

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 719\***

Short Title: 2005 Governor's Budget. (Public)

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Sponsors: Representatives Crawford, Earle, Nye, and Owens (Primary Sponsors).

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Referred to: Appropriations.

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March 17, 2005

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

5  
6 The General Assembly of North Carolina enacts:

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

9  
10 **INTRODUCTION**

11           **SECTION 1.** The appropriations made in this act are for maximum amounts  
12 necessary to provide the services and accomplish the purposes described in the budget.  
13 Savings shall be effected where the total amounts appropriated are not required to  
14 perform these services and accomplish these purposes and, except as allowed by the  
15 Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the  
16 end of each fiscal year.

17  
18 **TITLE OF ACT**

19           **SECTION 1.2.** This act shall be known as "The Current Operations and  
20 Capital Improvements Appropriations Act of 2005."

21  
22 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

23  
24           **SECTION 2.1.** Appropriations from the General Fund of the State for the  
25 maintenance of the State's departments, institutions, and agencies, and for other  
26 purposes as enumerated are made for the biennium ending June 30, 2007, according to  
27 the following schedule:

28  
29 **State Agency or Division**

**FY 2005-2006**

**FY 2006-2007**

	<u>Recommended Appropriation</u>	<u>Recommended Appropriation</u>
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1	Cultural Resources	62,298,020	60,790,750
2	Cultural Resources – Roanoke Island	1,783,374	1,783,374
3	General Assembly	42,984,588	46,085,432
4	Governor's Office	5,574,590	5,844,528
5	Insurance	27,954,217	28,020,521
6	Insurance – Workers' Compensation Fund	2,500,000	4,500,000
7	Lieutenant Governor	703,501	703,501
8	Office of Administrative Hearings	2,986,210	2,977,712
9	Revenue	80,068,410	79,751,761
10	NC Housing Finance	4,750,945	4,750,945
11	Secretary of State	8,568,943	8,549,857
12	State Board of Elections	5,042,543	5,069,307
13	State Budget and Management (OSBM)	5,001,371	5,025,931
14	OSBM – Special Appropriations	8,874,000	5,774,000
15	Office of State Controller	10,024,033	10,044,510
16	State Treasurer	8,273,726	8,295,843
17	State Treasurer – Retirement/Benefits	8,146,179	8,146,179
18	<b>Total General Government</b>	<b>357,275,639</b>	<b>358,930,041</b>
19			
20	<b>Transportation</b>	<b>12,027,377</b>	<b>12,945,066</b>
21			
22	<b><u>Education:</u></b>		
23	Public Schools	6,678,869,493	6,775,854,813
24	Community Colleges	763,669,812	763,692,920
25	University System	1,834,688,356	1,862,188,968
26	UNC – Hospital	39,627,760	39,627,760
27	UNC – GA Passthrough	237,019,549	250,669,281
28	<b>Total Education</b>	<b>9,553,874,970</b>	<b>9,692,033,742</b>
29			
30	<b>Total Budget</b>	<b>14,337,165,849</b>	<b>14,742,690,470</b>
31			
32	<b><u>Debt Service:</u></b>		
33	General Debt Service	485,185,962	615,917,453
34	Federal Reimbursement	1,616,380	1,616,380
35	<b>Total Debt Service</b>	<b>486,802,342</b>	<b>617,533,833</b>
36			
37	<b><u>Reserves &amp; Adjustments:</u></b>		
38	Contingency and Emergency Reserve	5,000,000	5,000,000
39	Compensation Increase Reserve	181,200,000	173,200,000
40	Salary Adjustment Reserve	9,000,000	9,000,000
41	Retirement System COLA	13,810,800	13,810,800
42	Retirement System – Death Benefit/Disability	20,769,300	20,769,300
43	Information Technology Initiatives	2,000,000	2,000,000
44	Health Plan Reserve	80,000,000	100,000,000

1	Job Development Investment Grants	8,000,000	12,400,000
2	Information Technology Efficiencies	(3,000,000)	(3,000,000)
3	Management Flexibility Reduction for Agencies	<u>(64,000,000)</u>	<u>(64,000,000)</u>
4	<b>Total Reserves &amp; Adjustments</b>	<b>257,780,100</b>	<b>269,180,100</b>
5			
6	<b>Capital:</b>		
7	Capital Improvements	<u>18,013,000</u>	-
8	<b>Total Capital</b>	<b>18,013,000</b>	-
9			
10	<b>Total General Fund Budget</b>	<b><u>\$16,894,267,738</u></b>	<b><u>\$17,535,201,297</u></b>

**GENERAL FUND AVAILABILITY STATEMENT**

SECTION 2.2.(a) The General Fund availability used in developing the 2005-2007 budget is shown below:

