID

SECTION 10.3.(a) Section 10.11 of S.L. 2005-276 is repealed.

SECTION 10.3.(b) Use of Funds, Allocation of Costs, Other Authorizations.

- (1) Use of Funds. – Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy.

- (2) Allocation of Nonfederal Cost of Medicaid. – Except as otherwise provided in this act, the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004.
- (3) Funds for Development and Acquisition of Equipment and Software. – If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed the currently allocated funds for the new contract for the fiscal agent for the Medicaid Management Information System.
- (4) Reports. – Unless otherwise provided, whenever the Department of Health and Human Services is required by this section to report to the General Assembly, the report shall be submitted to the House of Representatives Appropriations Subcommittee for Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division of the Legislative Services Office. Reports shall be submitted on the date provided in the reporting requirement.

SECTION 10.3.(c) Policy. –

- (1) Volume purchase plans and single source procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.
- (2) Cost-containment programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.
- (3) Fraud and abuse. –
 - a. The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by

sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

- b. For the purposes of investigating and reducing client fraud and abuse, the Department of Health and Human Services, Division of Medical Assistance, shall, unless prohibited by federal law, include in the Medicaid enrollment process the requirement that the applicant for Medicaid consent to or authorize in writing the release of the applicant's medical records for the three years immediately preceding the application for Medicaid benefits. The Department shall obtain and use information from the applicant's medical records in a manner and form that complies with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), P.L. 104-191, as amended, and that protects the privacy of the information as required by other applicable federal or State law. In addition to fraud and abuse detection, the Department may require the applicant's consent for other purposes permitted by HIPAA and required or authorized by other applicable federal or State law.

(4) Medical policy. –

Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars (\$3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars (\$3,000,000).

SECTION 10.3.(d) Eligibility. – Eligibility for Medicaid shall be determined in accordance with the following:

- (1) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the

Standard of Need for Work First Family Assistance shall be as follows:

Categorically Needy-WFFA* Family Size	Standard Of Need	Medically Needy Families and Children Income	
		Level	AA,AB,AD*
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,900
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

- (2) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.
- (3) The Department of Health and Human Services shall provide Medicaid to 19 and 20-year-olds in accordance with federal rules and regulations.
- (4) Pregnant women and children. – The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:
 - a. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
 - b. Effective January 1, 2006, infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
 - c. Effective January 1, 2006, children aged one through five with family incomes equal to or less than two hundred percent

(200%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

- d. Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- e. The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subparagraphs c. and d. of this subdivision, no resources test shall be applied.

- (5) The Department of Health and Human Services shall provide Medicaid coverage for family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eight-five percent (185%) of the federal poverty level.
- (6) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly engaged in work activities as part of their developmental plan, and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
\$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

- (7) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.
- (8) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.
- (9) When implementing the Supplemental Security Income (SSI) method for considering equity value of income producing property, the

Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the SSI method.

SECTION 10.3.(e) Services and Payment Bases. – Funds appropriated for Medicaid services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

- (1) Hospital inpatient.
- (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing facilities. – Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare-certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.
- (4) Physicians, certified nurse midwife services, nurse practitioners. – Fee schedules as development by the Department of Health and Human Services.
- (5) Community Alternative Program, EPSDT Screens. – Payments in accordance with rate schedule developed by the Department of Health and Human Services.
- (6) Home health and related services, durable medical equipment. – Payments according to reimbursement plans developed by the Department of Health and Human Services.
- (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- (8) Rural health clinical services. – Provider-based, reasonable cost; non-provider-based, single-cost reimbursement rate per clinic visit.
- (9) Family planning. – Negotiated rate for local health departments. For other providers see specific services, e.g. hospitals, physicians.
- (10) Independent laboratory and X-ray services. – Uniform fee schedules as developed by the Department of Health and Human Services.

- (11) Ambulatory surgical centers.
- (12) Private duty nursing, clinic services, prepaid health plans.
- (13) Intermediate care facilities for the mentally retarded.
- (14) Chiropractors, podiatrists, optometrists, dentists.
- (15) Limitations on Dental Coverage. – Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.
- (16) Medicare Buy-In. – Social Security Administration premium.
- (17) Ambulance services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
- (18) Optical supplies. – Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.
- (19) Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.
- (20) Physical therapy, occupational therapy, and speech therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy, occupational therapy, and speech therapy services are subject to prior approval and utilization review.
- (21) Personal care services.
- (22) Case management services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.
- (23) Hospice.
- (24) Medically necessary prosthetics or orthotics. – In order to be eligible for reimbursement, providers must be licensed or certified by the occupational licensing board or the certification authority having authority over the provider's license or certification. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.
- (25) Health insurance premiums.
- (26) Medical care/other remedial care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates.
- (27) Pregnancy-related services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and

predelivery and postpartum home visits by maternity care coordinators and public health nurses.

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

Limitations on quantity. – The Department of Health and Human Services may establish authorizations, limitations, and reviews for specific drugs, drug classes, brands, or quantities in order to manage effectively the Medicaid pharmacy program, except that the Department shall not impose limitations on brand-name medications for which there is a generic equivalent in cases where the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary". In addition to the entities listed in subsection (a) of this section, the Department shall report to the Joint Legislative Commission on Governmental Operations on authorizations, limitations, and reviews established under this subparagraph, including limitations on monthly brand-name and generic prescriptions as well as restrictions on the total number of medications. The Department shall submit the report not later than May 1, 2006.

Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug

listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand-name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of: (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

- (29) Other mental health services. – Unless otherwise covered by this section, coverage is limited to:
- a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and
 - b. For children eligible for EPSDT services provided by:
 1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina

- primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and
2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.
- c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and licensed clinical supervisors, Medicaid-eligible adults may be self-referred.
 - d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.
 - e. The Department of Health and Human Services shall not enroll licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addiction specialists, and licensed clinical supervisors until all of the following conditions have been met:
 1. The fiscal impact of payments to these qualified providers has been projected;
 2. Funding for any projected requirements in excess of budgeted Division of Medical Assistance funding has been identified from within State funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support area mental health

- programs or county programs, or identified from other sources; and
3. Approval has been obtained from the Office of State Budget and Management to transfer these State or other source funds from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Division of Medical Assistance. Upon approval and implementation, the Department of Health and Human Services shall, on a quarterly basis, provide a status report to the Office of State Budget and Management and the Fiscal Research Division.

Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under sub-subdivisions a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.

SECTION 10.3.(f) Limitations on payments. –

- (1) Payment is limited to Medicaid-enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid-enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. 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 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 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and Human Services where the life of the patient would be threatened without such additional care.

SECTION 10.3.(g) 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 payments 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. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.
- (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 and required by this subsection in order to achieve reductions in the budget in fiscal years 2005-2006 and 2006-2007.
- (3) The Department of Health and Human Services shall provide Medicaid coverage for family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Of the funds appropriated in this act to the Division of Medical Assistance, the sum of seven hundred fifty thousand dollars (\$750,000) for the 2005-2006 fiscal year shall be used to provide the State-match for the family planning demonstration waiver approved by the federal government.

SECTION 10.3.(h) 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 necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary or emergency rules with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary or emergency rule and its effect on State appropriations and local governments.
- (2) Changes to Medicaid program; reports. – The Department shall report on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or

waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval. In addition to the entities listed in subsection (a)(4) of this section, the report shall be submitted to the Joint Legislative Health Care Oversight Committee.

INFLATIONARY INCREASES FOR MEDICAID PROVIDERS

SECTION 10.3A. Effective for the 2006-2007 fiscal year, the Secretary of the Department of Health and Human Services shall develop a plan to allocate funds available for inflationary increases among groups of Medicaid providers in accordance with the interim report from the study of Medicaid provider rates authorized in Section 10.11 of this act. Before submitting the proposed allocation plan to the Centers for Medicare/Medicaid Services ("CMS"), and not later than December 15, 2006, the Secretary shall consult with the Joint Legislative Commission on Governmental Operations ("Commission") and present the proposed allocation plan.

Based on the Secretary's allocation plan, inflationary increases shall become effective on January 1, 2007, or when State plan amendments have been approved by CMS retroactive to January 1, 2007, whichever occurs last.

PROCEDURES FOR CHANGES TO DHHS MEDICAL POLICY

SECTION 10.4. Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"§ 108A-54.2. Procedures for changing medical policy.

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

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers who are affected by the new medical coverage policy or amendments to existing medical coverage policy.
- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
 - a. Publish the proposed new or amended medical coverage policy on the Department's Web site;
 - b. Notify all Medicaid providers of the proposed, new, or amended policy; and
 - c. Upon request, provide persons copies of the proposed medical coverage policy.

- (3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, accept oral and written comments on the proposed new or amended policy.
- (4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:
 - a. Notify all Medicaid providers of the proposed policy;
 - b. Upon request, provide persons notice of amendments to the proposed policy; and
 - c. Accept additional oral or written comments during this 15-day period."

TRANSFER OF ASSETS REWRITE

SECTION 10.5.(a) G.S. 108A-58 is repealed.

SECTION 10.5.(b) Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

§ 108A-58.1. Ineligibility for medical assistance based on transferring assets for less than fair market value.

(a) General Rule. – Except as otherwise provided herein, an individual who is otherwise eligible to receive medical assistance under this Part is ineligible for Medicaid coverage and payment for the services specified in subsection (d) during the period specified in subsection (c) if the individual or the individual's spouse transfers an asset for less than fair market value on or after the "lookback date" specified in subsection (b).

(b) Lookback Date. –

- (1) Except as otherwise provided herein, the lookback date is the date specified in 42 U.S.C. § 1396p(c)(1)(B).
- (2) Notwithstanding subdivision (1), the lookback date with respect to the medical services specified in subdivision (d)(2) is the date specified in 42 U.S.C. § 1396p(c)(1)(B) or February 1, 2003, whichever is later.

(c) Penalty Period. – The penalty period for the transfer of assets for less than fair market value is the period specified in 42 U.S.C. § 1396p(c)(1)(D), (E), and (H).

(d) Medical Services. –

- (1) In the case of an institutionalized individual, the transfer of assets penalty applies with respect to nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and to home- or community-based services furnished under the State's Community Alternatives Program waiver pursuant to 42 U.S.C. § 1396n(c) or (d).
- (2) In the case of a noninstitutionalized individual, the transfer of assets penalty applies with respect to home health services and personal care services as defined in 42 U.S.C. § 1396d(a)(7) and (24) and, to the extent permitted by federal law, such other long-term care services

specified by rules adopted by the Department of Health and Human Services pursuant to subsection (k) of this section.

(e) Assets. – Assets are the income and resources of an individual or the individual's spouse (including the individual's or spouse's home) as defined in 42 U.S.C. § 1396p(h) and 42 U.S.C. § 1396p(c)(1)(G), (I), and (J).

(f) Fair Market Value and Uncompensated Value. –

(1) The fair market value of an asset is the value (minus any valid and legally enforceable liens, mortgages, and encumbrances against the asset) that would have been received if the asset had been sold for good and valuable consideration at the prevailing market price at the time the asset was transferred. In the case of real or personal property that is taxable under Subchapter II of Chapter 105 of the General Statutes, there is a rebuttable presumption that the fair market value of the property is its most recent value as ascertained under Subchapter II of Chapter 105 of the General Statutes (minus any valid and legally enforceable liens, mortgages, and encumbrances against the property).

(2) The uncompensated value of an asset is its fair market value minus the amount of good and valuable consideration received in exchange for the asset's transfer.

(g) Individual. – An individual is a person who applies for or is receiving medical assistance under this Part regardless of whether the person was, at the time an asset was transferred, a Medicaid applicant or recipient. The term "individual" also includes an individual's legal representative, anyone acting at the individual's direction or request, and any person, agency, or court acting lawfully on behalf of the individual.

(h) Institutionalized and Noninstitutionalized Individuals. –

(1) An institutionalized individual is an individual who meets the criteria set forth in 42 U.S.C. § 1396p(h)(3), regardless of whether the individual was institutionalized at the time an asset was transferred.

(2) A noninstitutionalized individual is any individual who (i) is not an institutionalized individual, (ii) is an aged, blind, or disabled person who is categorically or medically needy pursuant to 42 C.F.R. § 120 or a qualified Medicare beneficiary as defined in 42 U.S.C. § 1396d(p)(1), and (3) is not eligible for medical assistance under this Part based on his or her eligibility for an optional State supplement pursuant to 42 C.F.R. § 435.232.

(i) Exceptions. –

(1) This section does not apply if an individual establishes by the greater weight of the evidence that the transfer was exclusively for some purpose other than establishing or retaining eligibility for medical assistance under this Part.

(2) This section does not apply to any transfer specified in 42 U.S.C. § 1396p(c)(2)(A), (B), (C)(i), or (C)(iii).

(j) Application to Life Estates and Income Producing Real Property. – The Department of Health and Human Services may apply federal transfer of assets policies

in accordance with this section to (i) life estates purchased by or on behalf of the recipient, and (ii) to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing." The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse, as defined in subsection (h) of this section. The Department shall exclude from countable resources any life estate in real property that is in the recipient's home and is measured by the recipient's life. Federal transfer of assets policies applied to income producing real property shall become effective not earlier than October 1, 2001. Federal transfer of assets policies applied to real property excluded as tenancy-in-common, or as nonhomesite property made income producing in accordance with this subsection, shall become effective not earlier than October 1, 2005.

(k) Hardship Waiver. – The Department of Health and Human Services shall waive a transfer of assets penalty that has been imposed or is imposable under this section if the Department determines that imposition of the penalty would create an undue hardship.

(l) Rules and Compliance with Federal Law. –

- (1) This section shall be interpreted and administered consistently with governing federal law, including 42 U.S.C. § 1396p(c).
- (2) The Department of Health and Human Services shall determine and publish at least annually the average monthly cost of nursing facility services for private patients that will be used in determining the length of a penalty period under this section.
- (3) The Department of Health and Human Services shall provide for a hardship waiver process in accordance with 42 U.S.C. § 1396p(c)(2)(D).
- (4) The Department of Health and Human Services may adopt administrative rules that are necessary and appropriate to implement this section or the requirements of 42 U.S.C. § 1396p(c) or other federal laws governing the transfer of assets and Medicaid eligibility."

MEDICAID DUALY ELIGIBLE TO ENROLL IN MEDICARE PARTS B AND D

SECTION 10.6. G.S. 108A-55.1 reads as rewritten:

"§ 108A-55.1. Medicare enrollment required.

The Department shall require State Medical Assistance Program recipients who qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social Security Act, in order to pay medical expenditures that qualify for payment under Medicare ~~Part B.~~ Parts B and D, except that enrollment in Part D is not required if the recipient has creditable prescription drug coverage as defined by federal law.

Failure to enroll in Medicare shall result in nonpayment of these expenditures under the State Medical Assistance Program. A provider may seek payment for services from Medicaid enrollees who are eligible for but not enrolled in Medicare ~~Part B~~ Parts B and D."

MEDICAID RESERVE FUND TRANSFER

SECTION 10.7.(a) Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty three million dollars (\$53,000,000) for the 2006-2007 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act. The Department may use funds in the Medicaid Trust Fund and not appropriated by law for other purposes to fund the settlement of the Disproportionate Share Hospital payment audit issues between the Department of Health and Human Services and the federal government related to fiscal years 1997-2002.

SECTION 10.7.(b) Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of five million four thousand five hundred four dollars (\$5,004,504) for the 2006-2007 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for the implementation of the Medicaid Management Information System (MMIS).

PILOT PROJECTS TO CONTROL COST AND IMPROVE QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID RECIPIENTS

SECTION 10.7A.(a) Section 10.17.(a) of S.L. 2005-276 reads as rewritten:

"SECTION 10.17.(a) The Department of Health and Human Services shall expand the scope of Community Care of NC care management model to recipients of Medicaid and dually eligible individuals with a chronic condition and long-term care needs. In expanding the scope, the Department shall focus on the Aged, Blind, and Disabled, and CAP-DA populations for improvement in management, cost-effectiveness, and local coordination of services through Community Care of NC and in collaboration with local providers of care. The Department shall target personal care services, private duty nursing, home health, durable medical equipment, ancillary professional services, specialty care, residential services, including skilled nursing facilities, home infusion therapy, pharmacy, and other services determined target-worthy by the Department. The Department shall pilot communitywide initiatives and shall expand statewide successful models. The initiatives may include one or more pilot projects to control costs and improve quality of care for the aged, blind, and disabled recipients of Medicaid."

SECTION 10.7A.(b) Section 10.14 of S.L. 2005-276 reads as rewritten:

"SECTION 10.14. The Department of Health and Human Services may use not more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not more than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff services, hiring additional staff, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost-containment programs.

Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, technology that improves clinical decision making, credit balance recovery and data mining services, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division."

REQUIRED DATA SHARING BY PRIVATE HEALTH INSURERS

SECTION 10.8. Part 1 of Article 50 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-50-46. Insurers to provide certain information to Department of Health and Human Services.

(a) As used in this section, the terms:

- (1) 'Department' means the Department of Health and Human Services.
- (2) 'Division' means the Division of Medical Assistance of the Department of Health and Human Services.
- (3) 'Health insurer' includes self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, [29 USC Section 1167(1)]), service benefit plans, managed care organizations, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service as a condition of doing business in the State.
- (4) 'Medical assistance' means medical assistance benefits provided under the State Medical Assistance Plan.

(b) Health insurers, and pharmacy benefit managers regulated as third-party administrators under Article 56 of Chapter 58 of the General Statutes, shall provide, with respect to individuals who are eligible for, or are provided, medical assistance, upon request of the Division, information to determine during what period the individual or the individual's spouse or dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the name, address, and identifying number of the plan) in a manner prescribed by the Division. Notwithstanding any other provision of law, every insurer issuing a health benefit plan shall provide, not more frequently than twelve times in a year and at no cost, to the Department of Health and Human Services, upon its request, information, including automated data matches conducted under the direction of the Department of Health and Human Services, Division of Medical Assistance, as

necessary to (i) identify individuals covered under the insurer's health benefit plans who are also recipients of medical assistance; (ii) determine the period during which the individual or the individual's spouses or the individual's dependents may be or may have been covered by the health benefit plan; and (iii) determine the nature of the coverage. To facilitate the Division in obtaining this and other related information, every health insurer shall:

- (1) Cooperate with the Division to determine whether a named individual who is a recipient of medical assistance may be covered under the insurer's health benefit plan and eligible to receive benefits under the health benefit plan for services provided under the State Medical Assistance Plan.
- (2) Respond to the request for information within 90 working days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the insurer's health benefit plan.
- (3) Accept the Division's right of recovery and the assignment to the Division of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State Medical Assistance Plan.
- (4) Respond to any inquiry by the Division regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service.
- (5) Agree not to deny a claim submitted by the Division solely on the basis of the date of submission of the claim, the type of format of the claim form, or a failure to present property documentation at the point-of-sale that is the basis of the claim, if:
 - a. The claim is submitted by the Division within the three-year period beginning on the date on which the item or service was furnished; and
 - b. Any action by the Division to enforce its rights with respect to such claim is commenced within six years of the Division's submission of the claim.

(c) An insurer that complies with this section shall not be liable on that account in any civil or criminal actions or proceedings."

TICKET TO WORK EFFECTIVE DATE CHANGE

SECTION 10.9.(a) Section 10.18(c) of S.L. 2005-276 reads as rewritten:

"SECTION 10.18.(c) Subsection (b) of this section becomes effective July 1, 2006. Subsection (a) of this section becomes effective ~~January 1, 2007, or within 30 days after the date on which the MMIS becomes operational, as determined by the Department of Health and Human Services, whichever occurs later.~~ July 1, 2007.

Client enrollment shall begin not later than six months from the date subsection (a) becomes effective. The remainder of this section is effective when it becomes law."

SECTION 10.9.(b) The Department of Health and Human Services shall study and develop a plan for the implementation of the Ticket to Work Program. The Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2007, on the results of its study. The report shall include what system changes need to be made to implement the Ticket to Work Program, how soon the changes can be made, and an analysis of the five-year fiscal impact of the Program.

MEDICAID/HEALTH CHOICE DENTAL ADMINISTRATIVE SERVICES STUDY

SECTION 10.9A. The Department of Health and Human Services, Division of Medical Assistance, shall study the costs and benefits of implementing a carve-out of dental administrative services provided by third-party administrators for Medicaid and NC Health Choice recipients. In conducting the study, the Division shall review the experiences of other states using carve-out for administrative services and the likelihood that a carve-out will increase the number of dentists willing to serve Medicaid and NC Health Choice recipients. The Department of Health and Human Services shall report its findings and recommendations and shall include in the report a comparison of what Medicaid and SCHIP dental programs in other states have done or are doing to increase the number of Medicaid and SCHIP recipients accessing dental care. The Department of Health and Human Services shall submit the report to the House of Representatives Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division of the Legislative Services Office not later than March 1, 2007.

EXTEND EFFECTIVE DATE ON CHANGES TO LIENS ON REAL PROPERTY FOR PURPOSES OF ESTATE RECOVERY UNDER MEDICAID

SECTION 10.9B. Section 10.21C(c) of S.L. 2005-276, as amended by Section 16 of S.L. 2005-345, reads as rewritten:

"**SECTION 10.21C.(c)** This section becomes effective July 1, ~~2006~~,2007, and applies to recipients of medical assistance on or after that date."

PILOT PROGRAM TO EVALUATE USE OF TELEMONTORING EQUIPMENT IN HOME CARE SERVICES

SECTION 10.9C. The Department of Health and Human Services, Division of Medical Assistance, may implement a pilot program to evaluate the use of telemonitoring equipment in home care services and community-based long-term care services. The pilot program may be implemented by October 1, 2006, and shall evaluate the use of telemonitoring equipment as a tool to improve the health of home care clients and community-based long-term care clients through increased monitoring and responsiveness, and resulting in increased stabilization rates. The evaluation shall include a representative number of older adults. Not later than July 1, 2007, the

Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Fiscal Research Division, and the North Carolina Study Commission on Aging on the implementation of the pilot program and its findings and recommendations on the cost-effectiveness of telemonitoring and the benefits to individuals and health care providers.

DHHS TO STUDY STRATEGIES TO OFFSET THE COST TO PHARMACISTS OF PROVIDING SERVICES TO MEDICAID RECIPIENTS ENROLLED IN MEDICARE PART D

SECTION 10.9D. The General Assembly recognizes the critical need for pharmacy management services to Medicaid recipients enrolled in Medicare Part D. In light of the additional costs to pharmacists that provide pharmacy services to Medicaid recipients enrolled in Medicare Part D, and in light of the fact that federal law does not provide federal matching funds under the Medicaid program for these services, the Department of Health and Human Services shall study strategies for assisting pharmacists in providing these services to Medicaid recipients enrolled in Medicare Part D. In studying the strategies, the Department shall specifically address the special circumstances of pharmacists that provide pharmacy services to long-term care facilities. Among the strategies to be considered are those that address pharmacies adversely affected by the additional costs such that they may remain in business and thus continue to provide pharmacy services throughout the State. As part of this effort, the Department shall also assess the impact of the Deficit Reduction Act of 2005 on the payment for generic drugs under the Medicaid Program. The Department shall report its findings and recommended strategies 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 not later than April 1, 2007.