17		<b>FY 2005-2006</b>	<b>FY 2006-2007</b>
18	<u>Description</u>	<b>Recommended</b>	<b>Recommended</b>
19		<b><u>(In Millions)</u></b>	<b><u>(In Millions)</u></b>
20	<b>Beginning Availability:</b>		
21	Credit Balance FY 2004-2005 (Reversions		
22	& Over-Collections)	222.0	-
23	Credit to Savings Reserve Account	(38.2)	-
24	Credit Community Colleges Equipment	(10.0)	-
25	Credit Information Technology Infrastructure	(20.0)	-
26	Credit Retirement System Payback	(5.0)	-
27	Credit One NC Fund	<u>(5.0)</u>	-
28	<b>Beginning Unreserved Credit Balance</b>	<b><u>143.8</u></b>	-
29			
30	<b>Revenue:</b>		
31	Tax:		
32	Income (Individual & Corporate)	9,473.9	10,005.9
33	Sales and Use	4,809.7	5,040.6
34	Other Tax	<u>1,655.1</u>	<u>1,828.4</u>
35	<b>Total Tax</b>	<b>15,938.6</b>	<b>16,874.9</b>
36	Nontax	562.6	581.1
37	Transfers	249.2	238.7
38	<b>Total Revenue</b>	<b><u>16,750.5</u></b>	<b><u>17,694.8</u></b>
39			
40	<b>Total Availability</b>	<b><u>16,894.3</u></b>	<b><u>17,694.8</u></b>

SECTION 2.2.(b) Notwithstanding G.S. 143-16.4(a2), of the funds credited to the Tobacco Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2005-2006 and 2006-2007 fiscal years, the sum

1 of thirty-seven million dollars (\$37,000,000) annually shall be transferred from the  
2 Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust  
3 Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State  
4 Transfers) to support General Fund appropriations for the 2005-2006 and 2006-2007  
5 fiscal years.

6 **SECTION 2.2.(c)** Notwithstanding the allocations outlined in G.S. 143-15.2  
7 and G.S. 143-15.3, the sum of thirty-eight million one hundred ninety-four thousand  
8 seven hundred sixty-two dollars (\$38,194,762) shall be reserved to the Savings Reserve  
9 Account from the beginning credit balance on June 30, 2005.

10 **SECTION 2.2.(d)** Notwithstanding the allocations outlined in G.S. 143-15.2  
11 and G.S. 143-15.3, the sum of ten million dollars (\$10,000,000) shall be transferred to  
12 the Department of Community Colleges from the credit balance on June 30, 2005, to  
13 address equipment needs systemwide.

14 **SECTION 2.2.(e)** Notwithstanding the allocations outlined in G.S. 143-15.2  
15 and G.S. 143-15.3, the sum of twenty million dollars (\$20,000,000) shall be transferred  
16 to the Information Technology Fund from the credit balance on June 30, 2005, to  
17 implement recommendations outlined in the Business Infrastructure Study as well as to  
18 meet requirements for security, project management, State portal, electronic mail,  
19 legacy system, and other enterprise initiatives.

20 **SECTION 2.2.(f)** Notwithstanding the allocations outlined in G.S. 143-15.2  
21 and G.S. 143-15.3, the sum of five million dollars (\$5,000,000) shall be transferred to  
22 the Department of State Treasurer from the credit balance on June 30, 2005, to continue  
23 repayment of funds withheld from the Retirement System in 2000-2001 due to the  
24 budget crisis.

25 **SECTION 2.2.(g)** Notwithstanding the allocations outlined in G.S. 143-15.2  
26 and G.S. 143-15.3, the sum of five million dollars (\$5,000,000) shall be transferred to  
27 the Department of Commerce from the credit balance on June 30, 2005, to support the  
28 purposes of the One North Carolina Fund.

29 **SECTION 2.2.(h)** When the Highway Trust Fund was created in 1989, the  
30 revenue from the sales tax on motor vehicles was transferred from the General Fund to  
31 the Highway Trust Fund. To offset this loss of revenue, the Highway Trust Fund was  
32 required to transfer one hundred seventy million dollars (\$170,000,000) to the General  
33 Fund each year, an amount equal to the revenue in 1989 from the sales tax on motor  
34 vehicles. This transfer did not, however, make the General Fund whole after the  
35 transfer of sales tax revenue because no provision has been made to adjust the amount  
36 for increased volume of transactions and vehicle prices. A recurring inflationary  
37 amount of eighty million dollars (\$80,000,000) shall be added to the amount to be  
38 transferred to the General Fund by this act in an effort to recover a portion of the sales  
39 tax revenues that have gone to the General Fund over the last 16 years.

40 The sum to be transferred to the General Fund for fiscal year 2005-2006 is  
41 two hundred thirty-three million fifty-eight thousand one hundred seventeen dollars  
42 (\$233,058,117) and for fiscal year 2006-2007 is two hundred twenty-two million five  
43 hundred sixty-three thousand nine dollars (\$222,563,009). These sums are in  
44 accordance with S.L. 2002-126.

1  
2 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**  
3

4 **SECTION 3.1.** Appropriations from the Highway Fund of the State for the  
5 maintenance and operation of the Department of Transportation, and for other purposes  
6 as enumerated, are made for the biennium ending June 30, 2007, according to the  
7 following schedule:  
8

<u>Current Operations – Highway Fund</u>	<u>2005-2006</u> <u>Recommended</u>	<u>2006-2007</u> <u>Recommended</u>
12 DOT – General Administration	\$ 82,604,119	\$ 83,455,914
13 Highway Division Administration	30,621,612	30,632,164
14 State Match for Federal Aid-Planning 15 and Research	4,280,000	4,280,000
17 Construction Program:		
18 State Secondary System	93,370,000	95,980,000
19 State Urban System	14,000,000	14,000,000
20 Discretionary Funds	15,000,000	15,000,000
21 Spot Safety Improvements	9,100,000	9,100,000
22 Access and Public Services Roads	<u>2,000,000</u>	<u>2,000,000</u>
23 <b>Total Construction Program</b>	<b>133,470,000</b>	<b>136,080,000</b>
25 Maintenance Program		
26 Primary System	124,750,498	124,750,498
27 Secondary System	214,243,652	214,243,652
28 Urban System	40,079,682	40,079,682
29 Contract Resurfacing	157,208,316	157,208,316
30 General Maintenance Reserve	<u>153,398,161</u>	<u>129,440,063</u>
31 <b>Total Maintenance Program</b>	<b>689,680,309</b>	<b>665,722,211</b>
33 Ferry Operations	20,264,811	20,264,811
34 State Aid to Municipalities	93,370,000	95,980,000
35 State Aid to Railroads	17,781,153	20,299,903
36 State Aid for Public Transportation	89,866,447	89,866,447
37 Asphalt Plant Cleanup	425,000	425,000
38 Governor's Highway Safety Program	293,118	293,118
39 Division of Motor Vehicles	<u>96,047,914</u>	<u>95,468,137</u>
41 <b>Total Department of Transportation</b>	<b>\$ 1,258,704,483</b>	<b>\$ 1,242,767,705</b>
43 Appropriations to Other State Agencies:		
44 Agriculture	4,115,930	4,234,921

1	Revenue	4,873,784	4,877,766
2	State Treasurer – Sales Tax	16,166,400	16,166,400
3	Public Instruction – Driver Education	32,604,129	32,800,569
4	CCPS – Highway Patrol	184,495,510	188,275,171
5	DENR – LUST Trust Fund	6,010,286	6,337,313
6	DHHS – Chemical Test	546,826	547,503
7	Global TransPark	<u>1,600,000</u>	<u>1,600,000</u>
8	<b>Total – Other State Agencies</b>	<b>250,412,865</b>	<b>254,839,643</b>
9			
10	Reserves and Transfers:		
11	Salary Adjustment	650,000	650,000
12	Minority Contractor Development	150,000	150,000
13	State Fire Protection Grant	150,000	150,000
14	Stormwater Discharge Permit	500,000	500,000
15	Reserve for Visitors' Centers	375,000	375,000
16	State Infrastructure Bank	-	750,000
17	Reserve for Legislative Increase	7,600,000	7,600,000
18	Reserve for Retirement Adjustment	1,709,900	1,709,900
19	Reserve for Health Insurance Adjustment	4,000,000	5,500,000
20	Reserve for File Server Consolidation	1,000,000	1,000,000
21	State Employee Reserve	842,658	842,658
22	Employer's Contribution-Retiree	354,094	354,094
23	Employer's Contribution-Death Benefit	<u>(589,000)</u>	<u>(589,000)</u>
24	<b>Total Reserves and Transfers</b>	<b>16,742,652</b>	<b>18,992,652</b>
25			
26	<b>Total Current Operations</b>	<b>1,525,860,000</b>	<b>1,516,600,000</b>
27			
28	Capital Improvements	-	-
29			
30	<b>Total Highway Fund Appropriation</b>	<b><u>\$1,525,860,000</u></b>	<b><u>\$1,516,600,000</u></b>

**PART IV. HIGHWAY TRUST FUND**

**SECTION 4.1.** Appropriations from the Highway Trust Fund are made for the fiscal biennium ending June 30, 2007, according to the following schedule:

<u>Highway Trust Fund</u>	<u>2005-2006</u>	<u>2006-2007</u>
	<u>Recommended</u>	<u>Recommended</u>
Department of Transportation:		
Maximum Allowance for Administration	\$40,648,220	\$41,565,540
Construction Allocation:		
Intrastate System	474,037,474	494,349,510

1	Urban Loop System	191,681,013	199,894,353
2	Secondary Roads	87,027,588	90,088,794
3	Transfer to Highway Fund	-	-
4			
5	State Aid to Municipalities	49,737,588	51,868,794
6			
7	Transfer to the General Fund (1)	233,058,117	222,563,009
8			
9	<b>Total Highway Trust Fund</b>	<b><u>\$ 1,076,190,000</u></b>	<b><u>\$ 1,100,330,000</u></b>

(1) Transfer required by G.S. 105-187.9.