ONE-TIME CAP ON MEDICAID COUNTY SHARE

SECTION 10.9E.(a) It is the intent of the General Assembly to provide sufficient funds for one-time assistance to counties with respect to the county share of the nonfederal share of Medical Assistance payments for the 2006-2007 fiscal year. To this end, the General Assembly estimates that the cost of the State maintaining the county share of the nonfederal share of Medical Assistance payments, excluding administrative costs, at the 2005-2006 level will not exceed twenty-seven million four hundred thousand dollars (\$27,400,000) for the 2006-2007 fiscal year.

SECTION 10.9E.(b) Notwithstanding any other provision of law to the contrary and subject to the limitations in subsection (d) of this section, each county's portion of the nonfederal share of Medical Assistance payments, excluding administrative costs, for the 2006-2007 fiscal year only, shall not exceed the amount paid by the county for the nonfederal share of Medical Assistance payments, excluding administrative costs, for the 2005-2006 fiscal year. In the event a county's portion of the nonfederal share of Medical Assistance payments, excluding administrative costs, is

less in fiscal year 2006-2007 than the county share paid for fiscal year 2005-2006, then the county's share for the 2006-2007 fiscal year shall be the lower amount.

SECTION 10.9E.(c) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, a sum not to exceed twenty-seven million four hundred thousand dollars (\$27,400,000) in nonrecurring funds for the 2006-2007 fiscal year shall be used to cover the increased cost to the State resulting from the one-time assistance for the county share provided under this section.

SECTION 10.9E.(d) If fifteen percent (15%) of the nonfederal share of total Medical Assistance payments in the 2006-2007 fiscal year exceeds the amount of the nonfederal share paid by counties in fiscal year 2005-2006 plus the twenty-seven million four hundred thousand dollars (\$27,400,000) in nonrecurring funds appropriated in this act for this purpose, then the county share for 2006-2007 shall be fifteen percent (15%) of the amount by which the nonfederal share of total Medical Assistance payments exceeds the amount appropriated in this act for the one-time assistance plus the amount paid by the counties in the 2005-2006 fiscal year.

SECTION 10.9E.(e) If less than twenty-seven million four hundred thousand dollars (\$27,400,000) in nonrecurring funds for the 2006-2007 fiscal year is needed for one-time assistance for the county share, then funds remaining shall revert to the General Fund.

SECTION 10.9E.(f) The Department of Health and Human Services shall continue to track, on a monthly basis, each county's portion of the nonfederal share of Medical Assistance payments, excluding administrative costs, in fiscal year 2006-2007 as if the counties were still paying fifteen percent (15%) of all applicable nonfederal costs. The Department shall report on a monthly basis to the Fiscal Research Division each county's portion of the nonfederal share of Medical Assistance payments, excluding administrative costs, as determined by this section.

SECTION 10.9E.(g) For purposes of this section:

- (1) "Medical Assistance payments" include Medicare Part D payments.
- (2) Medical Assistance payments in fiscal year 2005-2006 represent the sum of 12 county warrants for Medicaid expenditures from June 2005, through May 2006. Medical Assistance payments in fiscal year 2006-2007 represent the sum of the 12 warrants for Medicaid expenditures from June 2006, through May 2007.

STATE/COUNTY SPECIAL ASSISTANCE

SECTION 10.9F.(a) Effective January 1, 2007, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred forty-eight dollars (\$1,148) per month per resident.

SECTION 10.9F.(b) Effective July 1, 2007, the Department of Health and Human Services shall recommend rates for State/County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend separate rates for residents of special care units. The Department shall recommend rates using appropriate cost modeling methodology and cost reports submitted by adult care homes that receive State/County Special Assistance funds and shall ensure that cost reporting is

done for State/County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

SECTION 10.9F.(c) The Department of Health and Human Services shall assure coordination of the State/County Special Assistance rate and the Adult Care Home Personal Care Services rate with the Division of Aging and Adult Services, the Division of Medical Assistance, and the Office of the Controller.

PUBLIC-PRIVATE LONG-TERM CARE PARTNERSHIP PROGRAM

SECTION 10.10. The Department of Health and Human Services shall, pursuant to authority under section 1917(b) of the Social Security Act (42 USC § 1396p(c)), as amended by Public Law 109-171 effective January 1, 2007, develop a North Carolina Long-Term Care Partnership Program. The purpose of the Program is to reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid. The Department shall structure and administer the Program in accordance with applicable federal law and guidelines for qualified State long-term care partnerships. The Program, including the treatment of assets for Medicaid eligibility and estate recovery, notwithstanding statutory provisions on treatment of assets and estate recovery to the contrary, shall offer incentives to individuals to ensure against the substantial costs of providing for their long-term care needs. The Department shall submit the proposed Program to the Senate Appropriations Committee on Health and Human Services, the House of Representative Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division prior to submitting the Program for federal approval of the necessary State Plan amendment. The Program shall not become effective until reviewed in accordance with this section.

STUDY MEDICAID PROVIDER RATE INCREASES

SECTION 10.11.(a) The Secretary of the Department of Health and Human Services shall study and develop a proposal for an equitable standard for providing inflationary increases and other cost-related increases to service providers in the Medicaid program. The Department shall seek the assistance of external consultants and other appropriate financial experts and affected parties to validate any methodologies used in the development of the standard.

SECTION 10.11.(b) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of one hundred thousand dollars (\$100,000) for the 2006-2007 fiscal year shall be used to support the study. Not later than March 1, 2007, the Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the findings and recommendations of the study.

SECTION 10.11.(c) The Department of Health and Human Services, Office of Internal Auditor, and Division of Medical Assistance shall study the reimbursement system for skilled nursing facilities and develop recommendations regarding rebasing the payment rates for the 2006-2007 fiscal year. The Department's shall report its recommendations to the Joint Legislative Commission on Governmental Operations, the

Senate Appropriations Committee on Health and Human Services, the House Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before November 1, 2006.

INCREASE HEALTH CARE ACCESS FOR UNINSURED PERSONS

SECTION 10.12.(a) The Secretary of the Department of Health and Human Services shall develop a plan to expand health care access for uninsured North Carolinians through the use of public/private partnerships, federal flexibility and resources, and promotion of charity care by health care providers. The goals of the plan are to:

- (1) Aid small businesses that want to provide health care coverage.
- (2) Expand health care coverage for the working uninsured persons.
- (3) Secure all available federal funds to support the program.
- (4) Promote charity care by health care providers.

SECTION 10.12.(b) In developing the plan, the Secretary shall:

- (1) Consider findings and recommendations of previous studies on increased access to health care and covering the uninsured to determine their feasibility.
- (2) Draw on the experience of other states that have successfully increased access to health care and covered the uninsured.
- (3) Determine waivers necessary to secure federal funding available through 1115 Demonstration Waivers and other federal waivers to cover the uninsured.
- (4) Explore options such as those available through the Deficit Reduction Act of 2005 (DEFRA) to adjust Medicaid eligibility and benefits to cover the uninsured.
- (5) Consider the use of existing funding that might be used to leverage additional federal matching funds including certified public expenditures (CPE), and appropriate federal Disproportionate Share Hospital Program (DSH) funds.
- (6) Pursue an agreement with the Centers for Medicare and Medicaid Services (CMS) to develop a methodology for investing Medicare savings realized from the expansion of the scope of Community Care of North Carolina Program to help fund the plan; and
- (7) Determine in conjunction with the Office of State Budget and Management the fiscal impact of the plan for a five-year period.

SECTION 10.12.(c) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of one hundred thousand dollars (\$100,000) for the 2006-2007 fiscal year shall be used to support the development of the plan. The proposed plan shall be submitted to the 2007 General Assembly not later than March 1, 2007.

HEALTH INFORMATION SYSTEMS (HIS) FUNDS

SECTION 10.13.(a) The sum of nine million eight hundred thirty-five thousand seven hundred ninety-five dollars (\$9,835,795) is appropriated from Budget Code 24430, Fund Code 2117, to the Department of Health and Human Services, Division of Public Health, for the 2006-2007 fiscal year. These funds shall be used for the development and implementation of the Health Information Systems (HIS), an initiative that will provide an automated means of capturing, monitoring, reporting, and billing services provided in local health departments, CDSAs, and the State Public Health Lab. The HIS will allow for interfaces to local health departments' own vendor systems and is intended to replace the outdated Health Services Information System. Allocation of these funds is contingent upon full compliance with the reporting requirements of Section 10.59A.(b) of S.L. 2005-276 and the identification of total estimated costs and future funding sources.

SECTION 10.13.(b) The Department of Health and Human Services, Division of Public Health, shall report on the use of these funds 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 not later than March 1, 2007.

EARLY INTERVENTION SERVICES REPORT

SECTION 10.15. The Department of Health and Human Services, Division of Public Health, shall report on Early Intervention services. The report shall include the following information for all children, ages birth to three years, entering the Early Intervention system as of July 1, 2006, through December 31, 2006:

- (1) Children served: the number of children referred and the source of referral, the number of children receiving initial evaluations, the number of children determined eligible, the number of children enrolled, and the number of IFS Plans developed.
- (2) Services provided: the number and types of evaluation services, treatment services, and other services provided and whether the service was provided by an employee of a Children's Developmental Services Agency or a private provider.
- (3) Sliding scale participation: the percentage of enrolled children whose family income falls into each of the following categories: at or below 200% of the federal poverty level, between 250% and 300% of the federal poverty level, between 350% and 400% of the federal poverty level, and over 400% of the federal poverty level. These percentages shall be reported based on gross income and net income after allowable deductions.

The Division of Public Health shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representative Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than February 1, 2007.

COMMUNITY HEALTH CENTER CHANGES

SECTION 10.16. Section 10.9(a) of S.L. 2005-276 reads as rewritten:

"SECTION 10.9.(a) Of the funds appropriated in this act for Community Health Grants, the sum of ~~two~~five million dollars (~~\$2,000,000~~) ~~in recurring funds for the 2005-2006 fiscal year, and the sum of two million dollars (\$2,000,000) in recurring funds for the 2006-2007 fiscal year shall be used for federally qualified health centers, for those health centers that meet the criteria for federally qualified health centers, and for State-designated rural health centers and public health departments and other clinics to~~allocated to federally qualified health centers and those health centers that meet the criteria for federally qualified health centers, State-designated rural health centers, free clinics, public health departments, and other nonprofit organizations that provide primary and preventive medical services to uninsured or medically indigent patients to:

- (1) Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations;
- (2) Establish community health center services in counties where no such services exist;
- (3) Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and
- (4) Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

Grant funds may not be used to enhance or increase compensation or other benefits of personnel, administrators, directors, consultants, or any other parties. Grant funds may not be used to supplant federal funds traditionally received by federally qualified community health centers and may not be used to finance or satisfy any existing debt. ~~The Department of Health and Human Services shall distribute funds on the basis of the availability of other funds for the agency, and also on the basis of incidence of poverty or percentage of indigent clients served.~~In distributing funds, the Department of Health and Human Services shall consider the availability of other funds for the agency, the incidence of poverty or indigent clients served, arrangements for after-hours care, and collaboration with the applicant's community hospital and other safety net organizations."

EDUCATION ON PREVENTION OF PRETERM BIRTHS

SECTION 10.17. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of one hundred fifty thousand dollars (\$150,000) for the 2006-2007 fiscal year shall be used to provide education to women on the benefits of progesterone for those who have had preterm births and to purchase medication for eligible minority and low-income women until the medication becomes readily available through the Medicaid Program. The Division of Public Health shall evaluate the impact of the use of these funds and shall share the outcomes of the evaluation with the Division of Medical Assistance, the Senate

Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 10.18. Of funds appropriated in this act to the Department of Health and Human Services for the 2006-2007 fiscal year, the sum of two million dollars (\$2,000,000) shall be allocated for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to white persons. These grants shall focus on the use of preventive measures to support health lifestyles. The areas of focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and homicides and motor vehicle deaths. These funds shall also be used to support one FTE in the Department of Health and Human Services to monitor, track, and evaluate grantees' progress in meeting performance-based standards and outcomes established by the Department.

AUTHORIZE ONE NEW POSITION FOR HEALTHY CAROLINIANS INITIATIVE

SECTION 10.18A. The Department of Health and Human Services, Division of Public Health, may use funds appropriated to the Division of Public Health for the Healthy Carolinians Initiative for the 2006-2007 fiscal year to support one new position for the Healthy Carolinians Initiative.

CLARIFICATION OF CERTAIN AUDIT REQUIREMENTS

SECTION 10.19. G.S. 143B-139.4.(b) reads as rewritten:

"(b) A private, nonprofit organization that receives employee assistance or other appropriate services in accordance with subsection (a) of this section, shall document all contributions received, including employee time, supplies, materials, equipment, and physical space. The documentation shall also provide an estimated value of all contributions received as well as any compensation paid to or bonuses received by State employees. This documentation shall be submitted annually to the Secretary of the Department of Health and Human Services in a format approved by the Secretary. Nonprofit organizations with less than five hundred thousand dollars (\$500,000) in annual income shall submit an affidavit or annual audit from the chief officer of the organization providing and attesting to the financial condition of the organization and the expenditure of funds or use of State employee services or other State services, within six months from the nonprofit's fiscal year end. The board of directors of each private, nonprofit organization with an annual income of five hundred thousand dollars (\$500,000) or more shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an annual audit of the financial

accounts of the organization. The board of directors shall transmit to the Secretary of the Department a copy of the annual financial audit report of the private nonprofit organization. Nothing in this subsection shall be construed to relieve the private, nonprofit organization from other applicable reporting requirements established by law."

FUNDS TO ASSIST RURAL HOSPITALS

SECTION 10.19A. Of the funds appropriated in this act to the Department of Health and Human Services, Office of Rural Health and Community Care, the sum of three million dollars (\$3,000,000) for the 2006-2007 fiscal year shall be allocated to small rural hospitals in need of assistance with the operations and infrastructure maintenance of the hospital. These funds may be used for:

- (1) Capital and operational needs of small rural hospitals. The Office of Rural Health and Community Care shall convene an advisory group to establish criteria for distribution of these funds. The criteria shall include the number of indigent patients served, the number of Medicaid recipients served, the per capita income of the area served by the hospital, and the financial needs of the hospital; and
- (2) Pilot demonstration programs that address issues critical to the long-term survivability of rural hospitals such as: development of regional care networks for mental health services; restructuring of emergency department and outpatient services; and disease-focused regional referral and care networks. The Office of Rural Health and Community Care shall convene an advisory group to establish criteria for the pilot demonstration projects, distribution of funds, and monitoring and evaluation of the pilot projects.

The Office of Rural Health and Community Care shall report on the allocation of funds appropriated under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2007.

PRIVATE WELL-WATER TESTING FEE

SECTION 10.20.(a) G.S. 130A-5 is amended by adding the following new subdivision to read:

"§ 130A-5. Duties of the Secretary.

The Secretary shall have the authority:

...

- (16) To charge a fee of up to fifty-five dollars (\$55.00) for analyzing private well-water samples sent to the State Laboratory of Public Health by local health departments. The fee shall be imposed only for analyzing samples from newly constructed wells. The fee shall be computed annually by the Director of the State Laboratory of Public Health by analyzing the previous year's testing at the State Laboratory

of Public Health, and applying the amount of the total cost of the private well-water testing, minus State appropriations that support this effort. The fee includes the charge for the private well-water panel test kit."

SECTION 10.20.(b) The Department of Health and Human Services, Division of Public Health, shall use funds available for the 2006-2007 fiscal year to pay for positions for the private well water safety program authorized in the Current Operations and Capital Improvements Appropriations Act of 2006. Funds realized from fees collected during the 2006-2007 fiscal year shall be used to replace available funds authorized under this subsection and allocated for positions authorized for the private well water safety program for the 2006-2007 fiscal year.

AIDS DRUG ASSISTANCE PROGRAM

SECTION 10.21. Section 10.59(a) of S.L. 2005-276 reads as rewritten:

"SECTION 10.59.(a) For the 2005-2006 fiscal year and for the 2006-2007 fiscal year, HIV positive individuals with incomes at or below one hundred twenty five percent (125%) of the federal poverty level are eligible for participation in ADAP. Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty five percent (125%) of the federal poverty level. For the 2006-2007 fiscal year, the Department may adjust the financial eligibility criterion of the ADAP Program up to an amount not exceeding two hundred fifty percent (250%) of the federal poverty level in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources. If the Department raises the eligibility limit above one hundred twenty-five percent (125%) of the federal poverty level and a waiting list develops as a result, the Department shall give priority on the waiting list to those individuals at or below one hundred twenty-five percent (125%) of the federal poverty level. The Commission for Health Services shall adopt temporary rules in accordance with G.S. 150B-21.1 to implement adjustments in financial eligibility, including wait-list priorities, as soon as possible in order to access additional federal funds made available for ADAP program services."

TECHNICAL CORRECTION TO LICENSURE FEE LIMITS

SECTION 10.22. G.S. 131E-267 reads as rewritten:

"§ 131E-267. Fees for departmental review of health care facility construction projects.

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed ~~twelve thousand five hundred dollars (\$12,500)~~ twenty-five thousand dollars (\$25,000) for any single project:

Institutional Project

Hospitals

Project Fee

\$ 300.00 plus \$0.20/square foot of project space

Nursing Homes	\$ 250.00 plus \$0.16/square foot of project space
Ambulatory Surgical Facility	\$ 200.00 plus \$0.16/square foot of project space
Psychiatric Hospital	\$ 200.00 plus \$0.16/square foot of project space
Adult Care Home	
7 or more beds	\$ 175.00 plus \$0.10/square foot of project space

Residential Project	Project Fee
Family Care Homes	\$ 175.00 flat fee
ICF/MR Group Homes	\$ 275.00 flat fee
Group Homes: 1-3 beds	\$ 100.00 flat fee
Group Homes: 4-6 beds	\$ 175.00 flat fee
Group Homes: 7-9 beds	\$ 225.00 flat fee
Other residential:	
More than 9 beds	\$ 225.00 plus \$0.075/square foot of project space."

CLARIFICATION OF FEES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICE FACILITIES

SECTION 10.23. G.S. 122C-23(h) reads as rewritten:

"(h) The Department shall charge facilities licensed under this Chapter ~~that have licensed beds~~ 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
<u>Facilities (non ICF/MR):</u>	<u>0 beds</u>	<u>\$175.00</u>	<u>\$0</u>
Facilities (non ICF/MR):	6 or fewer		
	<u>1 to 6 beds</u>	\$250.00	\$0
	More than 6 beds	\$350.00	\$12.50
ICF/MR Only:	6 or fewer		
	<u>1 to 6 beds</u>	\$650.00	\$0
	More than 6 beds	\$650.00	\$12.50"

AREA AUTHORITY AND COUNTY PROGRAM CRISIS REGIONS

SECTION 10.26.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five million two hundred fifty thousand dollars (\$5,250,000) for the 2006-2007 fiscal year shall be allocated on a per capita basis and shall be used by area authorities and county programs for operational start-up, capital, or subsidies related to the development and implementation of a plan for a continuum of regional crisis facilities and local crisis services ("crisis plan"). Funds not expended during the 2006-2007 fiscal year shall not revert to the General Fund but shall remain available for the purposes outlined in this section. As used in this section, the term "crisis" includes services for individuals with mental illnesses, developmental disabilities, and substance abuse addictions.

SECTION 10.26.(b) Of the funds appropriated in this act for consultants to aid the Division and LMEs to the Department of Health and Human Services, the sum

of two hundred twenty-five thousand dollars (\$225,000) for the 2006-2007 fiscal year shall be used by the Department to enter into one or more personal services contracts to provide technical assistance to Local Management Entities to develop and implement the crisis plans required under subsection (a) of this section. In addition to any other factors the Department determines are relevant when selecting the consultant, the Department shall take into consideration whether an applicant has prior experience evaluating crisis services at a local, regional, and statewide level, prior experience assisting State and local public agencies develop and implement crisis services, and the ability to implement its responsibilities within the time frames established under this section. Funds not expended during the 2006-2007 fiscal year shall not revert to the General Fund but shall remain available for the purposes outlined in this subsection.

SECTION 10.26.(c) No later than August 15, 2006, the Secretary shall designate between 15 and 25 appropriate groupings of LMEs for the development of regional crisis facilities. As used in this section, the term "regional crisis facility" means a facility-based crisis unit that serves an area that may be larger than the catchment area of a single LME, but that provides adequate access to a facility by all consumers in the State. The Secretary shall consult with LMEs in determining the regional groupings. The Secretary shall also take into consideration geographical factors, prior LME groupings and partnerships, and existing community facilities.

SECTION 10.26.(d) With the assistance of the consultant, the area authorities and county programs within a crisis region shall work together to identify gaps in their ability to provide a continuum of crisis services for all consumers and use the funds allocated to them to develop and implement a plan to address those needs. At a minimum, the plan must address the development over time of the following components: 24-hour crisis telephone lines, walk-in crisis services, mobile crisis outreach, crisis respite/residential services, crisis stabilization units, 24-hour beds, facility-based crisis, in-patient crisis, and transportation. Options for voluntary admissions to a secured facility must include at least one service appropriate to address the mental health, developmental disability, and substance abuse needs of adults, and the mental health, developmental disability, and substance abuse needs of children. Options for involuntary commitment to a secured facility must include at least one option in addition to admission to a State facility.

If all area authorities and county programs in a crisis region determine that a facility-based crisis center is needed and sustainable on a long-term basis, the crisis region shall first attempt to secure those services through a community hospital or other community facility. If all the area authorities and county programs in the crisis region determine the region's crisis needs are being met, the area authorities and county programs may use the funds to meet local crisis service needs.

SECTION 10.26.(e) Each LME shall submit its crisis services plan to the Secretary for review no later than March 1, 2007. The plan shall take into consideration and attempt to utilize all other sources of funds in addition to the funds appropriated under this section. The Secretary shall review each plan to determine whether it meets all the requirements of this section. If the Secretary approves the plan, the LME shall receive implementation funding.

The Department may allocate up to three percent (3%) of the funds appropriated under subsection (a) of this section to LMEs to assist them with the cost of developing their crisis services plans.

SECTION 10.26.(f) LMEs shall report monthly to the Department and to the consultant regarding the use of the funds, whether there has been a reduction in the use of State psychiatric hospitals for acute admissions, and any remaining gaps in local and regional crisis services. The consultant and the Department shall report quarterly to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services regarding each LME's proposed and actual use of the funds appropriated under this section. The reporting requirements under this subsection shall expire July 1, 2008.

EXTEND SUNSET FOR FIRST COMMITMENT PILOT PROGRAM

SECTION 10.27. S.L. 2003-178 reads as rewritten:

"SECTION 1. The Secretary of Health and Human Services may, upon request of a phase-one local management entity, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from a phase-one local management entity to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the local management entity shall be submitted as part of the entity's local business plan and shall specifically describe:
 - a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
 - b. How the waiver will enable the local management entity to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
 - c. How the services to be provided by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist under the waiver are within each of these professional's scope of practice.
 - d. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.

- (2) The Secretary shall review the request and may approve it upon finding that:
 - a. The request meets the requirements of this section.
 - b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
 - c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
 - d. The duties and responsibilities performed by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist are within the individual's scope of practice.
- (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver. The Secretary shall send a report on the evaluation to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substances Abuse Services on or before July 1, 2006.
- (4) The waiver granted by the Secretary under this section shall be in effect ~~for a period not to exceed three years, or the period for which the requesting local management entity's business plan is approved, whichever is shorter,~~ until October 1, 2007.
- (5) The Secretary may grant a waiver under this section to up to five local management entities that have been designated as phase-one entities as of July 1, 2003.
- (6) In no event shall the substitution of a licensed clinical social worker, masters level psychiatric nurse, or masters level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist.
- (7) The Department shall assure that staff performing the duties are trained and privileged to perform the functions identified in the waiver. The Department shall involve stakeholders including, but not limited to, the North Carolina Psychiatric Association, The North Carolina Nurses Association, National Association of Social Workers, The North Carolina Substance Abuse Professional Certification Board, North Carolina Psychological Association, The North Carolina Society for Clinical Social Work, and the North Carolina Medical Society in developing required staff competencies.

- (8) The local management entity shall assure that a physician is available at all times to provide backup support to include telephone consultation and face-to-face evaluation, if necessary.

SECTION 2. This act becomes effective July 1, 2003, and expires ~~July 1, 2006~~October 1, 2007."

CHANGES TO THE STATE PLAN FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10.28. Independent consultants hired by the Department from funds appropriated in this act for this purpose shall undertake the following tasks:

- (1) Assist DHHS with the strategic planning necessary to develop the revised State Plan as required under G.S. 122C-102. The State Plan shall be coordinated with local and regional crisis service plans by area authorities and county programs.
- (2) Study and make recommendations to increase the capacity of DHHS to implement system reform successfully and in a manner that maintains strong management functions by area authorities and county programs at the local level.
- (3) Assist the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to work with area authorities and county programs to:
 - a. Develop and implement five to ten critical performance indicators to be used to hold area authorities and county programs accountable for managing the mental health, developmental disabilities, and substance abuse services system. The performance system indicators shall be implemented no later than six months after the consultant's contract is awarded and in no event later than July 1, 2007.
 - b. Standardize the utilization management functions and functions related to person-centered plans.
 - c. Implement other uniform procedures for the management functions of area authorities and county programs.
- (4) Provide technical assistance and oversight to private service providers, area authorities, and county programs to ensure that best practices and new services are being delivered with fidelity to the service definition model.
- (5) Provide ongoing and focused technical assistance to area authorities and county programs in the implementation of their administrative and management functions and the establishment and operation of community-based programs. The Secretary shall include in the State Plan a mechanism for monitoring the Department's success in implementing this duty and the progress of area authorities and county programs in achieving these functions.

- (6) Assist the Division with implementing standard forms, contracts, processes, and procedures to be used by all area authorities and county programs with other public and private service providers. These processes and procedures shall include standardized denial codes and a standard policy regarding the coordination of benefits. The independent consultant shall consult with area authorities and county programs regarding the development of these forms, contracts, processes, and procedures. Any document or process developed under this subdivision shall place an obligation upon providers to transmit to area authorities and county programs timely client information and outcome data. The independent consultant shall also recommend language regarding what constitutes a clean claim for purposes of billing. When implementing this subdivision, the independent consultant shall balance the need for area authorities and county programs to exercise discretion in the discharge of their management responsibilities with the need of private service providers for a uniform system of doing business with public entities. The independent consultant shall also (i) identify other areas of standardization that may be implemented without undermining the authority of area authorities and county programs, and (ii) identify and eliminate processes and procedures that are duplicative or result in unnecessary paperwork.

INDEPENDENT- AND SUPPORTIVE-LIVING APARTMENTS INITIATIVE

SECTION 10.30. The independent and supportive living apartments for persons with disabilities constructed from funds appropriated in this act for that purpose shall be affordable to persons with incomes at the Supplemental Security Income (SSI) level. If the North Carolina Housing Finance Agency is able to finance the apartments for less than the amount appropriated under this section, any remaining funds, as well as any interest earned on the amount appropriated, may be used to finance additional apartments, group homes, and transitional housing for individuals with disabilities.

LOCAL MANAGEMENT ENTITY ADMINISTRATIVE FUNCTIONS

SECTION 10.32.(a) The Department of Health and Human Services shall recalculate local management entity (LME) systems management allocations for fiscal year 2006-2007 to include funds for each LME to implement 24-hour, seven-days-a-week screening, triage, and referral, and to review, monitor, and comment on all person-centered plans. The Department shall allocate funds appropriated in this act for this purpose to LMEs to implement the functions described in this section.

SECTION 10.32.(b) The Secretary shall review and revise the LME systems management cost model to provide adequate funds for LMEs to fully implement the functions outlined in G.S 122C-115.4(b) as enacted in Section 4 of this act. The Secretary shall consult with the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services prior to implementing a revised cost model.

For the 2006-2007 fiscal year and until the revised cost model is implemented, the Department shall maintain the 2005-2006 level of funding to LMEs for all LME functions except the following:

- (1) Up to thirteen million three hundred thirty-three thousand four hundred eighty-four dollars (\$13,333,481) for utilization review; and
- (2) Up to twelve million one hundred fifty-six thousand forty-two dollars (\$12,156,042) for claims processing.

Any savings of State appropriations realized from the revised cost model shall be reallocated to State-funded services for mental health, developmental disabilities, and substance abuse services.

Funds withdrawn for LME administrative functions shall be reallocated to other LMEs to be used to provide mental health, developmental disabilities, and substance abuse services. The ten percent (10%) reduction authorized under G.S. 122C-155(a1), as enacted by this section, is in addition to funding limitations of this subsection.

SECTION 10.32.(c) Effective July 1, 2007, G.S. 122C-115(a) reads as rewritten:

"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. The catchment area of an area authority or a county program shall contain either a minimum population of at least 200,000 or a minimum of six counties. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

SECTION 10.32.(d) Effective July 1, 2007, G.S. 122C-115 is amended by adding a new subsection to read:

"(a1) The Department of Health and Human Services shall reduce by ten percent (10%) annually the administrative funding for area authorities and county programs that do not comply with the catchment area requirements of this section."

SECTION 10.32.(e) Effective July 1, 2007, G.S. 122C-115.1(a)(3) is repealed.

DISTRIBUTION OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES FUNDS

SECTION 10.33A. Funds appropriated in this act for mental health services, substance abuse services, and crisis services shall be allocated to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level.

ACCESS TO PSYCHIATRIC SERVICES

SECTION 10.33G. Funds appropriated in this act to increase access to psychiatric services for the 2006-2007 fiscal year may be used for the following purposes:

- (1) To cover non-fee-for-service billable functions that psychiatrists perform, including incentives to increase the participation of psychiatrists in new best-practice models of service such as Community Treatment Teams;
- (2) Designing graduate medical education incentives to influence the training of psychiatrists to produce more psychiatrists interested in working with public sector communities;
- (3) Designing programs for loan forgiveness and recruitment incentives for new psychiatrists serving Medicaid and other State-funded consumers.

PSYCHIATRIC HOSPITAL DEBT SERVICE; FUNDS TO SUPPORT POSITIONS IN JULIAN KEITH ADATC

SECTION 10.33H.(a) G.S. 143-15.3D(c) reads as rewritten:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be ~~used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be~~ credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 10.33H.(b) The Secretary of Health and Human Services may use funds for the 2006-2007 fiscal year from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to support up to 66 new positions in the Julian F. Keith Alcohol and Drug Abuse Treatment Center.

SECTION 10.33H.(c) Subsections (a) and (c) of this section become effective July 1, 2007. Debt service authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital shall be paid with funds from the General Fund.

SUBSTANCE ABUSE SERVICES FUNDS FOR TASC

SECTION 10.33J. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for substance abuse services, the sum of up to three hundred thousand dollars (\$300,000) shall be allocated to Treatment Accountability for Safer Communities (TASC). These funds shall be allocated to TASC before funds are

allocated to local management entities for mental health services, substance abuse services, and crisis services.

CHILD CARE ALLOCATION FORMULA

SECTION 10.34.(a) Section 10.61(c) of S.L. 2005-276 reads as rewritten:

"SECTION 10.61.(c) Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twenty-two million dollars (\$22,000,000) in federal block grant funds and State funds appropriated for fiscal years ~~year 2004-2005 and 2005-2006~~2006-2007 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes, including market rate adjustments, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section."

SECTION 10.34.(b) Not later than October 1, 2006, the Department shall implement an adjustment to child care market rates, by region, based upon the 2005 Child Care Market Rate Study. Rate adjustments shall be implemented as follows:

- (1) For three- to five-star child care center-based rates, counties in Region 1 shall receive twenty percent (20%) of the recommended rate adjustment as defined in the 2005 Child Care Market Rate Study.
- (2) For three- to five-star child care center-based rates, counties in Regions 2-5 shall receive thirty-five percent (35%) of the recommended rate adjustment as defined in the 2005 Child Care Market Rate Study.
- (3) For three- to five-star child care home-based rates, all counties shall receive twenty percent (20%) of the recommended rate adjustment as defined in the 2005 Child Care Market Rate Study.

CHILD CARE SUBSIDY RATES

SECTION 10.35. Section 10.62(e) of S.L. 2005-276 reads as rewritten:

"SECTION 10.62.(e) A market rate shall be calculated for child care centers and 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 ~~unsubsidized privately paying~~ 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."

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.36.(a) Section 10.60 of S.L. 2005-276 reads as rewritten:

"SECTION 10.60. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving ~~any State~~its initial allocation of child care funds appropriated by this act unless federal law requires a match. ~~This shall not prohibit any locality from spending local funds for child care services.~~ If the Department reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing agencies beyond their initial allocation, local

purchasing agencies must provide a fifteen percent (15%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1)."

SECTION 10.36.(b) The Department of Health and Human Services shall evaluate the fifteen percent (15%) local matching requirement to determine its effect on local purchasing agencies and whether the matching requirement should be adjusted. The Department shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2007.

REQUIRE MINIMUM OF SMART START FUNDS FOR CHILD CARE SUBSIDY

SECTION 10.37. Notwithstanding G.S. 143B-168.15(g), of the thirteen million five hundred thousand dollars (\$13,500,000) appropriated in this act to the North Carolina Partnership for Children, Inc., for the 2006-2007 fiscal year for local partnership initiatives, a minimum of thirty percent (30%) of the allocation to each local partnership shall be used for child care subsidy. This percentage shall be in addition to the direct services allocation for the 2006-2007 fiscal year.

PART X-A. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS

SECTION 10A.1.(a) Section 11.2 of S.L. 2005-276 reads as rewritten:

"**SECTION 11.2.** The sum of ~~one million thirty three thousand one hundred dollars (\$1,033,100)~~ three hundred sixty-nine thousand six hundred dollars (\$369,600) shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account in the Department of Agriculture and Consumer Services as such funds become available ~~during the 2005-2006 fiscal year,~~ during the 2006-2007 fiscal year and used by the Department for ~~the following capital improvements projects at agricultural research stations and research farms:~~

- (1) ~~\$378,000 for improvements at the swine facility at the Cherry Research Farm.~~
- (2) ~~\$285,500 for renovation of dairy facilities at the Cherry Research Farm.~~
- (3) ~~\$369,600 for land acquisition and development at the Tidewater Research Station."~~

SECTION 10A.1.(b) Section 11.3 of S.L. 2005-276 reads as rewritten:

"**SECTION 11.3.** From funds ~~received from the sale of timber~~ that are deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the Department of Agriculture and Consumer Services in a capital improvement account, the sum of ~~twenty thousand dollars (\$20,000)~~ thirty thousand dollars (\$30,000) for the 2006-2007 fiscal year shall be transferred to the Department of Agriculture and Consumer Services

to be ~~used~~ used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental ~~studies~~ studies and for the management of plant conservation program preserves owned by the Department."

SECTION 10A.1.(c) Funds shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account in the Department of Agriculture and Consumer Services as such funds become available and shall be used by the Department for capital improvements to the grounds and facilities at the Eastern North Carolina Agricultural Center at Williamston.

SECTION 10A.1.(d) Funds transferred pursuant to this section are hereby appropriated.

PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CONSERVATION RESERVE ENHANCEMENT PROGRAM

SECTION 11.1. Funds appropriated to the Department of Environment and Natural Resources for the 2006-2007 fiscal year for the Division of Soil and Water Conservation for the Conservation Reserve Enhancement Program for acquiring conservation easements and leases or for contracts under the Program shall not revert, but shall remain available for these purposes.

GRASSROOTS SCIENCE PROGRAM

SECTION 11.3.(a) Section 12.5 of S.L. 2005-276, as amended by Section 23 of S.L. 2005-345, reads as rewritten:

"**SECTION 12.5.(a)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million one hundred ninety-seven thousand seven hundred sixty-two dollars (\$3,197,762) for the 2005-2006 fiscal year and the sum of three million three hundred thirty-one thousand three hundred thirty-eight dollars (\$3,331,338) for the 2006-2007 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2005-2006	<u>2006-2007</u>
Aurora Fossil Museum	\$59,057	<u>\$59,057</u>
Cape Fear Museum	\$161,007	<u>\$161,007</u>
Carolina Raptor Center	\$112,174	<u>\$112,174</u>
Catawba Science Center	\$133,429	<u>\$146,356</u>
Colburn Gem and Mineral Museum, Inc. <u>Earth Science Museum, Inc.</u>	\$74,545	<u>\$74,545</u>
Discovery Place	\$662,865	<u>\$662,865</u>
Eastern NC Regional Science Center	\$50,000	<u>\$50,000</u>
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	\$50,000	
Fascinate-U	\$80,742	<u>\$81,072</u>

Granville County Museum Commission, Inc.–Harris Gallery	\$56,422	<u>\$56,422</u>
Greensboro Children's Museum	\$135,076	<u>\$135,076</u>
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$134,499	<u>\$155,611</u>
Highlands Nature Center	\$79,268	<u>\$79,268</u>
Imagination Station	\$86,034	<u>\$86,034</u>
<u>The Iredell Museums, Inc.</u>		<u>\$61,306</u>
Kidsenses	\$50,000	<u>\$81,282</u>
Museum of Coastal Carolina	\$74,192	<u>\$78,020</u>
<u>The Natural Science Center of Greensboro</u> Greensboro, Inc.	\$186,354	<u>\$186,354</u>
North Carolina Museum of Life and Science	\$379,826	<u>\$379,826</u>
<u>Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.</u>	\$50,000	<u>\$50,000</u>
Rocky Mount Children's Museum	\$72,254	<u>\$72,254</u>
Schiele Museum of Natural History and Planetarium, Inc.	\$229,547	<u>\$229,547</u>
Sci Works Science Center and Environmental Park of Forsyth County	\$146,499	<u>\$146,499</u>
Western North Carolina Nature Center	\$112,879	<u>\$112,879</u>
Wilmington Children's Museum	\$71,093	<u>\$73,886</u>
Total	\$3,197,762	<u>\$3,331,338</u>

SECTION 12.5.(b) No later than March 1, 2006, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

- (1) The operating budget for the 2004-2005 fiscal year.
- (2) The operating budget for the 2005-2006 fiscal year.
- (3) The total attendance at the museum during the 2005 calendar year.

SECTION 12.5.(c) No later than March 1, 2007, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

- (1) The operating budget for the 2005-2006 fiscal year.
- (2) The operating budget for the 2006-2007 fiscal year.
- (3) The total attendance at the museum during the 2006 calendar year."

SECTION 11.3.(b) Each museum that receives funds under this section shall provide to the Department of Environment and Natural Resources and the Fiscal Research Division a copy of its annual audited financial statement within 30 days of issuance of this statement and a copy of its most recent IRS Form 990.

SECTION 11.3.(c) The Department of Environment and Natural Resources, in consultation with the Fiscal Research Division, shall study the current formula used

to calculate the allocations for members of the Grassroots collaborative and shall report no later than January 15, 2007, its findings and any recommendations for revising this formula to be used for the 2007-2009 fiscal biennium to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives.

INCREASE CERTAIN PUBLIC WATER SYSTEMS ANNUAL OPERATING PERMIT FEES/IMPOSE FEES FOR REVIEW OF ENGINEERING PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OR ALTERATION OF PUBLIC WATER SYSTEMS

SECTION 11.7.(a) G.S. 130A-328 reads as rewritten:

"§ 130A-328. Community-Public water system operating permit and permit fee.

(a) No person shall operate a community or non transient non-community water system who has not been issued an operating permit by the Department. A community or non transient non-community water system operating permit shall be valid from January 1 through December 31 of each year unless suspended or revoked by the Department for cause. The Commission shall adopt rules concerning permit issuance and renewal and permit suspension and revocation. The annual fees in subsection (b) shall be prorated on a monthly basis for permits obtained after January 1 of each year.

(b) The following fees are imposed for the issuance or renewal of a permit to operate a community or non transient non-community water system; the fees are based on the number of persons served by the system:

<u>Number of Persons Served</u>	<u>Fee</u>
100 or fewer	\$150
More than 100 but no more than 500	\$175
More than 500 but no more than 3300	\$300
More than 3300 but no more than 5000	\$450
More than 5000 but no more than 10,000	\$550
More than 10,000 but no more than 50,000	\$650
More than 50,000	\$850
<u>Non Community Water Systems:</u>	
<u>Base Fee:</u>	
<u>Non transient non-community</u>	<u>\$150</u>
<u>Community Water Systems:</u>	
<u>Number of Persons Served</u>	
<u>50 or fewer</u>	<u>\$255</u>
<u>More than 50 but no more than 100</u>	<u>\$270</u>
<u>More than 100 but no more than 200</u>	<u>\$330</u>
<u>More than 200 but no more than 300</u>	<u>\$350</u>
<u>More than 300 but no more than 400</u>	<u>\$385</u>
<u>More than 400 but no more than 500</u>	<u>\$420</u>
<u>More than 500 but no more than 750</u>	<u>\$780</u>
<u>More than 750 but no more than 1000</u>	<u>\$810</u>

<u>More than 1000 but no more than 2000</u>	<u>\$840</u>
<u>More than 2000 but no more than 3000</u>	<u>\$870</u>
<u>More than 3000 but no more than 4000</u>	<u>\$1350</u>
<u>More than 4000 but no more than 5000</u>	<u>\$1460</u>
<u>More than 5000 but no more than 7500</u>	<u>\$1925</u>
<u>More than 7500 but no more than 10,000</u>	<u>\$2065</u>
<u>More than 10,000 but no more than 25,000</u>	<u>\$2600</u>
<u>More than 25,000 but no more than 50,000</u>	<u>\$2925</u>
<u>More than 50,000 but no more than 75,000</u>	<u>\$4250</u>
<u>More than 75,000 but no more than 100,000</u>	<u>\$4675</u>
<u>More than 100,000 but no more than 250,000</u>	<u>\$5100</u>
<u>More than 250,000 but no more than 500,000</u>	<u>\$5525</u>
<u>More than 500,000</u>	<u>\$5950</u>

(c) The following fees are imposed for the review of plans, specifications, and other information submitted to the Department for approval of construction or alteration of a public water system. The fees are based on the type of constructions or alteration proposed:

<u>Distribution system:</u>	<u>Fee</u>
<u>Construction of water lines, less than 5000 linear feet</u>	<u>\$150</u>
<u>Construction of water lines, 5000 linear feet or more</u>	<u>\$200</u>
<u>Other construction or alteration to a distribution system</u>	<u>\$75</u>

<u>Ground water system:</u>	
<u>Construction of a new ground water system or adding a new well</u>	<u>\$200</u>
<u>Alteration to an existing ground water system</u>	<u>\$100</u>

<u>Surface Water system:</u>	
<u>Construction of a new surface water treatment facility</u>	<u>\$250</u>
<u>Alteration to an existing surface water treatment facility</u>	<u>\$150</u>
<u>Water System Management Plan review</u>	<u>\$75</u>
<u>Miscellaneous changes or maintenance not covered above</u>	<u>\$50</u>

(d) The Department may charge an administrative fee of up to one hundred fifty dollars (\$150.00) for failure to pay the permit fee by January 31 of each year.

(e) All fees collected under this section shall be applied to the costs of administering and enforcing this Article."

SECTION 11.7.(b) The Department of Environment and Natural Resources may create a schedule for phasing in the new fees added to G.S. 130A-328, as amended by subsection (a) of this section, over multiple operating permit cycles.

SECTION 11.7.(c) This section becomes effective January 1, 2007.

PART XII. DEPARTMENT OF COMMERCE

EMPLOYMENT SECURITY FUNDS

SECTION 12.1. Section 13.4 of S.L. 2005-276, as amended by Section 24 of S.L. 2005-345, reads as rewritten:

"**SECTION 13.4.(a)** Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2005-2006~~2006-2007 fiscal year shall not exceed two million dollars (\$2,000,000).

SECTION 13.4.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the ~~2005-2006~~2006-2007 fiscal year to be used for the following purposes:

- (1) Six million dollars (\$6,000,000) for the operation and support of local offices.
- (2) Two hundred thousand dollars (\$200,000) for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.
- (3) One hundred thousand dollars (\$100,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

SECTION 13.4.(c) To the extent that federal funding for the operation and support of local Employment Security Commission offices is decreased for the 2006-2007 fiscal year, there is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina funds in a corresponding amount not to exceed one million dollars (\$1,000,000) to replace such funds."

ONE NORTH CAROLINA FUND

SECTION 12.2. Section 13.6 of S.L. 2005-276 reads as rewritten:

"**SECTION 13.6.(a)** Of the funds appropriated in this act to the One North Carolina Fund, the Department of Commerce may use up to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs in the ~~2005-2006~~2006-2007 fiscal year.

SECTION 13.6.(b) Notwithstanding the provisions of G.S. 143B-437.71, of the funds appropriated in this act to the One North Carolina Fund, the Department of Commerce shall allocate one million dollars (\$1,000,000) for the ~~2005-2006~~2006-2007 fiscal year to Johnson and Wales University in Charlotte for the purpose of providing financial assistance to the University."

EXTEND E-NC AUTHORITY SUNSET/E-NC AUTHORITY FUNDS AND REPORTING REQUIREMENTS

SECTION 12.3.(a) Section 4 of S.L. 2003-425 reads as rewritten:

"**SECTION 4.** Sections 1 and 2 of this act become effective December 31, 2003, with the e-NC Authority hereby designated as the successor entity of the Rural Internet Access Authority that will dissolve on that date, as provided by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes law. The e-NC Authority created in this act is dissolved effective ~~December 31, 2006.~~ December 31, 2011. This act is repealed effective ~~December 31, 2006.~~ December 31, 2011. Part 2F of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective ~~December 31, 2006.~~ December 31, 2011."

SECTION 12.3.(b) Section 13.12 of S.L. 2005-276 reads as rewritten:

"**SECTION 13.12.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000) for the 2005-2006 fiscal year and the sum of ~~twenty million dollars (\$20,000,000)~~ nineteen million five hundred thousand dollars (\$19,500,000) for the 2006-2007 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars (\$15,000,000) of the funds appropriated in this act for each year of the biennium must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide economic development research and demonstration grants.

...

SECTION 13.12.(f) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., and allocated in subsection (a) of this section, the sum of five hundred thousand dollars (\$500,000) for the 2005-2006 fiscal year ~~and the sum of five hundred thousand dollars (\$500,000) for the 2006-2007 fiscal year~~ shall be allocated to the e-NC Authority.