**TRANSPORTATION SERVICES FOR TRADE SHOWS**

**SECTION 4.1.** The Department of Transportation, from funds available for public transportation in this act, may use up to one million two hundred thousand dollars (\$1,200,000) in each year of the biennium for transportation services for annual or semiannual trade shows of international significance. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee, annually on or before March 1, on the use of these funds.

**PART V. NER BLOCK GRANT FUNDS**

**SECTION 5.2.(a)** Appropriations from federal block grant funds are made for fiscal year ending June 30, 2006, according to the following schedule:

**COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	13,200,000
04. Economic Development	8,710,000
05. Community Revitalization	13,500,000
06. State Technical Assistance	450,000
07. Housing Development	2,000,000
08. Infrastructure	5,140,000

**TOTAL COMMUNITY DEVELOPMENT  
BLOCK GRANT – 2006 Program Year** \$45,000,000

**SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.



1           **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community  
2 Development Block Grant. – Any block grant funds appropriated by the Congress of the  
3 United States in addition to the funds specified in this section shall be expended as  
4 follows: Each program category under the Community Development Block Grant shall  
5 be increased by the same percentage as the increase in federal funds.

6           **SECTION 5.2.(d)** Limitations on Community Development Block Grant  
7 Funds. – Of the funds appropriated in this section for the Community Development  
8 Block Grant, the following shall be allocated in each category for each program year: up  
9 to one million dollars (\$1,000,000) may be used for State Administration; not less than  
10 one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to  
11 thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered  
12 Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may  
13 be used for Economic Development, including Urban Redevelopment Grants; not less  
14 than thirteen million five hundred thousand dollars (\$13,500,000) shall be used for  
15 Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be  
16 used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used  
17 for Housing Development; up to five million one hundred forty thousand dollars  
18 (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or  
19 increased by the Congress of the United States after the effective date of this act, then  
20 these reductions or increases shall be allocated in accordance with subsection (b) or (c)  
21 of this section, as applicable.

22           **SECTION 5.2.(e)** Increase Capacity for Nonprofit Organizations. –  
23 Assistance to nonprofit organizations to increase their capacity to carry out  
24 CDBG-eligible activities in partnership with units of local government is an eligible  
25 activity under any program category in accordance with federal regulations. Capacity  
26 building grants may be made from funds available within program categories, program  
27 income, or unobligated funds.

28           **SECTION 5.2.(f)** Up to four million dollars (\$4,000,000) of funds for  
29 Economic Development may be used for Urban Redevelopment projects or Small  
30 Business/Entrepreneurial Assistance projects.

## 31 32 **PART VI. GENERAL PROVISIONS**

### 33 34 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS,** 35 **AND AUTHORIZATION FOR EXPENDITURES**

36           **SECTION 6.1.** There is appropriated out of the cash balances, federal  
37 receipts, and departmental receipts available to each department, sufficient amounts to  
38 carry on authorized activities included under each department's operations. All these  
39 cash balances, federal receipts, and departmental receipts shall be expended and  
40 reported in accordance with provisions of the Executive Budget Act, except as  
41 otherwise provided by statute, and shall be expended at the level of service authorized  
42 by the General Assembly. If the receipts, other than gifts and grants that are  
43 unanticipated and are for a specific purpose only, collected in a fiscal year by an  
44 institution, department, or agency exceed the receipts certified for it in General Fund

1 Codes or Highway Fund Codes, then the Director of the Budget shall decrease the  
2 amount allotted to that institution, department, or agency from appropriations from that  
3 Fund by the amount of the excess, unless the Director of the Budget finds that the  
4 appropriations from the Fund are necessary to maintain the function that generated the  
5 receipts at the level anticipated in the certified Budget Codes for that Fund.

6 Funds that become available from overrealized receipts in General Fund  
7 Codes and Highway Fund Codes may be used for new permanent employee positions or  
8 to raise the salary of existing employees only as follows:

9 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, or 116-30.4; or

10 (2) If the Director of the Budget finds that the new permanent employee  
11 positions are necessary to maintain the function that generated the  
12 receipts at the level anticipated in the certified budget codes for that  
13 Fund. The Director of the Budget shall notify the President Pro  
14 Tempore of the Senate, the Speaker of the House of Representatives,  
15 the chairs of the appropriations committees of the Senate and the  
16 House of Representatives, and the Fiscal Research Division of the  
17 Legislative Services Office that the Director intends to make such a  
18 finding at least 10 days before making the finding. The notification  
19 shall set out the reason the positions are necessary to maintain the  
20 function.