The e-NC Authority may contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.

The e-NC Authority shall report to the 2006 General Assembly on the following:

- (1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access the high-speed Internet.
- (2) An implementation plan for the training of citizens and businesses in distressed urban areas.

- (3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by January 31, 2006, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities."

SECTION 12.3.(c) Of the funds appropriated in this act to the Department of Commerce, the sum of five hundred thousand dollars (\$500,000) shall be allocated to the e-NC Authority.

The e-NC Authority may contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.

The e-NC Authority shall report to the 2007 General Assembly on the following:

- (1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access high-speed Internet.
- (2) An implementation plan for the training of citizens and businesses in distressed urban areas.
- (3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by September 30, 2006, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

COUNCIL OF GOVERNMENT FUNDS/ELECTRONIC TRANSFER

SECTION 12.4. Section 13.2(c) of S.L. 2005-276 reads as rewritten:

"**SECTION 13.2.(c)** Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than ~~September 1, 2005~~, September 1, 2006, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by ~~January 15, 2006~~, January 15, 2007, as specified in subdivision (e)(2) of this section."

ADVANCED VEHICLE RESEARCH CENTER /FUNDS SHALL NOT REVERT

SECTION 12.5. Section 13.8A of S.L. 2005-276 reads as rewritten:

"**SECTION 13.8A.(a)** There is established in the Office of the State Budget and Management a reserve to be known as the Advanced Vehicle Research Center Reserve. Funds from the Reserve shall not be expended or transferred except in accordance with the provisions of this section."

SECTION 13.8A.(b) Of the funds appropriated by this act to the Advanced Vehicle Research Center Reserve, Reserve, and the funds available in the Reserve on June 30, 2006, as provided in subsections (g) and (h) of this section, the Office of State Budget and Management may may, subject to subsection (b1) of this section, transfer in up to four installments the sum of seven million five hundred thousand dollars (\$7,500,000) eleven million two hundred fifty thousand dollars (\$11,250,000) for the 2005-20062006-2007 fiscal year to the Department of Commerce to be allocated to the Advanced Vehicle Research Center of North Carolina, Inc., (Center) when the Office of State Budget and Management, in consultation with the Department of Commerce, determines the Center has completed goals and projects consistent with the Center's business plan. The goals and projects shall include the following:

- (1) The Center has obtained legal title to the property on which the Advanced Vehicle Research Center will be built.
- (2) The Center has determined and provided for the critical infrastructure needed to support the Advanced Vehicle Research Center.
- (3) The Center has entered into a contract for the use and operation of a testing facility that will create new private sector jobs in Tier 1 or Tier 2 counties.

SECTION 13.8A.(b1) No funds shall be released by the Office of State Budget and Management under subsection (b) of this section until a board of directors of the Center consisting of no fewer than five members representing five different organizations is appointed and operating.

SECTION 13.8A.(c) The Center shall file with the Office of State Budget and Management and the Department of Commerce a copy of the Center's policy addressing conflicts of interest that may arise involving the Center's management employees and the members of its board of directors or other governing body before funds may be allocated to the Center. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the Center's employees or members of the board or other governing body, from the Center's disbursing of State funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

SECTION 13.8A.(d) By ~~December 31, 2005,~~December 31, 2006, and ~~April 30, 2006,~~April 30, 2007, the Center shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division the following information: (i) fiscal year ~~2005-2006~~2006-2007 projects, objectives, and accomplishments; and (ii) fiscal year 2005-2006 itemized expenditures and fund sources. The ~~April 30, 2006,~~April 30, 2007, report shall also contain the following: (i) fiscal year ~~2006-2007~~2007-2008 planned projects, objectives, and accomplishments; and (ii) fiscal year 2006-2007 estimated expenditures and fund sources.

SECTION 13.8A.(e) The Center shall provide to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division: (i) a copy of the Center's annual audited financial statement within 30 days of issuance of the statement; and (ii) a copy of the Center's IRS Form 990.

SECTION 13.8A.(f) The Center shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. Specific salary information will be provided upon written request by the Chairmen of the Joint Legislative Commission on Governmental Operations or the Chairmen of the House Appropriations Committee on Environment, Health, and Natural Resources and the Chairman of the Senate Appropriations Committee on Natural and Economic Resources.

SECTION 13.8A.(g) Funds appropriated to the Advanced Vehicle Research Center Reserve for the 2005-2006 fiscal year for the Advanced Vehicle Research Center of North Carolina, Inc., that are unexpended and unencumbered as of June 30, 2006, shall not revert to the General Fund on June 30, 2006, but shall remain available in the Reserve.

SECTION 13.8A.(h) Subsection (g) of this section becomes effective June 30, 2006."

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 12.6. Section 13.1 of S.L. 2005-276 reads as rewritten:

"SECTION 13.1.(a) Funds appropriated to the Department of Commerce for the ~~2004-2005~~2005-2006 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of ~~June 30, 2005~~,June 30, 2006, shall not revert to the General Fund on ~~June 30, 2005~~,June 30, 2006, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes.

SECTION 13.1.(b) Funds appropriated to the Department of Commerce for the ~~2004-2005~~2005-2006 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of ~~June 30, 2005~~,June 30, 2006, shall not revert to the General Fund on ~~June 30, 2005~~,June 30, 2006.

SECTION 13.1.(c) This section becomes effective ~~June 30, 2005~~,June 30, 2006."

DEPARTMENT OF COMMERCE/REPORT ON AGRIBUSINESS FUNDS

SECTION 12.7.(a) The Department of Commerce (Department) shall report on all funds available for companies or organizations designed to promote agribusiness in North Carolina. The report shall include the following: (i) information on all Department economic incentive funds, including Commerce State Aid funds; and (ii) information on the number of agribusinesses and organizations that applied for State funds through the Department or other organizations, including the number of requests for funds, the amount of funds requested, and whether the requests were awarded or denied.

SECTION 12.7.(b) The Department shall, in collaboration with the Department of Agriculture and Consumer Services, evaluate the use of economic incentive programs designed specifically for agribusinesses, and shall include its findings in the report. The report shall also include a plan to implement economic

incentive programs designed specifically for agribusinesses and the estimated cost of the programs. In determining the estimated cost of the programs, the Department shall consider all known sources of funding, including federal, State, and grant funds.

SECTION 12.7.(c) The Department of Agriculture and Consumer Services, the Rural Economic Development Center, Inc., the University System, and all other State agencies with agribusiness programs shall compile and provide any information requested by the Department for the purpose of preparing the report.

SECTION 12.7.(d) The Department shall submit the report to the House Appropriations Committee on Environment, Health, and Natural Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than May 1, 2007.

ECONOMIC DEVELOPMENT RESERVE

SECTION 12.8.(a) There is established in the Department of Commerce a reserve to be known as the Economic Development Reserve. Funds from the Reserve shall not be expended or transferred except in accordance with the provisions of this section. Of the funds appropriated in this act to the Department of Commerce, the sum of ten million dollars (\$10,000,000) shall be allocated to the Economic Development Reserve for the purpose of awarding grants for site acquisition and economic development projects.

SECTION 12.8.(b) By May 1, 2007, the Department of Commerce shall submit a report to the Office of State Budget and Management and the Fiscal Research Division containing the following information about each economic development project that was awarded a grant: (i) the name of the grant recipient involved; (ii) a description of the project; (iii) the project location; (iv) the rationale for awarding the grant; and (v) the amount of the grant.

SECTION 12.8.(c) G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- ...
- (14) The Department of Commerce in developing guidelines for the North Carolina Economic Development Reserve."

PART XIII. DEPARTMENT OF LABOR

REPEAL FEE FOR MINE SAFETY EDUCATION/TRAINING PROGRAMS

SECTION 13.1. G.S. 74-24.16(d) is repealed.

PART XIV. JUDICIAL DEPARTMENT

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 14.1. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless

Checks Fund on June 30, 2006, for the purchase or repair of office or information technology equipment during the 2006-2007 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

GRANT FUNDS

SECTION 14.2. The Judicial Department may use up to the sum of one million two hundred fifty thousand dollars (\$1,250,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

PROVIDE ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

SECTION 14.3.(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:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	10 <u>11</u>
2	Beaufort, Hyde, Martin, Tyrrell, Washington	6 <u>7</u>
3A	Pitt	9 <u>11</u>
3B	Carteret, Craven, Pamlico	10 <u>11</u>
4	Duplin, Jones, Onslow, Sampson	14 <u>16</u>
5	New Hanover, Pender	14 <u>16</u>
6A	Halifax	4 <u>5</u>
6B	Bertie, Hertford, Northampton	4 <u>5</u>
7	Edgecombe, Nash, Wilson	16 <u>18</u>
8	Greene, Lenoir, Wayne	11 <u>13</u>
9	Franklin, Granville, Vance, Warren	11 <u>12</u>
9A	Person, Caswell	4 <u>5</u>
10	Wake	31 <u>38</u>
11	Harnett, Johnston, Lee	14 <u>16</u>

12	Cumberland	18 <u>21</u>
13	Bladen, Brunswick, Columbus	11 <u>12</u>
14	Durham	13 <u>15</u>
15A	Alamance	8 <u>10</u>
15B	Orange, Chatham	7 <u>9</u>
16A	Scotland, Hoke	5 <u>6</u>
16B	Robeson	10 <u>13</u>
17A	Rockingham	5 <u>6</u>
17B	Stokes, Surry	5 <u>7</u>
18	Guilford	27 <u>30</u>
19A	Cabarrus	6 <u>8</u>
19B	Montgomery, Moore, Randolph	11 <u>12</u>
19C	Rowan	5 <u>7</u>
20A	Anson, Richmond, Stanly	8 <u>10</u>
20B	Union	7 <u>8</u>
21	Forsyth	17 <u>20</u>
22	Alexander, Davidson, Davie, Iredell	16 <u>20</u>
23	Alleghany, Ashe, Wilkes, Yadkin	5 <u>7</u>
24	Avery, Madison, Mitchell, Watauga, Yancey	4 <u>6</u>
25	Burke, Caldwell, Catawba	15 <u>18</u>
26	Mecklenburg	36 <u>49</u>
27A	Gaston	12 <u>14</u>
27B	Cleveland, Lincoln	9 <u>10</u>
28	Buncombe	11 <u>13</u>
29A	McDowell, Rutherford	5 <u>6</u>
29B	Henderson, Polk, Transylvania	6 <u>7</u>
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	9 <u>11</u>

SECTION 14.3.(b) This section becomes effective January 1, 2007.

ADDITIONAL DISTRICT COURT JUDGESHIPS

SECTION 14.4.(a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden Chowan Currituck

		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	5 <u>6</u>	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	8	New Hanover
		Pender
6A	2 <u>3</u>	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	2	Warren
		(part of Vance
		see subsection (b))
10	15 <u>16</u>	Wake
11	8 <u>9</u>	Harnett
		Johnston
		Lee
12	9	Cumberland
13	6	Bladen

		Brunswick
		Columbus
14	6 <u>7</u>	Durham
15A	4	Alamance
15B	4 <u>5</u>	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	2 <u>3</u>	Rockingham
17B	4	Stokes
		Surry
18	12 <u>13</u>	Guilford
19A	4	Cabarrus
19B	6 <u>7</u>	Montgomery
		Moore
		Randolph
19C	4 <u>5</u>	Rowan
20A	4	Stanly
		Anson
		Richmond
20B	3 <u>4</u>	Union
21	9	Forsyth
22	9	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	8 <u>9</u>	Burke
		Caldwell
		Catawba
26	17 <u>18</u>	Mecklenburg
27A	7 <u>8</u>	Gaston
27B	4 <u>5</u>	Cleveland
		Lincoln
28	7 <u>8</u>	Buncombe

29A	3	McDowell Rutherford
29B	4	Henderson Polk Transylvania
30	5 <u>6</u>	Cherokee Clay Graham Haywood Jackson Macon Swain."

SECTION 14.4.(b) The Governor shall appoint the additional district court judges for Districts 3B, 6A, 10, 11, 14, 15B, 17A, 18, 19B, 19C, 20B, 25, 26, 27A, 27B, 28, and 30 authorized by this act, and those judges' successors shall be elected in the 2008 election for four-year terms commencing on January 1, 2009.

SECTION 14.4.(c) This section becomes effective January 15, 2007, as to any district court district not subject to section 5 of the Voting Rights Act of 1965. As to any district court district subject to section 5 of the Voting Rights Act of 1965, it becomes effective January 15, 2007, or the date upon which the additional judge added for that district by subsection (a) of this section is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

PROVIDE ADDITIONAL MAGISTRATES/ELIMINATE MAXIMUM ALLOCATION OF MAGISTRATES

SECTION 14.5. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.—Max.	Additional Seats of Court
Camden	1 3	
Chowan	2 3	
Currituck	1 4	
Dare	3 8	
Gates	2 3	
Pasquotank	3 5	
Perquimans	2 4	
Martin	4 8	
Beaufort	4 8	
Tyrrell	1 3	
Hyde	2 4	
Washington	3 4	
Pitt	10 12	Farmville

Craven	7	10	Ayden
Pamlico	2	4	Havelock
Carteret	<u>5</u>	8	
Sampson	6	8	
Duplin	8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke
			Rapids,
			Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	<u>2</u>	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	21	Apex,
			Wendell,
			Fuquay-
			Varina,
			Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson,
			Clayton,
			Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	9	
Columbus	6	10	Tabor City
Durham	8	13	
Alamance	<u>7</u>	11	Burlington

Orange	4	11	Chapel Hill
Chatham	3	9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8 <u>9</u>	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	27	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2 <u>3</u>	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	7	
Anson	4	6	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	4	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	

Gaston	11 <u>12</u>	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	5	
Swain	2	4.	

MONITORING OF COMMUNITY MEDIATION CENTERS

SECTION 14.12. G.S. 7A-38.6(a) reads as rewritten:

"(a) All community mediation centers currently receiving State funds shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually mediated (identified by docket number), cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds appropriated to the center;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

The Mediation Network of North Carolina shall also submit a copy of its report to the Administrative Office of the Courts. The receipt and review of this report by the Administrative Office of the Courts shall satisfy any program monitoring, evaluation, and contracting requirements imposed on the Administrative Office of the Courts by G.S. 143-6.2 and any rules adopted under that section."

INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 14.14. The Office of Indigent Defense Services may use a sum up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 14.15. Section 14.11 of S.L. 2005-276, as amended by Section 28 of S.L. 2005-345, reads as rewritten:

"SECTION 14.11. The Judicial Department, Office of Indigent Defense Services, may use ~~up to the sum of one million sixty nine thousand six hundred forty five dollars (\$1,069,645) in appropriated funds during the 2005-2006 fiscal year and up to the sum of one million twenty three thousand one hundred thirty five dollars (\$1,023,135)~~ two million one hundred eighteen thousand five hundred eighty dollars (\$2,118,580) in appropriated funds during the 2006-2007 fiscal year (i) for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to ~~40~~ 20 new attorney positions and ~~five~~ 10 new support staff positions; and (ii) to create up to two new assistant public defender positions and one new support staff position in the First Defender District and up to one new assistant public defender position in Defender District 3A, for the purpose of representing indigent persons eligible for the appointment of counsel in Superior Court District 2 and District Court District 2. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."

REVIEW OF OFFICE OF INDIGENT DEFENSE SERVICES

SECTION 14.16. The State Auditor shall conduct an analysis of the fee payment practices of the Office of Indigent Defense Services and make recommendations for process improvements in payment of fee applications, including recommendations regarding automation. The State Auditor shall report the results of this analysis and the recommendations resulting from it to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2007.

INCREASE THE UNIFORM FEES PAID TO JURORS

SECTION 14.17. G.S. 7A-312 reads as rewritten:

"§ 7A-312. Uniform fees for jurors; meals.

A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, shall receive twelve dollars (\$12.00) ~~per day, for the first~~ day of service and twenty dollars (\$20.00) per day afterwards, except that if any person

serves as a juror for more than five days in any 24-month period, the juror shall receive ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per day for each day of service in excess of five days. A grand juror shall receive ~~twelve dollars (\$12.00)~~ twenty dollars (\$20.00) per day. A juror required to remain overnight at the site of the trial shall be furnished adequate accommodations and subsistence. If required by the presiding judge to remain in a body during the trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees."

DIVIDE PROSECUTORIAL DISTRICT 19B INTO DISTRICTS 19B AND 19D

SECTION 14.19.(a) Effective January 15, 2007, G.S. 7A-60(a1), as amended by Section 14.3 of this act, 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:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	7
3A	Pitt	11
3B	Carteret, Craven, Pamlico	11
4	Duplin, Jones, Onslow, Sampson	16
5	New Hanover, Pender	16
6A	Halifax	5
6B	Bertie, Hertford, Northampton	5
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	13
9	Franklin, Granville, Vance, Warren	12
9A	Person, Caswell	5
10	Wake	38
11	Harnett, Johnston, Lee	16
12	Cumberland	21
13	Bladen, Brunswick, Columbus	12
14	Durham	15
15A	Alamance	10
15B	Orange, Chatham	9
16A	Scotland, Hoke	6

16B	Robeson	13
17A	Rockingham	6
17B	Stokes, Surry	7
18	Guilford	30
19A	Cabarrus	8
19B	Montgomery, Moore , Randolph	12 <u>8</u>
19C	Rowan	7
<u>19D</u>	<u>Moore</u>	<u>4</u>
20A	Anson, Richmond, Stanly	10
20B	Union	8
21	Forsyth	20
22	Alexander, Davidson, Davie, Iredell	20
23	Alleghany, Ashe, Wilkes, Yadkin	7
24	Avery, Madison, Mitchell, Watauga, Yancey	6
25	Burke, Caldwell, Catawba	18
26	Mecklenburg	49
27A	Gaston	14
27B	Cleveland, Lincoln	10
28	Buncombe	13
29A	McDowell, Rutherford	6
29B	Henderson, Polk, Transylvania	7
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	11

SECTION 14.19.(b) The district attorney position established for District 19B by subsection (a) of this section shall be filled by the district attorney currently serving District 19B who resides in Randolph County. The district attorney position established for District 19D by subsection (a) of this section shall be filled by appointment of the Governor for the remainder of the term expiring January 1, 2009. A district attorney for District 19D shall be elected in 2008 for a four-year term commencing January 1, 2009.

SECTION 14.19.(c) The eight assistant district attorney positions for District 19B under subsection (a) of this section shall be filled by eight assistant district attorneys currently serving Montgomery and Randolph Counties in District 19B. The four assistant district attorney positions for District 19D under subsection (a) of this section shall be filled by four assistant district attorneys currently serving Moore County in District 19B.

SECTION 14.19.(d) This section becomes effective January 15, 2007.

**PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY
PREVENTION**

REPORTS ON CERTAIN PROGRAMS

SECTION 15.1. Section 16.3 of S.L. 2005-276 reads as rewritten:

"**SECTION 16.3.(a)** Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on:

- (1) The source of referrals for juveniles.
- (2) The types of offenses committed by juveniles participating in the program.
- (3) The amount of time those juveniles spend in the program.
- (4) The number of juveniles who successfully complete the program.
- (5) The number of juveniles who commit additional offenses after completing the program.
- (6) The program's budget and expenditures, including all funding sources.

SECTION 16.3.(b) The Juvenile Assessment Center shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the effectiveness of the Center by April 1 each year. The report shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans. In addition, the report shall include information on the Center's budget and expenditures, including all funding sources.

SECTION 16.3.(c) Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, ~~the Joint Legislative Commission on Governmental Operations,~~ the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative Education Oversight Committee by April 1 each year on the operation and effectiveness of its program. The report shall include information on:

- (1) The number of children served.
- (2) The number of volunteers used.
- (3) The impact on children who have received services from Communities in Schools.
- (4) The program's budget and expenditures, including all funding sources."

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 15.2. Section 16.5 of S.L. 2005-276 reads as rewritten:

"**SECTION 16.5.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the ~~2005-2006-2006-2007~~ fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the ~~2005-2006-~~ 2006-2007 fiscal year, the amount of funds anticipated for the ~~2006-2007-~~ 2007-2008 fiscal year, and the allocation of funds by program and purpose."

ANNUAL EVALUATION OF COMMUNITY PROGRAMS

SECTION 15.4. Section 16.4 of S.L. 2005-276 reads as rewritten:

"**SECTION 16.4.** The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

- (1) The expenditure of State appropriations on the program;
- (2) The operations and the effectiveness of the program; and
- (3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations ~~Committees-Committees~~, and the Chairs of the Subcommittees on Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year."

ALTERNATIVES TO JUVENILE COMMITMENT/JUVENILE CRIME PREVENTION COUNCILS

SECTION 15.5. Section 16.11 of S.L. 2005-276 is amended by adding a new subsection to read:

"SECTION 16.11.(d) The requirements of this section apply to all future allocations by the Department of Juvenile Justice and Delinquency Prevention of the funds appropriated to the Department by Section 16.11 of S.L. 2005-276 and Section 16.7 of S.L. 2004-124."

REPORTS ON YOUTH DEVELOPMENT CENTERS

SECTION 15.6.(a) Section 16.6 of S.L. 2005-276 reads as rewritten:

"SECTION 16.6.(a) The Department of Juvenile Justice and Delinquency Prevention shall report December 31, 2005, and quarterly thereafter during the 2005-2007 biennium to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment staffing model being piloted at Samarkand and Stonewall Jackson Youth Development Centers. The report shall include a list of total positions at each facility by job class, whether the position is vacant or filled, whether positions were filled from internal employees or new employees, and the training and certification status of each position. The report shall also describe the nature of the treatment program, the criteria for evaluating the program, and how the program is performing in comparison to these criteria. The report shall also describe the training approach to be used to train staff in using treatment methods in youth development centers and provide information on current staff training and staff training planned for the next quarter. The Department shall also develop indicators for evaluating staff performance once the model has been implemented.

SECTION 16.6.(b) The Department of Juvenile Justice and Delinquency Prevention shall report December 31, 2005, and quarterly thereafter during the 2005-2007 biennium to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee on the implementation of the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth Development Centers. The Department shall identify the number of positions reallocated to the new treatment job classes and the source of funding for those positions.

SECTION 16.6.(c) The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee by November 10, 2006, on the final recommended staffing plan for youth development centers for the 2007-2008 fiscal year. The report shall include:

- (1) The latest results of the evaluation of the pilot treatment staffing models at the Samarkand and Stonewall Jackson Youth Development Centers and the progress in implementing the model at other youth development centers.
- (2) The total recommended staffing by position classification for each youth development center. Staffing by shift shall be provided for each

housing unit as well as justification for the level and type of staff on each shift.

- (3) The total cost and cost per bed for each youth development center to implement the staffing model.
- (4) The primary basis for the number of staff at each youth development center by classification.
- (5) An identification of other states that have implemented a treatment based staffing model, how the staffing patterns compare to the Department of Juvenile Justice and Delinquency Prevention proposal, and any research on the benefits and outcomes of using the treatment based approach in these states."

SECTION 15.6.(b) It is the intent of the General Assembly to consider appropriating funds for new treatment positions at youth development centers only when the report required by subsection (a) of this section is received by the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

PART XVI. DEPARTMENT OF CORRECTION

INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND INMATE LAUNDRY SERVICES

SECTION 16.1. Section 17.6 of S.L. 2005-276 reads as rewritten:

"SECTION 17.6.(a) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

SECTION 17.6.(b) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2005-2006 fiscal year~~ 2005-2007 biennium for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

SECTION 17.6.(c) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2005-2006 fiscal year~~ 2005-2007 biennium for the purchase of ~~clothing and~~ laundry services for inmates if expenditures are projected to exceed the Department's budget for clothing and laundry services. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount."

CONVERSION OF CONTRACTED MEDICAL POSITIONS

SECTION 16.2. Section 17.7 of S.L. 2005-276 reads as rewritten:

"**SECTION 17.7.(a)** The Department of Correction may convert contract medical positions to permanent State medical positions if the Department can document in each request submitted to the Office of State Budget and Management that the total savings generated will exceed the total cost of the new ~~positions for each facility.~~ positions. ~~Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.~~

SECTION 17.7.(b) The Department of Correction shall report by ~~April 1, 2006,~~ April of each year to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings ~~generated at each correctional facility.~~ generated."

COMPUTER/DATA PROCESSING SERVICES FUNDS

SECTION 16.3. Section 17.10. of S.L. 2005-276 reads as rewritten:

"**SECTION 17.10.** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2005-2006 fiscal year~~ 2005-2007 biennium for expenses for computer/data processing services if expenditures exceed the Department's continuation budget amount for those services. The Department shall report to the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount."

REPORTS ON NONPROFIT PROGRAMS

SECTION 16.4. Section 17.22 of Session Laws 2005-276 reads as rewritten:

"**SECTION 17.22.(a)** Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property to serve women released from prison with children in their custody. Harriet's House shall report by February 1 of each year to the ~~Joint Legislative Commission on Governmental Operations~~ Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who successfully complete the Harriet's House program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.22.(b) Summit House shall report by February 1 of each year to the ~~Joint Legislative Commission on Governmental Operations~~ Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of

the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who successfully complete the program while housed at Summit House, Inc., and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.22.(c) Women at Risk shall report by February 1 of each year to the ~~Joint Legislative Commission on Governmental Operations~~ Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who have successfully completed the program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

SECTION 17.22.(d) Our Children's Place shall report by February 1, 2007, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the status of the planning, design, and construction of Our Children's Place, the proposed program components and evaluation measures, and on the projected number of inmates and their children to be served. The report shall also provide financial data, including the expenditure of State funds and all funding sources and amounts."

PAROLE ELIGIBILITY REPORT

SECTION 16.5. Section 17.28 of S.L. 2005-276 reads as rewritten:

"SECTION 17.28.(a) The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Correction, analyze the amount of time each ~~parole-eligible inmate who is eligible for parole on or before July 1, 2007,~~ has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 17.28.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

- (1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if

committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

- (2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).
- (3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 17.28.(c) The Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee ~~on the results of its analysis by October 1, 2005.~~ and to the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2007. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinstate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report ~~by February 1, 2006,~~ regarding on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled."

PROPOSAL FOR JOINT USE OF SWANNANOVA PROPERTY/ADULT FEMALE CORRECTIONAL FACILITY AND JUVENILE YOUTH DEVELOPMENT CENTER

SECTION 16.8. The Department of Correction and the Department of Juvenile Justice and Delinquency Prevention shall prepare a joint report regarding the proposed joint use by both departments of the Swannanoa property currently used to operate the Swannanoa Valley Youth Development Center. The report shall evaluate the feasibility of using that property for both of the following: (i) to establish an adult female correctional center and (ii) to continue to operate a juvenile youth development center.

The report shall be submitted to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by November 10, 2006. The report shall include all of the following: the total costs for the project over a five-year period, including operating costs, repair and renovation costs, and the anticipated source of funding for those costs; the number and type of positions to be transferred from the Department of Juvenile Justice and Delinquency Prevention to the Department of Correction for the

project; and the plan to employ existing Swannanoa Valley Youth Development Center employees by the Department of Correction. The Department of Correction shall also report on the plan for transferring employees from the Black Mountain Correctional Center to the proposed new correctional center at Swannanoa.

There shall be no transfer of any property or positions between agencies prior to consultation with the Joint Legislative Commission on Governmental Operations and the receipt of the report that is to be submitted in accordance with this section.

FEDERAL GRANT MATCHING FUNDS

SECTION 16.9. Section 17.9 of S.L. 2005-276 reads as rewritten:

"**SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of ~~seven hundred fifty thousand dollars (\$750,000)~~ one million dollars (\$1,000,000) during the 2006-2007 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds."

GANG PREVENTION INITIATIVE

SECTION 16.10. The Department of Correction shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety regarding the Security Threat Group Unit Program at Foothills Correctional Center. The report shall include information on the number of inmates in the program during fiscal years 2005-2006 and 2006-2007 compared to program capacity, describe the major program components, provide information on the measures being used to evaluate the program, and analyze program performance in relation to these measures. The Department of Correction shall submit the report as required by this section no later than March 15, 2007.

PART XVI-A. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

GRANTS TO PREVENT GANG VIOLENCE

SECTION 16A.1.(a) Of the funds appropriated in this act to the Governor's Crime Commission within the Department of Crime Control and Public Safety, the sum of one million five hundred thousand dollars (\$1,500,000) for the 2006-2007 fiscal year shall be used to provide two-year grants for community street gang violence prevention and intervention programs. The Governor's Crime Commission shall allocate the funds using a competitive grant award process that includes a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and the presentation of a written plan for the services to be provided by the funds.

No individual grant awarded under this section may exceed one hundred thousand dollars (\$100,000).

SECTION 16A.1.(b) The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the House of Representatives and the Senate on the total number of grants awarded, a description of each grantee's program, and the amount awarded to each grantee. The Commission shall submit its report by April 1, 2007.

PART XVII. DEPARTMENT OF ADMINISTRATION

EXAMINE FEASIBILITY OF COMBINING FUNDING SOURCES/NC COUNCIL FOR WOMEN AND DOMESTIC VIOLENCE COMMISSION

SECTION 17.1. The North Carolina Council for Women and the Domestic Violence Commission, within the Department of Administration, shall examine the feasibility of combining the funding sources to distribute domestic violence grants and sexual assault grants. The North Carolina Council for Women and the Domestic Violence Commission shall report their findings to the Chairs of the House and Senate Appropriations Subcommittees on General Government and the Joint Legislative Commission on Governmental Operations by February 1, 2007.

STATE ENERGY OFFICE NEEDS ASSESSMENT

SECTION 17.2. The State Energy Office in the Department of Administration will deplete all its funding sources on June 30, 2007. The Office has received federal funds which will no longer be available, and it has no other funding source. The State Energy Office and the Office of State Budget and Management shall jointly conduct a needs assessment to determine what functions currently being performed by the State Energy Office need to be performed in the 2007-2008 fiscal year. As part of this assessment, the mission statement of the division shall be examined to clarify what existing needs the Office should continue in the future. In conducting the needs assessment, the two agencies shall note any differences in the findings and recommendations that each may have related to the needs assessment.

The needs assessment shall be completed and presented to the Chairs of the House and Senate Appropriations Subcommittees on General Government no later than February 1, 2007.

HUB CONTRACTOR ACADEMY PROGRAM SPACE

SECTION 17.3. For the 2006-2007 fiscal year the Department of Administration shall work in conjunction with The University of North Carolina System for the continued provision of space for the HUB Contractor Academy Program to conduct training sessions. The Department of Administration shall determine whether the HUB academies should continue to hold training sessions in facilities provided by The University of North Carolina System or seek other sites for this purpose for the 2007-2008 fiscal year and future years.

OLD REVENUE BUILDING

SECTION 17.4. The Department of Administration shall examine the feasibility of redesigning the Old Revenue Building to address security concerns and the unused and underutilized space issues identified in the Space Utilization Study, which was complete on June 5, 2006. The Department shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations by November 1, 2006.

COMMISSION ON STATE PROPERTY FUNDS

SECTION 17.5. Of the funds appropriated to the Department of Administration for the 2006-2007 fiscal year, the Director of the Budget shall transfer two hundred fifty thousand dollars (\$250,000) to the Commission on State Property established in Article 78 of Chapter 143 of the General Statutes.

PART XVII-A. DEPARTMENT OF CULTURAL RESOURCES

CULTURAL SHARING AND CARING PROGRAM

SECTION 17A.1. The Department of Cultural Resources shall report on the Cultural Sharing and Caring Program to the Joint Legislative Commission on Governmental Operations by November 1, 2006. The report shall include the following:

- (1) The plans related to offering and scheduling the program components.
- (2) A list of the program components currently available in the local school systems, including the availability and the frequency the components are offered.
- (3) The coordination required between the Department of Cultural Resources, the Department of Public Instruction, and the local school systems to provide any or all of the program components, including the anticipated level of participation in the program.
- (4) The allocation of the funding appropriated in the 2006-2007 fiscal year to support the program components.

PART XVIII. OFFICE OF ADMINISTRATIVE HEARINGS

CODIFIER'S AUTHORITY OVER THE REGISTER

SECTION 18.1. G.S. 150B-21.17 is amended by adding a new subsection to read:

"(c) The Codifier may authorize and license the private indexing, marketing, sales, reproduction, and distribution of the Register."

PART XIX. DEPARTMENT OF REVENUE

REVISED MAXIMUMS FOR COLLECTION ASSISTANCE FEES

SECTION 19.2. G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special

account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

- (1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.
- (2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.
- (3) To pay for taxpayer locator services, not to exceed ~~one hundred thousand dollars (\$100,000)~~ one hundred fifty thousand dollars (\$150,000) a year.
- (4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax ~~debts~~ debts, not to exceed three hundred fifty-three thousand dollars (\$353,000) a year.
- (5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.
- (6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts."

CONSOLIDATE TAX PROJECTS REPORTS

SECTION 19.3.(a) G.S. 105-243.1(f) reads as rewritten:

"(f) Reports. – The report of Department activities required by G.S. 105-256 contains information on the Department's efforts to collect tax debts and its use of the proceeds of the collection assistance fee.~~Department must report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long term collection plan, a timeline for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee.~~

~~The Department must report by April 1, 2006, and annually thereafter, to the Revenue Laws Study Committee and the Fiscal Research Division of the General Assembly on the use of the fee proceeds for collecting overdue tax debts."~~

SECTION 19.3.(b) G.S. 105-256(a) reads as rewritten:

"(a) Reports. – The Secretary shall prepare and publish the following:

...

(6) On an annual basis, a report on the quality of services provided to ~~taxpayers, including telephone and~~ taxpayers through the Taxpayer Assistance Call Center, walk-in assistance, and taxpayer education. The report must be submitted to the Joint Legislative Commission on Governmental Operations.

...

(8) By January 1 and July 1 of each year, a semiannual report on the Department's activities listed in this subdivision. The report must be submitted to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee.

a. Its efforts to increase compliance with the tax laws. The report must describe the Department's existing initiatives in this area as of July 1, 2006, and must estimate, by tax type and amount, the revenue expected in the fiscal year by the initiative. The report must describe any new initiative implemented since July 1, 2006, and estimate, by tax type and amount, the revenue expected in the fiscal year by the initiative.

b. Its efforts to identify and address fraud and other abuses of the voluntary tax compliance system that result in unreported and underreported tax. The report must describe the Department's long-term plan for achieving greater voluntary compliance and must summarize the steps taken since the last report and their results.

c. Its efforts to collect tax debts. The report must include a breakdown of the amount and age of tax debts collected through warning letters and by other means, must itemize collections by type of tax, must describe the Department's long-term collection plan, and must summarize the steps taken since the last report and their results.

d. Its use of the proceeds of the collection assistance fee imposed by G.S. 105-243.1.

SECTION 19.3.(c) The first report required under G.S. 105-256(a)(8), as enacted by this section, is due by January 1, 2007.

PAYMENT OF USUB PENALTIES TO CIVIL PENALTY AND FORFEITURE FUND

SECTION 19.4.(a) Notwithstanding G.S. 143-18, the Department of Revenue may expend up to two million four hundred thirty-four thousand two hundred

seventy dollars and seventy-one cents (\$2,434,270.71) of unencumbered maintenance appropriations as of June 30, 2006, for the purpose of paying the Civil Penalty and Forfeiture Fund. The amount to be expended represents Unauthorized Substance Tax penalty collections that were paid to local law enforcement agencies for the period of July 1, 2005, through December 31, 2005. The source of the unencumbered funds shall come entirely from the Department of Revenue. If unencumbered funds are not sufficient on June 30, 2006, the Department shall use anticipated unencumbered funds as of July 1, 2006.

SECTION 19.4.(b) Through the 2008-2009 fiscal year, the Department of Revenue shall reduce succeeding distributions to a law enforcement agency under G.S. 105-113.113 to offset the amount that was improperly distributed to that agency, as described in subsection (a) of this section, and the Department shall deposit the funds collected into a reserve account which shall revert at the end of each fiscal year.

PART XX. DEPARTMENT OF THE STATE TREASURER

CONSOLIDATE PUBLIC EMPLOYEE RETIREMENT PROGRAMS IN SINGLE AGENCY

SECTION 20.1. G.S. 143B-426.24 reads as rewritten:

"§ 143B-426.24. Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan.

(a) The Governor may, by Executive Order, establish a Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, which when established shall be constituted an agency of the State of North Carolina within the Department of ~~Administration~~State Treasurer. The Board shall create, establish, implement, coordinate and administer a Deferred Compensation Plan for employees of the State, any county or municipality, the North Carolina Community College System, and any political subdivision of the State. Until so established, the Board heretofore established pursuant to Executive Order XII dated November 12, 1974, shall continue in effect. Likewise, the Plan heretofore established shall continue until a new plan is established.

(b) The Board shall consist of seven voting members, as follows:

- (1) Three persons shall be appointed by the Governor who shall have experience with taxation, finance and investments, one of whom shall be a State employee;
- (2) One member shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives under G.S. 120-121;
- (3) One member shall be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate under G.S. 120-121;
- (4) The ~~State Treasurer~~Secretary of Administration, ex officio; and
- (5) The ~~Secretary of Administration~~State Treasurer, ex officio, chairman.

(c) General Assembly appointments shall serve two year terms. A member shall continue to serve until his successor is duly appointed but a holdover under this

provision does not affect the expiration date of the succeeding term. No member of the Board may serve more than three consecutive two year terms.

(d) In case of a vacancy on the Board before the expiration of a member's term, a successor shall be appointed within 30 days of the vacancy for the remainder of the unexpired term by the appropriate official pursuant to subsection (b). Vacancies in legislative appointments shall be filled under G.S. 120-122.

(e) Other than ex officio members, members appointed by the Governor shall serve at his pleasure.

(f) Any ex officio member may designate in writing, filed with the Board, any employee of his department to act at any meeting of the Board from which the member is absent, to the same extent that the member could act if present in person at such meeting.

(g) It shall be the duty of the Board when established to review all contracts, agreements or arrangements then in force relating to G.S. 147-9.2 and Executive Order XII to include, but not be limited to, such contracts, agreements or arrangements pertaining to the administrative services and the investment of deferred funds under the Plan for the purpose of recommending continuation of or changes to such contracts, agreements or arrangements.

(h) It shall be the duty of the Board to devise a uniform Deferred Compensation Plan for teachers and employees, which shall include a reasonable number of options to the teacher or employee, for the investment of deferred funds, among which may be life insurance, fixed or variable annuities and retirement income contracts, regulated investment trusts, pooled investment funds managed by the Board or its designee, or other forms of investment approved by the Board, always in such form as will assure the desired tax treatment of such funds. The Board may alter, revise and modify the Plan from time to time to improve the Plan or to conform to and comply with requirements of State and federal laws and regulations relating to the deferral of compensation of teachers and public employees generally.

(h1) Notwithstanding any other law, an employee of any county or municipality, an employee of the North Carolina Community College System, or an employee of any political subdivision of the State may participate in any 457 Plan adopted by the State, with the consent of the Board and with the consent of the proper governing authority of such county, municipality, community college, or political subdivision of the State where such employee is employed.

(i) The Board is authorized to delegate the performance of such of its administrative duties as it deems appropriate including coordination, administration, and marketing of the Plan to teachers and employees. Prior to entering into any contract with respect to such administrative duties, it shall seek bids, hold public hearings and in general take such steps as are calculated by the Board to obtain competent, efficient and worthy services for the performance of such administrative duties.

(j) The Board may acquire investment vehicles from any company duly authorized to conduct such business in this State or may establish, alter, amend and modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating the administration, investment and maintenance of assets acquired by the

investment of deferred funds. All assets of the Plan, including all deferred amounts, property and rights purchased with deferred amounts, and all income attributed thereto shall be held in trust for the exclusive benefit of the Plan participants and their beneficiaries.

(k) Members of the Board, who are not officers or employees of the State, shall receive per diem and necessary travel and subsistence in accordance with the provisions of G.S. 138-5, funded as provided in subsection (m) hereof.

(l) All clerical and other services and personnel required by the Board shall be supplied by the ~~Secretary of Administration~~, Department of State Treasurer, funded as provided in subsection (m) hereof.

(m) Investment of deferred funds shall not be unreasonably delayed, and in no case shall the investment of deferred funds be delayed more than 30 days. The Board may accumulate such funds pending investment, and the interest earned on such funds pending investment shall be available to and may be spent in the discretion of the Board only for the reasonable and necessary expenses of the Board. The ~~Secretary of Administration~~ State Treasurer is authorized to prescribe guidelines for the expenditure of such funds by the Board. From time to time as the Board may direct, funds not required for such expenses may be used to defray administrative expenses and fees which would otherwise be required to be borne by teachers and employees who are then participating in the Plan.

(n) A majority of the Board shall constitute a quorum for the transaction of business.

(o) It is intended that the provisions of this Part shall be liberally construed to accomplish the purposes provided for herein."

PART XXI. DEPARTMENT OF TRANSPORTATION

ONLINE DEALER REGISTRATION FUNDS

SECTION 21.2.(a) Notwithstanding the provisions of Section 28.22(b) of S.L. 2005-276, for fiscal year 2006-2007, the Division of Motor Vehicles is prohibited from spending any funds appropriated to it for Online Dealer Registration enhancements.

SECTION 21.2.(b) This section becomes effective June 30, 2006.

CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 21.4.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2007-2008	\$1,798.0 million
For Fiscal Year 2008-2009	\$1,836.2 million
For Fiscal Year 2009-2010	\$1,859.2 million
For Fiscal Year 2010-2011	\$1,872.6 million

SECTION 21.4.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2007-2008	\$1,128.9 million
For Fiscal Year 2008-2009	\$1,167.8 million
For Fiscal Year 2009-2010	\$1,203.0 million
For Fiscal Year 2010-2011	\$1,235.0 million

DEPARTMENT OF TRANSPORTATION TO PROVIDE REAL-TIME ACCESS TO ALL WEIGH-IN-MOTION DATA PRODUCED AND TRANSMITTED FROM WEIGH-IN-MOTION SITES THROUGHOUT THE STATE AND PROVIDE PERIODIC SUMMARIES OF DATA COLLECTED AT EXISTING DOT WEIGH-IN-MOTION SITES

SECTION 21.5.(a) Of funds appropriated to the Department of Transportation, the Department shall provide the State Highway Patrol real-time access to all real-time data collection efforts at all existing weigh-in-motion sites by October 1, 2006, to include the following:

- (1) Installing wireless access points at each site to allow the State Highway Patrol to station troopers at or near the weigh-in-motion site, capture data on a computer with software and technology capable of receiving the real-time data as it is captured by the weigh-in-motion site, and then take appropriate enforcement action.
- (2) Providing periodic summaries of collected data to assist in monitoring overweight vehicle travel volumes, habits, routes, and date and time information.
- (3) Acquiring any necessary software to allow the State Highway Patrol to interface with the existing systems at all weigh-in-motion sites throughout the State.
- (4) Providing access to any new facilities constructed on DOT rights-of-way that collect, monitor, seize, or capture any data related to violations of weight, length, or height restrictions.

SECTION 21.5.(b) The State Highway Patrol shall report the effectiveness of the access to weigh-in-motion sites, the collected data, and use of these sites as a vehicle weight screening technology to increase the effectiveness of Motor Carrier Enforcement activities to the Joint Legislative Transportation Oversight Committee by October 1, 2006.

FUNDS FOR ECONOMIC DEVELOPMENT, SPOT SAFETY, AND TRANSPORTATION IMPROVEMENT PROGRAM PROJECTS

SECTION 21.6. Of the funds appropriated by this act to the Department of Transportation in fiscal year 2006-2007, twenty-eight million dollars (\$28,000,000) shall be allocated equally among the 14 Highway Divisions for economic development transportation projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. Funds in each Division not needed for economic development projects shall be used on spot safety needs to enhance safety, reduce congestion, improve traffic flow, reduce accidents, and

for system preservation. Any remaining funds in each Division shall be used on Transportation Improvement Program projects. The Secretary of Transportation shall not prevent or delay the implementation of any projects approved by the Board of Transportation pursuant to this section.

REPEAL SUNSET OF OPEN CONTAINER LAW

SECTION 21.7. Section 21 of S.L. 2000-155, as amended by Section 1 of S.L. 2002-25, reads as rewritten:

"**SECTION 21.** Section 4 of this act is effective September 1, 2000, ~~and expires September 30, 2006.~~ 2000. Sections 19 and 20 of this act are effective when those sections become law. The remainder of this act becomes effective September 1, 2000, and applies to offenses committed on or after that date."

MAINTENANCE OF PERMANENT WEIGH STATIONS

SECTION 21.8. G.S. 20-183.9 reads as rewritten:

"**§ 20-183.9. Establishment and maintenance of permanent weigh stations.**

The Department of Crime Control and Public Safety is hereby authorized, empowered and directed to ~~equip, operate, and maintain~~ equip and operate permanent weigh stations equipped to weigh vehicles using the streets and highways of this State to determine whether such vehicles are being operated in accordance with legislative enactments relating to weights of vehicles and their loads. The permanent weigh stations shall be established at such locations on the streets and highways in this State as will enable them to be used most advantageously in determining the weight of vehicles and their loads. The Department of Transportation shall be responsible for the maintenance and upkeep of all permanent weigh stations established pursuant to this section."

VIPER RADIO PROGRAM

SECTION 21.9. The State Highway Patrol shall issue a request for a proposal for the maintenance of the Voice Interoperability Plan for Emergency Responders (VIPER). The bid shall be for the current system in place and shall not include installation of the system.

The Criminal Justice Information Network (CJIN) shall prepare a cost allocation plan for the continued construction and operation or the leasing of the VIPER system that shall include proposed shared costs for installation and use by all government users, including, but not limited to, the Department of Health and Human Services, the State Emergency Management Division, the Wildlife Resources Commission, the State Bureau of Investigation, the State Highway Patrol, and Alcohol Law Enforcement, and local agencies. This plan shall include the assessment of service contracts to ensure functionality and technological updates of the Viper System.

The CJIN shall report to the Legislative Transportation Oversight Committee, the Chairs of both the Appropriations Subcommittees for Transportation and Justice and Public Safety, and the Fiscal Research Division by October 1, 2006.