21 The Office of State Budget and Management shall report to the Joint  
22 Legislative Commission on Governmental Operations and to the Fiscal Research  
23 Division of the Legislative Services Office within 30 days after the end of each quarter  
24 the General Fund Codes or Highway Fund Codes that did not result in a corresponding  
25 reduced allotment from appropriations from that Fund.

## 26 **INSURANCE AND FIDELITY BONDS**

27 **SECTION 6.2.** All insurance and all official fidelity and surety bonds  
28 authorized for the several departments, institutions, and agencies shall be effected and  
29 placed by the Department of Insurance, and the cost of placement shall be paid by the  
30 affected department, institution, or agency with the approval of the Commissioner of  
31 Insurance.  
32

## 33 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

34 **SECTION 6.3.** Funds in the amount of five million dollars (\$5,000,000) for  
35 the 2005-2006 fiscal year and five million dollars (\$5,000,000) for the 2006-2007 fiscal  
36 year are appropriated in this act to the Contingency and Emergency Fund. Of these  
37 funds:  
38

39 (1) Up to two million dollars (\$2,000,000) for the 2005-2006 fiscal year  
40 may be used for purposes related to the Base Realignment and Closure  
41 Act (BRAC); and

42 (2) Up to five hundred thousand dollars (\$500,000) for the 2005-2006  
43 fiscal year and up to five hundred thousand dollars (\$500,000) for the

1                   2006-2007 fiscal year may be expended for purposes other than those  
2                   set out in G.S.143-23(a1)(2) or in subdivision (1) of this section.  
3 The remainder of these funds shall be expended for purposes outlined in  
4 G.S. 143-23(a1)(2).

#### 5 6 **AUTHORIZED TRANSFERS**

7                   **SECTION 6.4.** The Director of the Budget may transfer to General Fund  
8 budget codes from the General Fund Salary Adjustment Reserves appropriation and  
9 may transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment  
10 Reserve appropriation amounts required to support approved salary adjustments made  
11 necessary by difficulties in recruiting and holding qualified employees in State  
12 government. The funds may be transferred only when salary reserve funds in individual  
13 operating budgets are not available.

#### 14 15 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

16                   **SECTION 6.5.** All funds appropriated by this act into reserves may be  
17 expended only for the purposes for which the reserves were established.

#### 18 19 **STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY**

20                   **SECTION 6.6.** Each private, nonprofit entity eligible to receive State funds,  
21 either by General Assembly appropriation, or by grant, loan, or other allocation from a  
22 State agency, before funds may be disbursed to the entity, shall file with the disbursing  
23 agency a notarized copy of that entity's policy addressing conflicts of interest that may  
24 arise involving the entity's management employees and the members of its board of  
25 directors or other governing body. The policy shall address situations in which any of  
26 these individuals may directly or indirectly benefit, except as the entity's employees or  
27 members of the board or other governing body, from the entity's disbursing of State  
28 funds, and shall include actions to be taken by the entity or the individual, or both, to  
29 avoid conflicts of interest and the appearance of impropriety.

#### 30 31 **BUDGET FLEXIBILITY FOR STATE AGENCIES**

32                   **SECTION 6.7.** For fiscal years 2005-2006 and 2006-2007, State  
33 departments and agencies may transfer General Fund appropriations between personal  
34 service and nonpersonal service line items provided that it has received approval by the  
35 Department or Agency Head and has received approval from the Office of State Budget  
36 and Management. Personal service funds may be transferred and used for nonpersonal  
37 service items to pay for costs related to continuing operations. Personal service funds  
38 shall not be used to expand existing programs or to establish new programs.

39                   State departments and agencies shall report to the Joint Legislative  
40 Commission on Governmental Operations within 30 days of all transfers from personal  
41 service line items to nonpersonal service line items.

42                   General Fund salary and related employee benefit appropriations for State  
43 departments and agencies that are reduced or eliminated by action of the General

1 Assembly shall not be replaced by other budgeted line items supported by General Fund  
2 appropriations.

3  
4 **RECEIPT-SUPPORTED POSITIONS CONSULTATION REQUIREMENT**

5 **SECTION 6.8.** G.S. 143-34.1(a1) is repealed.

6  
7 **GENERAL FUND APPROPRIATIONS CAP**

8 **SECTION 6.9.** Article 1 of Chapter 143 of the General Statutes is amended  
9 by adding the following new sections to read:

10 **"§ 143-2.1. Definitions and determination of the General Fund appropriations cap.**

11 (a) Definitions. – The following definitions apply in this section and in  
12 G.S. 143-2.2:

13 (1) Fiscal growth factor. – The average of total State personal income  
14 change for each of the preceding 10 State fiscal years. If income  
15 change for any of the preceding 10 fiscal years is negative, then that  
16 change shall be counted as zero.

17 (2) Total State personal income change. – The annual percentage change  
18 in State personal income for each State fiscal year as reported by the  
19 Office of State Budget and Management.

20 (3) General Fund appropriations limit. – The General Fund appropriations  
21 limit for each fiscal year shall be the previous fiscal year's General  
22 Fund appropriations for operating and capital, including any funds  
23 appropriated for disaster relief and recovery, increased by a percentage  
24 rate that equals the fiscal growth factor.

25 (b) Fiscal Reports. – On or before March 15 of each year, the Fiscal Research  
26 Division and the Office of State Budget and Management shall issue a determination of  
27 the General Fund appropriations limit for the fiscal year beginning July 1 of that year  
28 and a projection of the General Fund appropriations limit for the next fiscal year.

29 **"§ 143-2.2. Increase in General Fund appropriations limited.**

30 (a) Governor Bound by General Fund Appropriations Limit. – In preparing a  
31 budget for a fiscal year, the Governor shall not propose appropriations from the General  
32 Fund for the ensuing fiscal period in excess of the projected General Fund  
33 appropriations limit established under G.S. 143-2.1. For purposes of this section,  
34 transfers, appropriations, or other deposits to the Savings Reserve Account established  
35 in G.S. 143-15.3 and the Repairs and Renovations Reserve Account established in  
36 G.S. 143-15.3A shall not count toward the calculation of the limit.

37 (b) General Assembly Bound by General Fund Appropriations Limit. – In  
38 enacting a budget for the fiscal year, the General Assembly shall not make  
39 appropriations from the General Fund in excess of the projected General Fund  
40 appropriations limit established in G.S. 143-2.1. For purposes of this section, transfers,  
41 appropriations, or other deposits to the Savings Reserve Account established in  
42 G.S. 143-15.3 and the Repairs and Renovations Reserve Account established in  
43 G.S. 143-15.3A shall not count toward the calculation of the limit."

1 **REQUIRE VOTER APPROVAL FOR DEBT EXCEEDING TWENTY-FIVE**  
2 **MILLION DOLLARS**

3 **SECTION 6.10.** G.S. 142-83 reads as rewritten:

4 **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

5 The State may incur or issue special indebtedness subject to the terms and conditions  
6 provided in this Article for the purpose of financing the cost of capital facilities that  
7 meet one of the following conditions:

8 (1) The General Assembly has enacted legislation describing the capital  
9 facility and authorizing its financing by the incurrence or issuance of  
10 special indebtedness up to a specific maximum ~~amount~~ amount, or  
11 legislation authorizing the incurrence or issuance of special  
12 indebtedness up to a specific maximum amount for a specific category  
13 of capital facilities and the capital facility meets all of the conditions  
14 set in that legislation.

15 (2) The General Assembly has enacted legislation authorizing the  
16 incurrence or issuance of special indebtedness up to a specific  
17 maximum amount for a specific category of capital facilities and the  
18 capital facility meets all of the conditions set in that legislation.

19 (3) The authorization of special indebtedness, except for matters of public  
20 safety, public health, or to enforce a court order, shall not exceed  
21 twenty-five million dollars (\$25,000,000). The authorization cap of  
22 twenty-five million dollars (\$25,000,000) shall include all  
23 authorizations made by the General Assembly during one fiscal year."

24  
25 **ESTABLISH TOTAL DEBT CAP**

26 **SECTION 6.11.** Article 1 of Chapter 142 of the General Statutes is amended  
27 by adding a new section to read:

28 **"§ 142-15.4. Total Debt Cap.**

29 The State's net tax-supported debt shall not exceed three percent (3%) of total  
30 personal income in any year."

31  
32 **PART VII. PUBLIC EDUCATION**

33  
34 **TEACHER SALARY SCHEDULES**

35 **SECTION 7.1.(a)** Effective for the 2005-2006 school year, the Director of  
36 the Budget shall transfer from the Reserve for Experience Step Salary Increase for  
37 Teachers and Principals in Public Schools for the 2005-2006 fiscal year funds necessary  
38 to implement the teacher salary schedule set out in subsection (b) of this section,  
39 including funds for the employer's retirement and social security contributions and  
40 funds for annual longevity payments at one and one-half percent (1.5%) of base salary  
41 for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of  
42 base salary for 15 to 19 years of State service, three and twenty-five hundredths percent  
43 (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent  
44 (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2005,

1 for all teachers whose salaries are supported from the State's General Fund. These  
 2 funds shall be allocated to individuals according to rules adopted by the State Board of  
 3 Education. The longevity payment shall be paid in a lump sum once a year.