CONFORM SEAT BELT LAW TO FEDERAL LAW TO PREVENT A LOSS OF FEDERAL HIGHWAY FUNDS

SECTION 21.11. G.S. 20-135.2A.(c) reads as rewritten:

"(c) This section shall not apply to any of the following:

- (1) A driver or occupant of a noncommercial motor vehicle with a medical or physical condition that prevents appropriate restraint by a safety belt or with a professionally certified mental phobia against the wearing of vehicle restraints;
- (2) A motor vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier and a motor vehicle operated by a newspaper delivery person while actually engaged in delivery of newspapers along the person's specified route;
- (3) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle if the speed of the vehicle between stops does not exceed 20 miles per hour;
- (4) Any vehicle registered and licensed as a property-carrying vehicle in accordance with G.S. 20-88, while being used for agricultural ~~or commercial purposes;~~ purposes in intrastate commerce; or
- (5) A motor vehicle not required to be equipped with seat safety belts under federal law."

UTILIZATION OF SMALL BUSINESS ENTERPRISES IN DEPARTMENT PROJECTS OR THE USE OF FULLY OPERATED RENTAL EQUIPMENT

SECTION 21.12. From funds available to the Department of Transportation, a goal of fifty million dollars (\$50,000,000) per year is established for the utilization of small business enterprises through contracts or the use of fully operated rental equipment.

FUNDS FOR STORMWATER PROJECTS

SECTION 21.14. Of funds available to the Department of Transportation, fifteen million dollars (\$15,000,000) shall be transferred during the 2006-2007 fiscal year to the Department of Environment and Natural Resources for a stormwater pilot project to clean up State-maintained ocean outfalls and associated outlets through new and innovative technologies and filtering mechanisms.

CONSOLIDATION OF RURAL FUNDING PROGRAMS BY THE DEPARTMENT OF TRANSPORTATION'S PUBLIC TRANSPORTATION DIVISION

SECTION 21.18. The Department of Transportation, Public Transportation Division, may consolidate its rural funding programs for vehicles, technology, and facilities into one large capital program. The Division shall have the flexibility to transfer funding from the consolidated capital program to the operating programs, based on the ability to leverage additional federal funds to meet the capital needs of rural transportation systems.

PART XXII. SALARIES AND EMPLOYEE BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 22.1.(a) Effective July 1, 2006, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty three thousand eight hundred nineteen dollars (\$123,819)~~ one hundred thirty thousand six hundred twenty-nine dollars (\$130,629) annually, payable monthly."

SECTION 22.1.(b) Section 29.1(b) of S.L. 2005-276 reads as rewritten:

"**SECTION 29.1.(b)** Effective ~~July 1, 2005,~~ July 1, 2006, the annual salaries for the members of the Council of State, payable monthly, for the ~~2005-2006 and 2006-2007~~ fiscal years-year are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$109,279 <u>115,289</u>
Attorney General	109,279 <u>115,289</u>
Secretary of State	109,279 <u>115,289</u>
State Treasurer	109,279 <u>115,289</u>
State Auditor	109,279 <u>115,289</u>
Superintendent of Public Instruction	109,279 <u>115,289</u>
Agriculture Commissioner	109,279 <u>115,289</u>
Insurance Commissioner	109,279 <u>115,289</u>
Labor Commissioner	109,279 <u>115,289</u> "

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 22.2. Section 29.2 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~2005-2006 and 2006-2007~~ fiscal years-year are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$106,765 <u>112,637</u>
Secretary of Correction	106,765 <u>112,637</u>
Secretary of Crime Control and Public Safety	106,765 <u>112,637</u>
Secretary of Cultural Resources	106,765 <u>112,637</u>
Secretary of Commerce	106,765 <u>112,637</u>
Secretary of Environment and Natural Resources	106,765 <u>112,637</u>
Secretary of Health and Human Services	106,765 <u>112,637</u>
Secretary of Juvenile Justice and Delinquency	106,765 <u>112,637</u>
Secretary of Revenue	106,765 <u>112,637</u>
Secretary of Transportation	106,765 <u>112,637</u> "

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 22.3. Section 29.3 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.3.** The annual salaries, payable monthly, for the ~~2005-2006 and 2006-2007~~ fiscal ~~years-year~~ for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$97,175 <u>102,520</u>
State Controller	135,997 <u>143,477</u>
Commissioner of Motor Vehicles	97,175 <u>102,520</u>
Commissioner of Banks	109,279 <u>115,289</u>
Chairman, Employment Security Commission	<u>133,161</u>
State Personnel Director	106,765 <u>112,637</u>
Chairman, Parole Commission	88,733 <u>93,613</u>
Members of the Parole Commission	40,960 <u>43,213</u>
Chairman, Utilities Commission	121,701 <u>128,395</u>
Members of the Utilities Commission	109,279 <u>115,289</u>
Executive Director, Agency for Public Telecommunications	81,921 <u>86,427</u>
Director, Museum of Art	99,573 <u>105,050</u>
Executive Director, North Carolina Agricultural Finance Authority	94,587 <u>99,789</u>
State Chief Information Officer	135,915 <u>143,390"</u>

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 22.4. Section 29.4 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.4.(a)** The annual salaries, payable monthly, for specified Judicial Branch officials for the ~~2005-2006 and 2006-2007~~ fiscal ~~years-year~~ are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$123,819 <u>130,629</u>
Associate Justice, Supreme Court	120,583 <u>127,215</u>
Chief Judge, Court of Appeals	117,568 <u>124,034</u>
Judge, Court of Appeals	115,559 <u>121,915</u>
Judge, Senior Regular Resident Superior Court	112,419 <u>118,602</u>
Judge, Superior Court	109,279 <u>115,289</u>
Chief Judge, District Court	99,231 <u>104,689</u>
Judge, District Court	96,091 <u>101,376</u>
Administrative Officer of the Courts	112,419 <u>118,602</u>
Assistant Administrative Officer of the Courts	102,684 <u>108,332"</u>

SECTION 29.4.(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 ~~sixty two thousand nine hundred thirty dollars (\$62,930), sixty-six thousand~~

three hundred ninety-one dollars (\$66,391), and the minimum salary of any assistant district attorney or assistant public defender is at least ~~thirty two thousand eight hundred eighty five dollars (\$32,885), thirty-four thousand six hundred ninety-four dollars (\$34,694) effective July 1, 2005.~~ July 1, 2006.

SECTION 29.4.(c) Effective July 1, 2005, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by the greater of eight hundred fifty dollars (\$850.00) or two percent (2%). Effective July 1, 2006, the annual salaries of permanent full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by five and one-half percent (5.5%).

SECTION 29.4.(d) Effective July 1, 2005, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by pro rata amounts of eight hundred fifty dollars (\$850.00) or two percent (2%), whichever is greater. Effective July 1, 2006, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by five and one-half percent (5.5%)."

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 22.5. Effective July 1, 2006, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	\$73,092 <u>\$77,112</u>
100,000 to 149,999	82,024 <u>86,532</u>
150,000 to 249,999	90,952 <u>95,954</u>
250,000 and above	99,884. <u>105,378.</u>

The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

SECTION 22.6. Effective July 1, 2006, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$28,365 <u>\$29,925</u>
Maximum	48,579 <u>51,251</u>
Deputy Clerks	Annual Salary
Minimum	\$24,415 <u>\$25,758</u>
Maximum	37,784 <u>39,862.</u> "

MAGISTRATES' SALARY INCREASES

SECTION 22.7.(a) Effective July 1, 2006, G.S. 7A-171.1(a) reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

- (1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	\$28,739 <u>\$30,320</u>
Step 1	31,375 <u>33,101</u>
Step 2	34,243 <u>36,126</u>
Step 3	37,373 <u>39,429</u>
Step 4	40,802 <u>43,046</u>
Step 5	44,665 <u>47,122</u>
Step 6	48,997 <u>51,692.</u>

- (2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts

designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

- (3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4."

SECTION 22.7.(b) Effective July 1, 2006, G.S. 7A-171.1(a1) reads as rewritten:

"(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

- (1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$23,175 <u>\$24,450</u>
1 or more but less than 3 years of service	24,239 <u>25,572</u>
3 or more but less than 5 years of service	26,380 <u>27,831</u>

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

- (2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

- (3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).
- (4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection."

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

SECTION 22.8. Effective July 1, 2006, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~ninety-two thousand three hundred twenty-four dollars (\$92,324)~~ ninety-seven thousand four hundred two dollars (\$97,402) payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SERGEANTS-AT-ARMS AND READING CLERKS

SECTION 22.9. Effective July 1, 2006, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred twenty-seven dollars (\$327.00)~~ three hundred forty-five dollars (\$345.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

LEGISLATIVE EMPLOYEES

SECTION 22.10. Effective July 1, 2006, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2005-2006 by five and one-half percent (5.5%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES

SECTION 22.11. Section 29.11 of S.L. 2005-276 reads as rewritten:

"**SECTION 29.11.** The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of the greater of eight hundred fifty dollars (\$850.00) or two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all community college employees supported by State funds. The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, funds to the North Carolina Community Colleges System Office necessary to provide:

- (1) An annual salary increase for faculty and professional staff of six percent (6%), plus a one-time two percent (2%) bonus, including funds for the employer's retirement and social security contributions, commencing July 1, 2006, for all community college employees supported by State funds. The one-time two percent (2%) bonus authorized by this section shall be made in accordance with rules adopted by the State Board of Community Colleges.
- (2) An annual increase of five and one-half percent (5.5%), including funds for employer's retirement and social security contributions, commencing July 1, 2006, for all other community college employees supported by State funds."

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION

SECTION 22.12. Section 29.12 of S.L. 2005-276 reads as rewritten:

"SECTION 29.12.(a) The For the 2005-2006 fiscal year, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, to provide an annual salary increase of the greater of eight hundred fifty dollars (\$850.00) or two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). The flat dollar increase of eight hundred fifty dollars (\$850.00) shall be made to all employees whose annual salary is less than or equal to forty-two thousand five hundred dollars (\$42,500). The percentage annual salary increase of two percent (2%) authorized by this section shall be made on an aggregated average basis, and these funds shall be allocated to individuals whose annual salary is greater than forty-two thousand five hundred dollars (\$42,500), according to the rules adopted by the Board of Governors of The University of North Carolina or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 29.12(a1) For the 2006-2007 fiscal year, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, to provide an annual salary increase of six percent (6%), including funds for the employer's retirement and social security contributions, commencing July 1, 2006, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). The percentage annual salary increase of six percent (6%), authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina or the Board of Trustees of the North Carolina School of Science and Mathematics, as

appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 29.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, to provide an average annual salary increase of two and twenty-four hundredths percent (2.24%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 29.12.(b1) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, to provide an average annual salary increase of eight percent (8%), but at least an annual increase of two thousand two hundred fifty dollars (\$2,250) including funds for the employer's retirement and social security contributions, commencing July 1, 2006, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section."

UNIVERSITY FACULTY RECRUITING AND RETENTION FUND

SECTION 22.12A. Of the funds appropriated to the Reserve for Compensation Increases for the 2006-2007 fiscal year, five million dollars (\$5,000,000) shall be used to establish a Faculty Recruiting and Retention Fund under the Office of the President of The University of North Carolina. Allocations from the fund shall be made for salary increases at the discretion of the President of The University of North Carolina only for the purpose of recruiting and retaining faculty members as necessary at constituent institutions.

MOST STATE EMPLOYEES/SALARY INCREASES

SECTION 22.13. Section 29.13 of S.L. 2005-276 reads as rewritten:

"SECTION 29.13.(a) The salaries in effect June 30, 2005, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act and who are paid from the General Fund or the Highway Fund shall be increased, effective July 1, 2005, by the greater of eight hundred fifty dollars (\$850.00) or two percent (2%), unless otherwise provided by this act. Effective July 1, 2006, the salaries in effect June 30, 2006, of all permanent full-time State employees whose salaries are

set in accordance with the State Personnel Act, and who are paid from the General Fund or Highway Funds shall be increased by five and one-half percent (5.5%).

SECTION 29.13.(b) Except as otherwise provided in this act, the fiscal year 2005-2006 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by the greater of eight hundred fifty dollars (\$850.00) or two percent (2%), effective July 1, 2005, unless otherwise provided by this act. Effective July 1, 2006, the compensation of permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by five and one-half percent (5.5%).

SECTION 29.13.(c) The salaries in effect for fiscal year 2005-2006 for all permanent part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts of eight hundred fifty dollars (\$850.00) or two percent (2%), whichever is greater. Effective July 1, 2006, the salaries of all permanent part-time State employees shall be increased by five and one-half percent (5.5%).

SECTION 29.13.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow ~~a salary increase, effective July 1, 2005, salary increases,~~ in accordance with subsection (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

SECTION 29.13.(e) ~~Within~~ For the 2005-2006 fiscal year, within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the greater of the eight hundred fifty dollar (\$850.00) or two percent (2%) increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2005. For the 2006-2007 fiscal year, within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by the five and one-half percent (5.5%) increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2006."

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

SECTION 22.14. Section 29.14 of S.L. 2005-276 reads as rewritten:

"SECTION 29.14.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

SECTION 29.14.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

SECTION 29.14.(c) The fiscal year 2005-2006 salary increases provided in this act are to be effective July 1, 2005, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2005. The fiscal year 2006-2007 salary increases provided in this act are to be effective July 1, 2006, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2006.

Payroll checks issued to employees ~~after July 1, 2005,~~ which represent payment of services provided prior to ~~July 1, 2005,~~ these increases shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

SECTION 29.14.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2005-2006 and fiscal year 2006-2007 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 29.14.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

SECTION 29.14.(f) ~~Permanent~~ For the 2005-2006 fiscal year, permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the eight hundred fifty dollars (\$850.00) or two percent (2%) annual increase provided by this act, whichever is greater. For the 2006-2007 fiscal year, permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the five and one-half percent (5.5%) annual increase provided by this act."

SALARY ADJUSTMENT FUND

SECTION 22.15. Section 29.15 of S.L. 2005-276 reads as rewritten:

"SECTION 29.15.(a) Any remaining appropriations in the General Fund Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the General Fund Salary Adjustment Fund. Fund to support salary adjustments for positions supported by the General Fund. Any remaining appropriations in the Highway Fund Reserves and Transfers authorized for employee salary increases not required for that purpose may be used to supplement the Highway Fund Salary Adjustment Fund to support salary adjustments for positions supported by the Highway Fund.

SECTION 29.15.(b) Funds appropriated or otherwise transferred to the General Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund by this act or any other provision of law shall be used to fund agency requests for the following purposes:

- (1) Salary range ~~revisions~~ revisions, including special minimum rate adjustments, to provide competitive salary rates for affected job

classifications in response to changes in labor market salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

- (2) Reallocation of positions to higher-level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

The terms 'salary range revision' and 'reallocation' as used in this section shall conform to the definitions of those terms as previously contained in the State Personnel Manual and adopted by the State Personnel Commission effective immediately prior to November 1, 2005. ~~Priority funding~~ Funding shall be given only to those salary range revisions previously approved by the State Personnel Commission and reallocations previously approved by the Office of State Personnel or ~~designee~~, designee on or before May 1, 2006, and shall not be used for other purposes including, but not limited to, in-range adjustments, career banding adjustments (whether by grade to band transfer adjustments, career progression adjustments, or other similar methods), geographic differentials, or other adjustments as these terms may be defined by State Personnel Policy.

SECTION 29.15.(c) The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds for any State agency.

SECTION 29.15.(d) The Director of the Budget ~~may transfer~~ may:

- (1) Transfer to General Fund budget codes from the General Fund Salary Adjustment Fund and ~~may transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Fund~~ amounts required to support salary adjustments authorized by this ~~section~~, section, not to exceed the sum of eighteen million nine hundred thousand dollars (\$18,900,000), with the oldest of the pending adjustments to be funded first.
- (2) Transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section.

SECTION 29.15.(e) The Judicial Department is eligible for the funding authorized in subsection (a) of this section."

SUSPEND CAREER BANDING INITIATIVE

SECTION 22.15A.(a) Except as provided in subsection (b) of this section and notwithstanding any other provision of law, the State Personnel Commission, the Office of State Personnel, and each State department, agency, and institution shall suspend further implementation of career banding pending subsequent action by the General Assembly after its review of the State Personnel Act, including the traditional graded classification system and career banding. It is the intent of the 2005 General Assembly to authorize a legislative study commission to review and evaluate the

compensation and other personnel policies affecting employees and employing agencies of State government.

SECTION 22.15A.(b) Career-banded classifications approved by the State Personnel Commission on or before June 15, 2006, may continue to be implemented without suspension as otherwise provided for in this section if:

- (1) It is fully and completely implemented no later than February 1, 2007; and
- (2) It is implemented entirely using technical resources provided by the Office of State Personnel and the affected agency or constituent institution.

SECTION 22.15A.(c) Career-banded classifications already approved by the State Personnel Commission on or before June 15, 2006, may be incorporated into the HR/Payroll (BEACON) program development and implementation provided that such inclusion will not delay completion and implementation of the program.

IN-RANGE ADJUSTMENTS/PURPOSE CHANGE

SECTION 22.15B. Of the funds appropriated in this act for the Department of Transportation in the amount of one million dollars (\$1,000,000) for the purpose of making in-range adjustments, no funds shall be available for expenditure for that purpose, but only for the purposes listed in Section 29.15 of S.L. 2005-276 as amended by Section 22.15 of this act.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 22.17. Section 29.24(c) of S.L. 2005-276 reads as rewritten:

"SECTION 29.24.(c) Effective July 1, 2006, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2006-2007 fiscal year are: (i) ~~six and eighty two hundredths percent (6.82%)~~ seven and fourteen hundredths percent (7.14%) – Teachers and State Employees; (ii) ~~eleven and eighty two hundredths percent (11.82%)~~ twelve and fourteen hundredths percent (12.14%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and sixteen hundredths percent (11.16%) – Community College Optional Retirement Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative Retirement System. Each of the foregoing contribution rates includes three and eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM

SECTION 22.18.(a). G.S. 135-5 is amended by adding a new subsection to read:

"(ooo) From and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2005, shall be increased by three percent (3%) of the allowance payable on June 1, 2006, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2005, but before June 30, 2006, shall be increased by a prorated amount of three percent (3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2005, and June 30, 2006."

SECTION 22.18.(b) G.S. 120-4.22A is amended by adding a new subsection to read:

"(u) In accordance with subsection (a) of this section, from and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2006, shall be increased by three percent (3%) of the allowance payable on June 1, 2006. Furthermore, from and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2006, but before June 30, 2006, shall be increased by a prorated amount of three percent (3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2006, and June 30, 2006."

SECTION 22.18.(c) G.S. 135-65 is amended by adding a new subsection to read:

"(aa) From and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2005, shall be increased by three percent (3%) of the allowance payable on June 1, 2006. Furthermore, from and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2005, but before June 30, 2006, shall be increased by a prorated amount of three percent (3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2005, and June 30, 2006."

INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION 22.19. G.S. 58-86-55 reads as rewritten:

"§ 58-86-55. Monthly pensions upon retirement.

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~

~~sixty three dollars (\$163.00)~~ one hundred sixty-five dollars (\$165.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2005, July 1, 2006,~~ receive a pension of ~~one hundred sixty three dollars (\$163.00)~~ one hundred sixty-five dollars (\$165.00) per month.

Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred sixty three dollars (\$163.00)~~ one hundred sixty-five dollars (\$165.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD

SECTION 22.20. G.S. 127A-40(a) reads as rewritten:

"(a) Every member and former member of the North Carolina national guard who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of ~~seventy five dollars (\$75.00)~~ eighty dollars (\$80.00) per month for 20 years' creditable military service with an additional ~~seven dollars and fifty cents (\$7.50)~~ eight dollars (\$8.00) per month for each additional year of such service; provided, however, that the total pension shall not exceed ~~one hundred fifty dollars (\$150.00)~~ one hundred sixty dollars (\$160.00) per month. The requirements for such pension are that each member shall:

- (1) Have served and qualified for at least 20 years' creditable military service, including national guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.
- (2) Have at least 15 years of the aforementioned service as a member of the North Carolina national guard.
- (3) Have received an honorable discharge from the North Carolina national guard."

EXTEND PHASED RETIREMENT PROGRAM EXEMPTION

SECTION 22.21. Section 29.28(f) of S.L. 2005-276 reads as rewritten:

"**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to participants in The University of North Carolina Phased Retirement Program until ~~June 30, 2007~~ the earlier of June 30, 2010, or 12 months after the issuance of final phased retirement regulations by the Internal Revenue Service. The remainder of this section becomes effective June 30, 2005."

PART XXIII. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 23.1. There is appropriated from the General Fund for the 2006-2007 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2006-2007
Department of Administration	
Veterans Affairs Nursing Homes	\$8,773,300
State Facilities Master Plan	1,000,000

Department of Agriculture and Consumer Services	
Rollins Laboratory – Bio Security Level 2 Lab Conversion	250,000
Oxford Complex Planning Funds	1,000,000
Department of Commerce	
NC Ports Authority Container Cranes	7,500,000
Department of Crime Control and Public Safety	
Emergency Management Operations Center	8,500,000
Marion Transportation Center Motor Fleet Lot	222,700
Department of Cultural Resources	
North Carolina History Education Center at Tryon Palace	
Historic Site and Gardens Planning Funds	1,500,000
Department of Environment and Natural Resources	
Hickory Nut Gorge Expansion	15,000,000
Water Resources Development Projects	20,000,000
NC Zoo Storage Shed	452,800
Forest Resources District 9 Headquarters	2,164,500
University of North Carolina System	
Appalachian State University College of Education	
Building Planning Funds	1,820,000
Fayetteville State University Science and Technology	
Complex Planning Funds	1,000,000
North Carolina Agricultural and Technical State	
University General Classroom Facility Planning Funds	1,000,000
North Carolina School of the Arts Library Planning Funds	1,000,000
North Carolina State University Engineering Complex III	61,000,000
University of North Carolina at Chapel Hill Genomics	
Science Building Planning and Site Development Funds	28,391,775
UNC Hospitals at Chapel Hill Master Facilities Plan	3,000,000
University of North Carolina at Greensboro Academic	
Classroom and Office Building Planning Funds	2,300,000

University of North Carolina at Pembroke Residence Hall Planning Funds	1,000,000
University of North Carolina at Wilmington School of Nursing	27,000,000
Western Carolina University School of Health and Gerontological Building Planning Funds	2,400,000
Winston-Salem State University Student Activities Center Planning Funds	768,225
Board of Governors Dental Schools Study and Planning Funds	7,000,000
Reserve for Capital Cost Overruns	2,300,000

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND **\$206,343,300**

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 23.2.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

Name of Project	2006-2007
(1) Wilmington Harbor Deepening	\$ 5,275,000
(2) Morehead City Harbor Sand Management	1,200,000
(3) Manteo (Shallowbag) Bay Channel Maintenance	-
(4) Wilmington Harbor Maintenance Dredging	-
(5) Morehead City Harbor Maintenance Dredging	0
(6) Carolina Beach Renourishment	1,125,000
(7) Carolina Beach Renourishment (Kure Beach)	681,000
(8) Brunswick County Beaches Study	0
(9) Ocean Isle Beach Renourishment (Brunswick County)	435,000
(10) Beaufort Harbor Maintenance Dredging	300,000
(11) B. Everett Jordan Reservoir Water Supply Storage	100,000
(12) Aquatic Weed Control – Lake Gaston and Statewide	400,000
(13) Waterway Connecting Pamlico Sound to Beaufort Harbor (Carteret)	400,000
(14) John H. Kerr Reservoir Operations Evaluation	188,000
(15) Currituck Sound Water Management Study	386,000
(16) Surf City / North Topsail Beach Protection Study	-
(17) West Onslow Beach (Topsail) Study (Pender County)	85,000
(18) Hurricane Stream Restoration – Western NC (Phase II)	2,000,000
(19) Hurricane Isabel Emergency Management Stream Cleanup (Phase III)	850,000
(20) Bogue Banks Shore Protection Study (Carteret County)	-

(21)	Neuse River Basin Study	280,000
(22)	Beach and Inlet Management Study	500,000
(23)	Dredging Contingency Fund	2,295,000
(24)	Topsail Beach Renourishment	1,000,000
(25)	State – Local Projects	2,500,000
	TOTALS	\$ 20,000,000

SECTION 23.2.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2006-2007 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2006-2007.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2007-2008 fiscal year.