4 **SECTION 7.1.(b)** For the 2005-2006 school year, the following monthly  
 5 salary schedules shall apply to certified personnel of the public schools who are  
 6 classified as teachers. The schedule contains 30 steps with each step corresponding to  
 7 one year of teaching experience.

8  
 9 2005-2006 Monthly Salary Schedule  
 10 "A" Teachers

11	12 <u>Years of Experience</u>	13 <u>"A" Teachers</u>	14 <u>NBPTS Certification</u>
15	0	\$2,545	N/A
16	1	\$2,587	N/A
17	2	\$2,631	N/A
18	3	\$2,786	\$3,120
19	4	\$2,926	\$3,278
20	5	\$3,059	\$3,427
21	6	\$3,189	\$3,571
22	7	\$3,292	\$3,687
23	8	\$3,340	\$3,740
24	9	\$3,389	\$3,795
25	10	\$3,439	\$3,851
26	11	\$3,488	\$3,906
27	12	\$3,539	\$3,963
28	13	\$3,589	\$4,019
29	14	\$3,642	\$4,079
30	15	\$3,696	\$4,140
31	16	\$3,751	\$4,202
32	17	\$3,806	\$4,263
33	18	\$3,864	\$4,328
34	19	\$3,922	\$4,393
35	20	\$3,980	\$4,458
36	21	\$4,042	\$4,528
37	22	\$4,104	\$4,596
38	23	\$4,169	\$4,669
39	24	\$4,233	\$4,740
40	25	\$4,298	\$4,813
41	26	\$4,364	\$4,887
42	27	\$4,432	\$4,963
43	28	\$4,502	\$5,043
44	29	\$4,573	\$5,122
	30+	\$4,573	\$5,122

2005-2006 Monthly Salary Schedule  
"M" Teachers

<u>Years of Experience</u>	<u>"M" Teachers</u>	<u>NBPTS Certification</u>
0	\$2,800	N/A
1	\$2,846	N/A
2	\$2,894	N/A
3	\$3,063	\$3,431
4	\$3,219	\$3,605
5	\$3,366	\$3,769
6	\$3,507	\$3,927
7	\$3,621	\$4,055
8	\$3,673	\$4,114
9	\$3,727	\$4,175
10	\$3,782	\$4,236
11	\$3,837	\$4,298
12	\$3,892	\$4,360
13	\$3,947	\$4,421
14	\$4,006	\$4,487
15	\$4,065	\$4,553
16	\$4,126	\$4,621
17	\$4,188	\$4,690
18	\$4,250	\$4,759
19	\$4,315	\$4,832
20	\$4,379	\$4,904
21	\$4,447	\$4,980
22	\$4,514	\$5,056
23	\$4,585	\$5,136
24	\$4,656	\$5,215
25	\$4,726	\$5,288
26	\$4,795	\$5,376
27	\$4,875	\$5,460
28	\$4,952	\$5,547
29	\$5,031	\$5,634
30+	\$5,031	\$5,634

**SECTION 7.1.(c)** Certified public school teachers 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 school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two

1 hundred fifty-three dollars (\$253.00) per month in addition to the compensation  
2 provided for certified personnel of the public schools who are classified as "M"  
3 teachers.

4 **SECTION 7.1.(d)** Effective for the 2005-2006 school year, the first step of  
5 the salary schedule for school psychologists shall be equivalent to Step 5, corresponding  
6 to five years of experience, on the salary schedule established in this section for  
7 certified personnel of the public schools who are classified as "M" teachers. Certified  
8 psychologists shall be placed on the salary schedule at an appropriate step based on their  
9 years of experience. Certified psychologists shall receive longevity payments based on  
10 years of State service in the same manner as teachers.

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

18 **SECTION 7.1.(e)** Effective for the 2005-2006 school year, speech  
19 pathologists who are certified as speech pathologists at the masters degree level and  
20 audiologists who are certified as audiologists at the masters degree level and who are  
21 employed in the public schools as speech and language specialists and audiologists shall  
22 be paid on the school psychologist salary schedule.

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

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

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

## 34 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

35 **SECTION 7.2.(a)** Effective for the 2005-2006 school year, the Director of  
36 the Budget shall transfer from the Reserve for Compensation Increases for the  
37 2005-2006 fiscal year funds necessary to implement the salary schedule for  
38 school-based administrators as provided in this section. These funds shall be used for  
39 State-paid employees only.