SECTION 23.2.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 23.3.(a) Of the funds in the Reserve for Repairs and Renovations for the 2006-2007 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the

Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 23.3.(b) Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section:

- (1) Up to eleven million eight hundred thousand dollars (\$11,800,000) for the 2006-2007 fiscal year shall be used for eligible repair and renovation projects in preparation for the construction of the Regional Medical Center and Mental Health Center in the Department of Correction.
- (2) Up to two million eight hundred thousand dollars (\$2,800,000) shall be used for repairs and renovations of facilities located on the grounds of the Palmer Memorial Institute State Historic Site.

SECTION 23.3.(c) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, funds shall be used for projects at constituent institutions as follows:

- (1) Up to one million nine hundred thousand dollars (\$1,900,000) for the 2006-2007 fiscal year shall be used for parking and road repairs and improvements at Elizabeth City State University.
- (2) Up to six million four hundred thousand dollars (\$6,400,000) for the 2006-2007 fiscal year shall be used for replacement and repair of steam lines and steam tunnels at North Carolina Central University.
- (3) Up to four hundred sixteen thousand dollars (\$416,000) for the 2006-2007 fiscal year shall be used for planning for eligible repair and renovation projects at Rhodes Hall at the University of North Carolina at Asheville.

The amount of funding a constituent institution is allocated under this subsection shall offset the amount the constituent institution receives under subsection (a) of this section.

STATE FACILITIES MASTER PLAN

SECTION 23.10.(a) Funds are appropriated in this act to the Department of Administration to develop a new master plan for State facilities. In developing this master plan, the Department shall address the following as it relates to State operations in Wake County:

- (1) Inventory existing State real property, including land, buildings, and land allocations to State agencies.
- (2) Inventory lease space occupied by State agencies.
- (3) Survey State agencies' capital improvement needs, including the State's Six-Year Capital Improvement Plan.
- (4) Project the growth in personnel needed to support State operations.

- (5) Analyze State agencies' existing facilities and requested capital improvements against program missions, goals, and operations.
- (6) Recommend a facilities master plan for State operations that meets the facilities needs of State agencies and makes efficient use of State land and buildings.
- (7) Recommend State agency operations that should be relocated from the City of Raleigh to achieve subdivision (6) of this subsection.
- (8) Recommend a transit plan for State operations that may include the use of parking structures, public transit, and park and ride facilities.
- (9) Recommend an implementation plan for the facilities master plan. The implementation plan shall include the sequencing of proposed capital improvement projects and a proposal for financing the facilities master plan. The implementation plan shall be consistent with capital planning efforts in the Office of State Budget and Management.

SECTION 23.10.(b) To the extent that funds are available to do so, the Department of Administration shall expand the scope of the facilities master plan to include State operations outside of Wake County.

SECTION 23.10.(c) The Department of Administration shall deliver the facilities master plan to the Joint Legislative Oversight Committee on Capital Improvements by October 1, 2007.

SECTION 23.10.(d) Of the funds appropriated in this act to the General Assembly, Legislative Services Commission, the sum of sixty thousand dollars (\$60,000) shall be allocated to the Dorothea Dix Hospital Property Study Commission to be used to contract for land use consultant services to review, analyze, and make recommendations regarding the following in relation to the Dorothea Dix Hospital Property:

- (1) Funding options for compatible uses of open space, the adaptive re-use of existing facilities, and continued support for mental health services;
- (2) The financial feasibility of the uses under subdivision (1) of this subsection;
- (3) An assessment of financial mechanisms for the implementation and maintenance of the uses under subdivision (1) of this subsection; and
- (4) Administrative or governance structures to implement the uses under subdivision (1) of this subsection.

The consultant shall submit its work product to the Dorothea Dix Hospital Property Study Commission no later than November 1, 2006. The Commission shall review the plan and make recommendations upon the convening of the 2007 Regular Session of the 2007 General Assembly.

UNC-CH/ECU DENTAL SCHOOLS

SECTION 23.11.(a) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2006-2007 fiscal year the sum of seven million dollars (\$7,000,000) shall be used as follows: (i) to complete the plan and design for expanding the School of Dentistry at the University of North Carolina at

Chapel Hill, (ii) to conduct a study regarding the feasibility of establishing a School of Dentistry at East Carolina University and the impact that the School would have on the other dental programs provided by The University of North Carolina, and (iii) if the Board of Governors determines that it is appropriate to establish a School of Dentistry at East Carolina University based on the findings and recommendations of the feasibility study, to provide advance planning funds to East Carolina University for the capital improvements needed to establish a new dental school. The funds allocated by this section to East Carolina University shall be held in reserve by the Board of Governors and shall be allocated to East Carolina University only if the Board of Governors decides that it is appropriate to establish a School of Dentistry at that University.

SECTION 23.11.(b) The Board of Governors may contract with a private consultant to conduct the feasibility study required by subsection (a) of this section.

SPECIAL INDEBTEDNESS PROJECTS

SECTION 23.12.(a) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of forty million dollars (\$40,000,000) to finance the costs of constructing new buildings and pavilions and renovating existing buildings at the North Carolina Museum of Art. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the costs of constructing and renovating the project described in this subsection.

SECTION 23.12.(b) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty million dollars (\$20,000,000) to finance the capital facility costs of completing the Central Regional Psychiatric Hospital for the Department of Health and Human Services. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection.

SECTION 23.12.(c) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of twenty-four million eight hundred forty-one thousand three hundred dollars (\$24,841,300) to finance the capital facility costs of a new Secondary State Data Center. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection.

SECTION 23.12.(d) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of forty-five million eight hundred twenty-seven thousand four

hundred dollars (\$45,827,400) to finance the capital facility costs of a new Center City Classroom Building at the University of North Carolina – Charlotte. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection.

SECTION 23.12.(e) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of one hundred one million dollars (\$101,000,000) to finance the capital facility costs of the Department of Health and Human Services Public Health Laboratory and Office of Chief Medical Examiner. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2007.

SECTION 23.12.(f) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of one hundred forty-five million five hundred thousand dollars (\$145,500,000) to finance the capital facility costs of the Eastern Regional Psychiatric Hospital for the Department of Health and Human Services. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2007. No more than a maximum aggregate principal amount of one hundred million dollars (\$100,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008.

SECTION 23.12.(g) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of one hundred thirty-two million two hundred thousand dollars (\$132,200,000) to finance the capital facility costs of the Regional Medical Center and Mental Health Center of the Department of Correction. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No more than a maximum aggregate principal amount of eight million two hundred thousand dollars (\$8,200,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2007. No more than a maximum aggregate principal amount of

fifty-eight million two hundred thousand dollars (\$58,200,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate principal amount of ninety-eight million two hundred thousand dollars (\$98,200,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 23.12.(h) In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of one hundred sixty-two million eight hundred thousand dollars (\$162,800,000) to finance the capital facility costs of the Western Regional Psychiatric Hospital for the Department of Health and Human Services. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the project described in this subsection. No special indebtedness may be issued or incurred under this subsection prior to July 1, 2008. No more than a maximum aggregate principal amount of twenty million dollars (\$20,000,000) of special indebtedness may be issued or incurred under this subsection prior to July 1, 2009.

SECTION 23.12.(i) This section is effective when it becomes law.

PART XXIV. TAX REDUCTIONS

REDUCE SALES TAX RATE EARLY

SECTION 24.1.(a) Section 34.13(c) of S.L. 2001-424, as amended by Section 38.1 of S.L. 2003-284, Section 9.1 of S.L. 2005-144, and Section 33.1 of S.L. 2005-276, reads as rewritten:

"SECTION 34.13.(c) This section becomes effective October 16, 2001, and applies to sales made on or after that date. ~~This section is repealed effective for sales made on or after July 1, 2007.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

SECTION 24.1.(b) G.S. 105-164.4(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and ~~one-half percent (4 1/2%)~~ one-quarter percent (4.25%).

..."

SECTION 24.1.(c) G.S. 105-164.4(a), as amended by subsections (a) and (b) of this section, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four ~~and one-quarter percent (4.25%)~~ percent (4%).

..."

SECTION 24.1.(d) If House Bill 2047, 2005 General Assembly, does not become law, then G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute to the cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is ~~eighteen and three one-hundredths percent (18.03%)~~ eighteen and seventy one-hundredths percent (18.70%) of the net proceeds of the taxes collected during the quarter, minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction." The Secretary must distribute the specified percentage of the proceeds, less the "freeze deduction" among the cities in accordance with this section."

SECTION 24.1.(e) If House Bill 2047, 2005 General Assembly, does not become law, then G.S. 105-164.44F(a), as amended by subsection (d) of this section, reads as rewritten:

"(a) Amount. – The Secretary must distribute to the cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is ~~eighteen and seventy one-hundredths percent (18.70%)~~ nineteen and forty-two one-hundredths percent (19.42%) of the net proceeds of the taxes collected during the quarter, minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction." The Secretary must distribute the specified percentage of the proceeds, less the "freeze deduction" among the cities in accordance with this section."

SECTION 24.1.(f) If House Bill 2047, 2005 General Assembly, becomes law, then G.S. 105-164.44F(a) reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

- (1) ~~Eighteen and three one-hundredths percent (18.03%)~~ seventy one-hundredths percent (18.70%) minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by

former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

- (2) Seven and ~~twenty three one hundredths~~ seven-tenths percent (~~7.23%~~) (7.7%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 24.1.(g) If House Bill 2047, 2005 General Assembly, becomes law, then G.S. 105-164.44F(a), as amended by subsection (f) of this section, reads as rewritten:

"(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

- (1) ~~Eighteen and seventy one hundredths percent (18.70%)~~ Nineteen and forty-two one-hundredths percent (19.42%) minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."
- (2) ~~Seven and seven tenths percent (7.7%)~~ Eight percent (8%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

SECTION 24.1.(h) If House Bill 2047, 2005 General Assembly, becomes law, then G.S. 105-164.44I(a) reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

- (1) The amount specified in G.S. 105-164.44F(a)(2).
- (2) ~~Twenty two and sixty one one hundredths percent (22.61%)~~ Twenty-three and six tenths percent (23.6%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.
- (3) Thirty-seven and one-tenths percent (~~37%~~) (37.1%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 24.1.(i) If House Bill 2047, 2005 General Assembly, becomes law, then G.S. 105-164.44I(a), as amended by subsection (h) of this section, reads as rewritten:

"(a) Distribution. – The Secretary must distribute to the counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the sum of the revenue listed in this subsection. The Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance with subsection (b) of this section and the remainder in accordance with subsections (c) and (d) of this section. The revenue to be distributed under this section consists of the following:

- (1) The amount specified in G.S. 105-164.44F(a)(2).
- (2) ~~Twenty three and six tenths percent (23.6%)~~ Twenty-five percent (25%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.
- (3) Thirty-seven and ~~one tenths five tenths percent (37.1%)~~ five tenths percent (37.5%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

SECTION 24.1.(j) Subsection (b) of this section becomes effective December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f), and (h) of this section become effective January 1, 2007, and apply to taxes collected on or after that date. Subsection (c) of this section becomes effective July 1, 2007, and applies to sales made on or after that date. Subsections (e), (g), and (i) of this section become effective July 1, 2007, and apply to taxes collected on or after that date. The remainder of this section is effective when it becomes law.

REDUCE INCOME TAX RATE APPLICABLE TO MOST SMALL BUSINESSES EARLY

SECTION 24.2.(a) Section 39.1 of S.L. 2003-284, as amended by Section 36.1(a) of S.L. 2005-276, is repealed.

SECTION 24.2.(b) G.S. 105-134.2(a), as amended by subsection (a) of this section, 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:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000	7.75%
\$200,000	NA	8.25% <u>8%</u>

- (2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000	7.75%
\$160,000	NA	8.25% 8%

- (3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000	7.75%
\$120,000	NA	8.25% 8%

- (4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
0	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000	7.75%
\$100,000	NA	8.25% 8%".

SECTION 24.2.(c) G.S. 105-134.2(a), as amended by subsections (a) and (b) of this section, 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:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000 NA	7.75%
\$200,000	NA	8%

- (2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%

\$17,000	\$80,000	7%
\$80,000	\$160,000 NA	7.75%
\$160,000	NA	8%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000 NA	7.75%
\$120,000	NA	8%

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
0	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000 NA	7.75%
\$100,000	NA	8%".

SECTION 24.2.(d) Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2007. Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2008. The remainder of this section is effective when it becomes law.

CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE FOR ONE YEAR AND HOLD HIGHWAY FUNDS HARMLESS

SECTION 24.3.(a) Notwithstanding G.S. 105-449.80(a), for the period July 1, 2006, through June 30, 2007, the variable wholesale component of the motor fuel excise tax rate may not exceed twelve and four-tenths cents (12.4¢) a gallon.

SMALL BUSINESS HEALTH INSURANCE TAX CREDIT

SECTION 24.4.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.16E. Credit for small business employee health benefits.

(a) Credit. – A small business that provides health benefits for all of its eligible employees during the taxable year is allowed a credit to offset its costs in providing health benefits for its eligible employees. For the purposes of this subsection, a taxpayer provides health benefits if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125 or if its employees have qualifying existing coverage.

The credit is equal to a dollar amount per eligible employee whose total wages or salary received from the business does not exceed forty thousand dollars (\$40,000) on an annual basis. The dollar amount is two hundred fifty dollars (\$250.00), not to exceed the taxpayer's costs of providing health benefits for the employee during the taxable year.

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its business income to this State.

(c) Definitions. – The following definitions apply in this section:

(1) Eligible employee. – Defined in G.S. 58-50-110.

(2) Qualifying existing coverage. – Defined in G.S. 58-50-130(a)(4a).

(3) Small business. – A taxpayer that employs no more than 25 eligible employees throughout the taxable year.

(d) Sunset. – This section expires for taxable years beginning on or after January 1, 2009."

SECTION 24.4.(b) This section is effective for taxable years beginning on or after January 1, 2007.

EXPAND DEFINITION OF DEVELOPMENT ZONE

SECTION 24.5.(a) G.S. 105-129.3A(a) reads as rewritten:

"(a) **Development Zone Defined.** – A development zone is an area comprised of either an economic development and training district as defined by G.S. 153A-317.12 or one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

- (1) Every census tract and census block group in the zone is located in whole or in part within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Budget Officer.
- (2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Budget Officer.
- (3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.
- (4) Every census tract and census block group in the zone meets at least one of the following conditions:
 - a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.
 - b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

- (5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce."

SECTION 24.5.(b) This section is effective for taxable years beginning on or after January 1, 2004.

EXTEND SUNSETS ON SALES AND USE TAX REFUNDS FOR AVIATION FUEL

SECTION 24.6.(a) G.S. 105-164.14(l) reads as rewritten:

"(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purposes of this subsection, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed for purchases made on or after January 1, 2009."

SECTION 24.6.(b) G.S. 105-164.14(a1) reads as rewritten:

"(a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the calendar year for which the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in subsection (a) of this section. This subsection is repealed for purchases made on or after January 1, 2009."

SECTION 24.6.(c) Section 62 of S.L. 2005-435 reads as rewritten:

"**SECTION 62.** This part becomes effective January 1, 2005, and applies to purchases made on or after that date. ~~This part is repealed effective for purchases made on or after January 1, 2007.~~ This part does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this part before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

SECTION 24.6.(d) This section is effective when it becomes law.

ETHYL ALCOHOL TAX CREDIT

SECTION 24.7.(a) G.S. 105-129.16D reads as rewritten:

"**§ 105-129.16D. Credit for constructing renewable fuel facilities.**

(a) **Dispensing Credit.** – A taxpayer that constructs and installs and places in service in this State a qualified commercial facility for dispensing renewable fuel is allowed a credit equal to fifteen percent (15%) of the cost to the taxpayer of constructing and installing the part of the dispensing facility, including pumps, storage tanks, and related equipment, that is directly and exclusively used for dispensing or storing renewable fuel. A facility is qualified if the equipment used to store or dispense renewable fuel is labeled for this purpose and clearly identified as associated with renewable fuel.

The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the portion of the facility directly and exclusively used for dispensing or storing renewable fuel is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(b) **Production Credit.** – A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(b1) **Alternative Production Credit.** – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars (\$400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars (\$400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. If a credit allowed under this subsection expires, a taxpayer is not eligible for a credit under subsection (b) of this

section with respect to the same property. Notwithstanding the provisions of G.S. 105-129.17(a), a taxpayer may claim the credit allowed under this subsection against the income tax imposed under Article 4 of this Chapter only.

(c) No Double Credit. – A taxpayer may not claim the credits allowed under subsections (b) and (b1) of this section with respect to the same facility. A taxpayer that claims any other credit allowed under this Chapter with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(d) Sunset. – This section is repealed effective for facilities placed in service on or after January 1, 2008-2011.

SECTION 24.7.(b) This section is effective for taxable years beginning on or after January 1, 2006.

TAX CREDIT FOR BIODIESEL PRODUCER

SECTION 24.8.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.16F. Credit for biodiesel producers.

(a) Credit. – A biodiesel provider that produces at least 100,000 gallons of biodiesel during the taxable year is allowed a credit equal to the per gallon excise tax the producer paid under Article 36C of this Chapter on the biodiesel. For the purposes of this section, 'biodiesel' is liquid fuel derived in whole from agricultural products, animal fats, or wastes from agricultural products or animal fats. The credit does not apply to tax paid on diesel fuel included in a biodiesel blend. The credit may not exceed five hundred thousand dollars (\$500,000) and is subject to the limitations of G.S. 105-129.17.

(b) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2010.

SECTION 24.8.(b) This section is effective for taxable years beginning on or after January 1, 2008.

R&D SALES TAX CHANGES

SECTION 24.9.(a) G.S. 105-187.51B reads as rewritten:

"§ 105-187.51B. Tax imposed on recycling equipment, certain recyclers and research and development companies.

(a) Tax. – A privilege tax is imposed on ~~a~~the following:

(1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

~~(1)~~a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

~~(2)~~b. Port and dock facilities.

~~(3)~~c. Rail equipment.

~~(4)~~d. Material handling equipment.

(2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that

purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

- a. Is capitalized by the company for tax purposes under the Code.
- b. Is used by the company in the research and development of tangible personal property.
- c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

SECTION 24.9.(b) This section becomes effective January 1, 2007.

SALES AND USE TAX REFUND FOR MOTORSPORTS RACING TEAMS

SECTION 24.10.(a) G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

(30a) Professional motorsports racing team. – A racing team that satisfies all of the following conditions:

- a. The team is operated for profit.
- b. A majority of the revenues of the team is derived from sponsorship of the racing team and prize money.
- c. The team competes in at least sixty-six percent (66%) of the races sponsored in a single season by a motorsports sanctioning body.

(30b) Prosthetic device. – A replacement, corrective, or supporting device worn on or in the body that meets one of the conditions of this subdivision. The term includes repair and replacement parts for the device.

- a. Artificially replaces a missing portion of the body.
- b. Prevents or corrects a physical deformity or malfunction.
- c. Supports a weak or deformed portion of the body.

..."

SECTION 24.10.(b) G.S. 105-164.14 is amended by adding a new subsection to read:

"(m) Professional Motor Racing Vehicles. – A professional motorsports racing team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motor racing vehicle. For the purposes of this subsection, 'accessories' includes instrumentation, telemetry, consumables, and paint. A request for a refund must be in writing and must include any information and documentation the

Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

SECTION 24.10.(c) This section becomes effective July 1, 2007, and applies to purchases made on or after that date.

JOINT FILING OPTIONS

SECTION 24.11.(a) G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. – A husband and wife shall file a single income tax return jointly if (i) their whose federal taxable income is determined on a joint federal return and (ii) both spouses are residents of this State or both spouses have shall file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable ~~income~~ income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse has been relieved of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

SECTION 24.11.(b) This section is effective for taxable years beginning on or after January 1, 2006.

PARENTAL SAVINGS TRUST FUND TAX DEDUCTION

SECTION 24.12.(a) G.S. 105-134.6(d) is amended by adding two new subdivisions to read:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

- ...
- (4) A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this subdivision may deduct from taxable income the amount, not to exceed seven hundred fifty dollars (\$750.00), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is one thousand five hundred dollars (\$1,500).

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000

<u>Head of Household</u>	<u>80,000</u>
<u>Single</u>	<u>60,000</u>
<u>Married, filing separately</u>	<u>50,000</u>

- (5) The taxpayer shall add to taxable income the amount deducted from taxable income in a prior taxable year under subdivision (4) of this subsection to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary."

SECTION 24.12.(b) This section is effective for taxable years beginning on or after January 1, 2006, and is repealed for taxable years beginning on or after January 1, 2011.

SALES TAX ON RAILROAD CARS

SECTION 24.13.(a) G.S. 105-164.4B(b) reads as rewritten:

"(b) Periodic Rental Payments. – When a lease or rental agreement requires recurring periodic payments, the payments are sourced as follows:

- (1) For leased or rented property, the first payment is sourced in accordance with the principles set out in subsection (a) of this section and each subsequent payment is sourced to the primary location of the leased or rented property for the period covered by the payment. This subdivision applies to all property except a motor vehicle, an aircraft, ~~and transportation equipment~~, and a utility company railway car.
- (2) For leased or rented property that is a motor vehicle or an aircraft but is not transportation equipment, all payments are sourced to the primary location of the leased or rented property for the period covered by the payment.
- (3) For leased or rented property that is transportation equipment, all payments are sourced in accordance with the principles set out in subsection (a) of this section.
- (4) For a railway car that is leased or rented by a utility company and would be transportation equipment if it were used in interstate commerce, all payments are sourced in accordance with the principles set out in subsection (a) of this section."

SECTION 24.13.(b) G.S. 105-164.14 is amended by adding a new subsection to read:

(a2) Utility Companies. – A utility company is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives and accessories for a railway car or locomotive the utility company operates. The Secretary shall prescribe the periods of time, whether

monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, and accessories purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the items listed in subdivision (1) of this subsection.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's railway cars and locomotives were operated both inside and outside this State during the refund period.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its railway cars and locomotives in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

SECTION 24.13.(c) This section becomes effective July 1, 2006. Subsection (a) of this section applies to lease or rental payments made on or after that date. Subsection (b) of this section applies to purchases made on or after that date.

WAGE STANDARD – CERTAIN MANUFACTURERS

SECTION 24.14.(a) G.S. 105-129.4(b) reads as rewritten:

"(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs in an enterprise tier three, four, or five area if, for the calendar year the jobs are created, the average wage of the jobs for which the credit is claimed meets the wage standard and the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central office or aircraft facility in a tier three, four, or five area if, for the calendar year the taxpayer engages in the activity that qualifies for the credit, the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the calendar year the taxpayer engages in the activity that qualifies for the credit even if those positions are not filled at

the time the taxpayer claims the credit. For a taxpayer with a taxable year other than a calendar year, the taxpayer must use the wage standard for the calendar year in which the taxable year begins. No wage standard applies to credits for activities in an enterprise tier one or two area. For the purposes of this subsection, for a fiber, yarn, or thread mill that uses a sequential manufacturing process in which separate parts of the sequential manufacturing process are performed in different facilities within the same county, the term 'location' may mean either the specific establishment or all facilities in the county in which parts of the process are performed.

Part-time jobs for which the taxpayer provides health insurance as provided in subsection (b2) of this section are considered to have an average weekly wage at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located. There may be a period of up to 100 days between the time at which an employee begins a part-time job and the time at which the taxpayer begins to provide health insurance for that employee.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to one hundred ten percent (110%) of the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State. The Department of Commerce must annually publish the wage standard for each county."

SECTION 24.14.(b) This section is effective for taxable years beginning on or after January 1, 1996.

REAL PROPERTY TAX DONATION CREDIT

SECTION 24.15.(a) Section 3 of S.L. 2001-335, as amended by Section 1 of S.L. 2004-134, reads as rewritten:

"**SECTION 3.** This act becomes effective for taxable years beginning on or after January 1, 2002. Section 2 of this act expires for taxable years beginning on or after January 1, ~~2006-2007.~~"

SECTION 24.15.(b) This section is effective when it becomes law.

AGRARIAN GROWTH ZONES – BILL LEE

SECTION 24.16.(a) Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.3B. Agrarian growth zone designation.

(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census that meets all conditions in this subsection. A county may have no more than one agrarian growth zone.

- (1) All land within the zone is located in whole within a county that has no municipality with a population in excess of 10,000.
- (2) Every census tract and census block group that composes part of the zone has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.
- (3) The area of the zone less the smallest census tract included in the zone does not exceed five percent (5%) of the total area of the county in which the zone is located.

(b) Designation. – Upon request of a local government, the Secretary of Commerce shall make a written determination whether an area is an agrarian growth zone that meets the conditions of subsection (a) of this section. A determination under this section is effective until December 31 of the year following the year in which the determination is made. The Department of Commerce shall publish annually a list of all agrarian growth zones with a description of their boundaries.

(c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of this section, a parcel of property that is located partially within an agrarian growth zone is considered entirely within the zone if all of the following conditions are satisfied:

- (1) At least fifty percent (50%) of the parcel is located within the zone.
- (2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.
- (3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary.

(d) Relationship With Enterprise Tiers. – For the purpose of the wage standard requirement of G.S. 105-129.4, the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, an agrarian growth zone is considered an enterprise tier one area. For all other purposes, an agrarian growth zone has the same enterprise tier designation as the county in which it is located."

SECTION 24.16.(b) G.S. 105-129.2 reads as rewritten:

"§ 105-129.2. Definitions.

The following definitions apply in this Article:

- (1) Agrarian growth zone. – An area designated as an agrarian growth zone pursuant to G.S. 105-129.3B.
- (1a) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

..."

SECTION 24.16.(c) G.S. 105-129.6(a1) reads as rewritten:

"(a1) Fee. – When filing a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit under this Article, the taxpayer

must pay the Department of Revenue a fee of five hundred dollars (\$500.00) for each credit the taxpayer claims or intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars (\$1,500) per taxpayer per taxable year. This fee does not apply to any credit the taxpayer claims or intends to claim with respect to a location that is in a development zone ~~as defined in G.S. 105-129.3A~~ or agrarian growth zone. If the taxpayer claims or intends to claim a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The fee is due at the time the return is due for the taxable year in which the taxpayer engaged in the activity for which the taxpayer is eligible for a credit. No credit is allowed under this Article for a taxable year until all outstanding fees have been paid.

The Secretary of Revenue shall retain three-fourths of the proceeds of the fee imposed in this section for the costs of administering and auditing the credits allowed in this Article. The Secretary of Revenue shall credit the remaining proceeds of the fee imposed in this section to the Department of Commerce for the costs of administering this Article. The proceeds of the fee are receipts of the Department to which they are credited."

SECTION 24.16.(d) G.S. 105-129.7(b)(1) reads as rewritten:

"(1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone or agrarian growth zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier designation of that place. In addition, for jobs that are located in a development zone, the number of those jobs that are filled by residents of the development zone."

SECTION 24.16.(e) G.S. 105-129.8 reads as rewritten:

"§ 105-129.8. Credit for creating jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee during the taxable year to fill a new position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone or agrarian growth zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

(a1) Positions. – A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The number of new positions a taxpayer fills during the taxable year is determined by subtracting the highest number of full-time employees the taxpayer had in this State at any time during the 12-month period preceding the beginning of the taxable year from the number of full-time employees the taxpayer has in this State at the end of the taxable year.

(a2) Installments. – The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit must be taken in equal installments over the four years following the taxable year in which the additional employee was hired and is conditioned on the taxpayer's continued employment in this State of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees in this State falls below the number of full-time employees the taxpayer had in this State in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

(a3) Transferred Jobs. – Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone or agrarian growth zone to an area that is not a development zone or agrarian growth zone, the remaining installments of the credit must be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone or agrarian growth zone designation for that year even though the employees are not hired that year. In the case of an interstate air courier that has or is constructing a hub in this State and in the case of an eligible major industry, the applicable time period is seven years. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the applicable commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone or agrarian growth zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone or agrarian growth zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the applicable period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit

under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3."

SECTION 24.16.(f) G.S. 105-129.9 reads as rewritten:

"§ 105-129.9. Credit for investing in machinery and equipment.

...

(d) Expiration. – As used in this subsection, the term "disposed of" means disposed of, taken out of service, or moved out of State.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, the credit expires and the taxpayer may not take any remaining installment of the credit for that machinery and equipment unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in eligible machinery and equipment placed in service in the same enterprise tier, as provided in this subsection. If, during the taxable year the taxpayer disposed of the machinery and equipment for which installments remain, there has been a net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same enterprise tier as the machinery and equipment that were disposed of, and the amount of this reduction is greater than twenty percent (20%) of the cost of the machinery and equipment that were disposed of, then the taxpayer forfeits the remaining installments of the credit for the machinery and equipment that were disposed of. If the amount of the net reduction is equal to twenty percent (20%) or less of the cost of the machinery and equipment that were disposed of, or if there is no net reduction, then the taxpayer does not forfeit the remaining installments of the expired credit. In determining the amount of any net reduction during the taxable year, the cost of machinery and equipment the taxpayer placed in service during the taxable year and for which the taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible machinery and equipment that are in service. If in a single taxable year machinery and equipment with respect to two or more credits in the same tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same tier is compared to the total cost of all the machinery and equipment for which credits expired in order to determine whether the remaining installments of the credits are forfeited.

The expiration of a credit does not prevent the taxpayer from taking the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone or agrarian growth zone to an area that is not a development zone or agrarian growth zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) **Planned Expansion.** – A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone or agrarian growth zone designation for the year the letter was signed. In the case of an interstate air courier that has or is constructing a hub in this State and in the case of an eligible major industry, the applicable time period is seven years. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone or agrarian growth zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone or agrarian growth zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the applicable period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the applicable period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

SECTION 24.16.(g) This section is effective for taxable years beginning on or after January 1, 2006, and applies to business activities occurring on or after that date.

INTERNET DATA CENTER FACILITIES – TAX EXEMPTION

SECTION 24.17.(a) G.S. 105-164.3 is amended by adding two new subdivisions to read:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

- (8e) Eligible Internet data center. – A facility that satisfies each of the following conditions:
- a. The facility is used primarily or is to be used primarily by a business engaged in Internet service providers and Web search portals industry 51811, as defined by NAICS.
 - b. The facility is comprised of a structure or series of structures located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the operator of that facility.
 - c. The facility is located or to be located in a county that was designated, at the time of application for the written determination required under sub-subdivision d. of this subdivision, either an enterprise tier one, two, or three area pursuant to G.S. 105-129.3, regardless of any subsequent change in county enterprise tier status.

- d. The Secretary of Commerce has made a written determination that at least two hundred fifty million dollars (\$250,000,000) in private funds has been or will be invested in real property or eligible business property, or a combination of both, at the facility within five years after the commencement of construction of the facility.

...

(23a) NAICS. – The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2002."

SECTION 24.17.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"§ 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 are specifically exempted from the tax imposed by this Article:

...

(55) Sales of electricity for use at an eligible Internet data center and eligible business property to be located and used at an eligible Internet data center. As used in this subdivision, 'eligible business property' is property that is capitalized for tax purposes under the Code and is used either:

- a. For the provision of Internet service or Web search portal services as contemplated by G.S. 105-164.3(8e)a., including equipment cooling systems for managing the performance of the property.
- b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.
- c. To provide related computer engineering or computer science research.

If the level of investment required by G.S. 105-164.3(8e)d. is not timely made, then the exemption provided under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any specific eligible business property is not located and used at an eligible Internet data center, then the exemption provided for the eligible business property under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any portion of the electricity is not used at an eligible Internet data center, then the exemption provided for the electricity under this subdivision is forfeited. A taxpayer that forfeits an exemption under this subdivision is liable for all past taxes avoided as a result of the forfeited exemption, computed from the date the taxes would have been due if the exemption had not been allowed, plus

interest at the rate established under G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a timely investment required by G.S. 105-164.3(8e)d., then interest is computed from the date the taxes would have been due if the exemption had not been allowed. For all other forfeitures, interest is computed from the time as of which the eligible business property or electricity was put to a disqualifying use. The past taxes and interest are due 30 days after the date the exemption is forfeited. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

SECTION 24.17.(c) This section becomes effective October 1, 2006, and applies to sales made on or after that date.

OYSTER SHELL TAX CREDIT

SECTION 24.18.(a) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.48. Credit for recycling oyster shells.

(a) Credit. – A taxpayer who donates oyster shells to the Division of Marine Fisheries of the Department of Environment and Natural Resources is eligible for a credit against the tax imposed by this Part. The amount of the credit is equal to one dollar (\$1.00) per bushel of oyster shells donated.

(b) Limitation. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payment made by or on behalf of the taxpayer.

(c) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the succeeding five years. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(d) No Double Benefit. – No deduction is allowed under G.S. 105-130.5(b)(5) or G.S. 105-130.9 for the donation of oyster shells for which a credit is claimed under this section.

(e) Documentation of Credit. – To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer.

(f) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2011."

SECTION 24.18.(b) G.S. 105-130.9(4) reads as rewritten:

"(4) The amount of a contribution for which the taxpayer claimed a tax credit pursuant to G.S. 105-130.34 or G.S. 105-130.48 shall not be eligible for a deduction under this section. The amount of the credit claimed with respect to the contribution is not, however, required to be added to income under G.S. 105-130.5(a)(10)."

SECTION 24.18.(c) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-151.30. Credit for recycling oyster shells.

(a) Credit. – A taxpayer who donates oyster shells to the Division of Marine Fisheries of the Department of Environment and Natural Resources is eligible for a credit against the tax imposed by this Part. The amount of the credit is equal to one dollar (\$1.00) per bushel of oyster shells donated.

(b) Limitation. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payment made by or on behalf of the taxpayer.

(c) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the succeeding five years.

(d) Documentation of Credit. – To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer.

(e) No Double Benefit. – A taxpayer who claims a credit under this section must add back to taxable income any amount deducted under the Code for the donation of the oyster shells.

(f) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2011."

SECTION 24.18.(d) G.S. 105-151.26 reads as rewritten:

"§ 105-151.26. Credit for charitable contributions by nonitemizers.

A taxpayer who elects the standard deduction under section 63 of the Code for federal tax purposes is allowed as a credit against the tax imposed by this Part an amount equal to seven percent (7%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under section 170 of the Code if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross income as calculated under the Code.

No credit shall be allowed under this section for amounts deducted from gross income in calculating taxable income under the Code or for contributions for which a credit was claimed under ~~G.S. 105-151.12 or G.S. 105-151.14.~~ G.S. 105-151.12, 105-151.14, or 151.30. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 24.18.(e) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(5a) The market price of the oyster shells for which the taxpayer claims a credit for the taxable year under G.S. 105-151.30."

SECTION 24.18.(f) G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

...

(8) G.S. 105-151.30. Credit for recycling oyster shells."

SECTION 24.18.(g) This section is effective for taxable years beginning on or after January 1, 2006, and expires for taxable years beginning on or after January 1, 2011.

REDUCE SALES TAX ON ELECTRICITY SOLD TO MANUFACTURERS

SECTION 24.19.(a) G.S. 105-164.4(a)(1f)b. is repealed.

SECTION 24.19.(b) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1i) The rate of two and six-tenths percent (2.6%) applies to the sales price of electricity that is measured by a separate meter or another separate device and sold to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants."

SECTION 24.19.(c) This section becomes effective July 1, 2007, and applies to sales made on or after that date.

PART XXIV-A. OTHER TAX CHANGES

NO SALES TAX REFUND FOR ALCOHOL PURCHASES

SECTION 24A.1.(a) G.S. 105-164.14 is amended by adding a new subsection to read:

"(d1) Alcoholic Beverages. – The refunds authorized by this section do not apply to purchases of alcoholic beverages, as defined in G.S. 18B-101."

SECTION 24A.1.(b) This section becomes effective July 1, 2006, and applies to purchases made on or after that date.

FRANCHISE TAX LOOPHOLE CLOSING

SECTION 24A.2.(a) G.S. 105-114(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

(1) City. – Defined in G.S. 105-228.90.

(1a) Code. – Defined in G.S. 105-228.90.

(2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company that elects to be taxed as a C Corporation under the Code, but does not otherwise include a limited liability company.

(3) Doing business. – Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.

(4) Income year. – Defined in G.S. 105-130.2(5)."

SECTION 24A.2.(b) G.S. 105-114.1 reads as rewritten:

"§ 105-114.1. Limited liability companies.

(a) Definitions. – The following definitions apply in this section:

(1) Affiliated group. – Defined in section 1504 of the Code.

(2) Capital interest. – The right under a limited liability company's governing law to receive a percentage of the company's assets upon dissolution after payments to creditors.

(3) Entity. – A person that is not a human being.

(4) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.

(5) Noncorporate limited liability company. – A limited liability company that does not elect to be taxed as a C Corporation under the Code.

(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns more than fifty percent (50%) of the capital interests in a noncorporate limited liability company, the corporation or group of corporations must include in its three tax bases pursuant to G.S. 105-122 the same percentage of (i) the noncorporate limited liability company's capital stock, surplus, and undivided profits; (ii) fifty-five percent (55%) of the noncorporate limited liability company's appraised ad valorem tax value of property; and (iii) the noncorporate limited liability company's actual investment in tangible property in this State, as appropriate.

(c) Constructive Ownership. – Ownership of the capital interests in a noncorporate limited liability company is determined by reference to the constructive ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A) and (B) of the Code with the following modifications:

(1) The term "capital interest" is substituted for "stock" each place it appears.

(2) A noncorporate limited liability company and any noncorporate entity other than a partnership, estate, or trust is treated as a partnership.

(3) The operating rule of section 318(a)(5) of the Code applies without regard to section 318(a)(5)(C).

(d) No Double Inclusion. – If a corporation is required to include a percentage of a noncorporate limited liability company's assets in its tax bases under this Article pursuant to subsection (b) of this section, its investment in the noncorporate limited liability company is not included in its computation of capital stock base under G.S. 105-122(b).

(e) Affiliated Group. – If the owner of the capital interests in a noncorporate limited liability company is an affiliated group of corporations, the percentage to be included pursuant to subsection (b) of this section by each group member that is doing business in this State is determined by multiplying the capital interests in the noncorporate limited liability company owned by the affiliated group by a fraction. The

numerator of the fraction is the capital interests in the noncorporate limited liability company owned by the group member, and the denominator of the fraction is the capital interests in the noncorporate limited liability company owned by all group members that are doing business in this State.

(f) Exemption. – This section does not apply to assets owned by a noncorporate limited liability company if the total book value of the noncorporate limited liability company's assets never exceeded one hundred fifty thousand dollars (\$150,000) during its taxable year.

(g) Timing. – Ownership of the capital interests in a noncorporate limited liability company is determined as of the last day of its taxable year. The adjustments pursuant to subsections (b) and (d) of this section must be made to the owner's next following return filed under this Article. If a noncorporate limited liability company and a corporation or an affiliated group of corporations have engaged in a pattern of transferring assets between them with the result that each did not own the capital interests on the last day of its taxable year, the ownership of the capital interests in the noncorporate limited liability company must be determined as of the last day of the corporation or group of corporations' taxable year.

(h) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this section is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 24A.2.(c) Article 3 of Chapter 105 is amended by adding a new section to read:

"§ 105-122.1. Credit for additional annual report fees paid by limited liability companies subject to franchise tax.

A limited liability company subject to tax under this Article is allowed a credit against the tax imposed by this Article equal to the difference between the annual report fee for corporations under G.S. 55-1-22 and the annual report fee for limited liability companies under G.S. 57C-1-22(a). The credit allowed by this section may not exceed the amount of tax imposed by this Article for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 24A.2.(d) This section is effective for taxable years beginning on or after January 1, 2007.

EXPANSION OF ROYALTY REPORTING OPTION

SECTION 24A.3.(a) G.S. 105-130.7A reads as rewritten:

"§ 105-130.7A. Royalty income reporting option.

(a) Purpose. – Royalty payments received for the use of ~~trademarks~~ intangible property in this State are income derived from doing business in this State. This section provides taxpayers with an option concerning the method by which these royalties can be reported for taxation when the recipient and the payer are related members. As provided in this section, these royalty payments can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient.

(b) Definitions. – The following definitions apply in this section:

- (1) Component member. – Defined in section 1563(b) of the Code.
- (1a) Intangible property. – Copyrights, patents, and trademarks.
- (2) North Carolina royalty. – An amount charged that is for, related to, or in connection with the use in this State of a ~~trademark~~intangible property. The term includes royalty and technical fees, licensing fees, and other similar charges.
- (3) Own. – To own directly, indirectly, beneficially, or constructively. The attribution rules of section 318 of the Code apply in determining ownership under this section.
- (4) Related entity. – Any of the following:
 - a. A stockholder who is an individual, or a member of the stockholder's family enumerated in section 318 of the Code, if the stockholder and the members of the stockholder's family own in the aggregate at least eighty percent (80%) of the value of the taxpayer's outstanding stock.
 - b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own in the aggregate at least fifty percent (50%) of the value of the taxpayer's outstanding stock.
 - c. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Code, if the taxpayer owns at least eighty percent (80%) of the value of the corporation's outstanding stock.
- (5) Related member. – A person that, with respect to the taxpayer during any part of the taxable year, is one or more of the following:
 - a. A related entity.
 - b. A component member.
 - c. A person to or from whom there would be attribution of stock ownership in accordance with section 1563(e) of the Code if the phrase "5 percent or more" were replaced by "twenty percent (20%) or more" each place it appears in that section.
- (6) Royalty payment. – Either of the following:
 - a. Expenses, losses, and costs paid, accrued, or incurred for North Carolina royalties, to the extent the amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Code.
 - b. Amounts directly or indirectly allowed as deductions under section 163 of the Code, to the extent the amounts are paid, accrued, or incurred for a time price differential charged for the

late payment of any expenses, losses, or costs described in this subdivision.

- (7) Trademark. – A trademark, trade name, service mark, or other similar type of intangible asset.
- (8) Use. – Use of a ~~trademark~~ intangible property includes direct or indirect maintenance, management, ownership, sale, exchange, or disposition of the ~~trademark~~ intangible property.

(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments that meets either of the following conditions:

- (1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).
- (2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.

(d) Indirect Transactions. – For the purpose of this section, an indirect transaction or relationship has the same effect as if it were direct."

SECTION 24A.3.(b) This section is effective for taxable years beginning on or after January 1, 2006.

FINANCE LAW STUDIES

SECTION 24A.4.(a) The Revenue Laws Study Committee shall study the issues listed in this subsection and shall make a report on these studies, including any recommendations or legislative proposals, to the 2007 General Assembly.

- (1) Providing income tax deductions for all contributions to section 529 plans regardless of the amount of the contribution or the particular plan to which a contribution is made.
- (2) The effectiveness of the tax credit for certain real property donations.
- (3) The effectiveness of the tax credits for qualifying expenses of a production company and whether those credits should be modified to more closely conform to the general practice in North Carolina of not requiring an addback of a deduction for the expenses for which a credit is claimed.
- (4) The effectiveness of tax credits in encouraging the production and use of renewable fuels in the State.

SECTION 24A.4.(b) The Legislative Research Commission may study the issue of how to improve access to health insurance. The study shall include a review of the recommendations of the House Select Committee on Health Care and the study by an independent actuarial firm engaged by the Senate to conduct a detailed actuarial analysis of Senate Bill 1965: Healthy NC. The study shall include an evaluation of the effectiveness of tax credits in increasing access to health insurance and issues related to

the proposal contained in Senate Bill 1965. The Legislative Research Commission shall make a report, including any recommendations or legislative proposals, to the 2007 General Assembly on any study conducted pursuant to this subsection.

PART XXVI. SET REGULATORY FEES

SET UTILITIES REGULATORY FEE

SECTION 26.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve-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, 2006.

SECTION 26.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2006-2007 fiscal year is two hundred thousand dollars (\$200,000).

SET INSURANCE REGULATORY FEE

SECTION 26.2. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2006 calendar year.

PART XXVIII. MISCELLANEOUS PROVISIONS

EXECUTIVE BUDGET ACT APPLIES

SECTION 28.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 28.2.(a) The Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated June 30, 2006, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 28.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2006-2007 fiscal year is a line-item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the requested adjustments to the budgets submitted to the General Assembly by the Director of the Budget and the Advisory

Budget Commission in accordance with the steps that follow, and the line-item detail in the budget enacted by the General Assembly may be derived accordingly:

- (1) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated June 30, 2006.
- (2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated June 30, 2006.

SECTION 28.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

MOST TEXT APPLIES ONLY TO 2006-2007

SECTION 28.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2006-2007 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2006-2007 fiscal year.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 28.4.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2005-276 and S.L. 2005-345 remain in effect.

SECTION 28.4.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2006-2007 fiscal year in S.L. 2005-276 and S.L. 2005-345 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

REPEAL CERTAIN PROVISIONS OF THE CONTINUING APPROPRIATIONS ACT.

SECTION 28.4A. Provisions of S.L. 2006-52 that enact matters identical to those enacted in this act are repealed.

EFFECT OF HEADINGS

SECTION 28.5. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

SEVERABILITY CLAUSE

SECTION 28.6. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 28.7. Except as otherwise provided, this act becomes effective July 1, 2006.

In the General Assembly read three times and ratified this the 6th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:36 p.m. this 10th day of July, 2006