40 **SECTION 7.2.(b)** The base salary schedule for school-based administrators  
41 shall apply only to principals and assistant principals. The base salary schedule for the  
42 2005-2006 fiscal year, commencing July 1, 2005, is as follows:  
43  
44



2005-2006						
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	\$3,256	-	-	-	-	-
5	\$3,404	-	-	-	-	-
6	\$3,547	-	-	-	-	-
7	\$3,662	-	-	-	-	-
8	\$3,715	\$3,715	-	-	-	-
9	\$3,769	\$3,769	-	-	-	-
10	\$3,825	\$3,825	\$3,880	-	-	-
11	\$3,880	\$3,880	\$3,936	-	-	-
12	\$3,936	\$3,936	\$3,993	\$4,052	-	-
13	\$3,993	\$3,993	\$4,052	\$4,111	\$4,173	-
14	\$4,052	\$4,052	\$4,111	\$4,173	\$4,235	-
15	\$4,111	\$4,111	\$4,173	\$4,235	\$4,298	-
16	\$4,173	\$4,173	\$4,235	\$4,298	\$4,363	-
17	\$4,235	\$4,235	\$4,298	\$4,363	\$4,428	-
18	\$4,298	\$4,298	\$4,363	\$4,428	\$4,497	-
19	\$4,363	\$4,363	\$4,428	\$4,497	\$4,565	-
20	\$4,428	\$4,428	\$4,497	\$4,565	\$4,638	-
21	\$4,497	\$4,497	\$4,565	\$4,638	\$4,708	-
22	\$4,565	\$4,565	\$4,638	\$4,708	\$4,780	-
23	\$4,638	\$4,638	\$4,708	\$4,780	\$4,855	-
24	\$4,708	\$4,708	\$4,780	\$4,855	\$4,931	-
25	\$4,780	\$4,780	\$4,855	\$4,931	\$5,008	-
26	\$4,855	\$4,855	\$4,931	\$5,008	\$5,088	-
27	\$4,931	\$4,931	\$5,008	\$5,088	\$5,189	-
28	\$5,008	\$5,008	\$5,088	\$5,189	\$5,294	-
29	\$5,088	\$5,088	\$5,189	\$5,294	\$5,400	-
30	\$5,189	\$5,189	\$5,294	\$5,400	\$5,508	-
31	\$5,294	\$5,294	\$5,400	\$5,508	\$5,617	-
32	-	\$5,400	\$5,508	\$5,617	\$5,730	-
33	-	-	\$5,617	\$5,730	\$5,845	-
34	-	-	\$5,730	\$5,845	\$5,962	-
35	-	-	-	\$5,962	\$6,081	-
36	-	-	-	\$6,081	\$6,203	-
37	-	-	-	-	\$6,327	-

2005-2006  
Principal and Assistant Principal Salary Schedules

		Classification			
Yrs. of		PrinV	PrinVI	PrinVII	PrinVIII
Exp		(44-54)	(55-65)	(66-100)	(101+)
14		\$4,298	-	-	-
15		\$4,363	-	-	-
16		\$4,428	\$4,497	-	-
17		\$4,497	\$4,565	\$4,708	-
18		\$4,565	\$4,638	\$4,780	\$4,855
19		\$4,638	\$4,708	\$4,855	\$4,931
20		\$4,708	\$4,780	\$4,931	\$5,008
21		\$4,780	\$4,855	\$5,008	\$5,088
22		\$4,855	\$4,931	\$5,088	\$5,189
23		\$4,931	\$5,008	\$5,189	\$5,294
24		\$5,008	\$5,088	\$5,294	\$5,400
25		\$5,088	\$5,189	\$5,400	\$5,508
26		\$5,189	\$5,294	\$5,508	\$5,617
27		\$5,294	\$5,400	\$5,617	\$5,730
28		\$5,400	\$5,508	\$5,730	\$5,845
29		\$5,508	\$5,617	\$5,845	\$5,962
30		\$5,617	\$5,730	\$5,962	\$6,081
31		\$5,730	\$5,845	\$6,081	\$6,203
32		\$5,845	\$5,962	\$6,203	\$6,327
33		\$5,962	\$6,081	\$6,327	\$6,453
34		\$6,081	\$6,203	\$6,453	\$6,583
35		\$6,203	\$6,327	\$6,583	\$6,714
36		\$6,327	\$6,453	\$6,714	\$6,847
37		\$6,453	\$6,583	\$6,847	\$6,985
38		\$6,583	\$6,714	\$6,985	\$7,124
39		-	\$6,847	\$7,124	\$7,266
40		-	\$6,985	\$7,266	\$7,412
41		-	-	\$7,412	\$7,560

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

<u>Classification</u>	<u>Number of Teachers Supervised</u>
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers

1	Principal III	22-32 Teachers
2	Principal IV	33-43 Teachers
3	Principal V	44-54 Teachers
4	Principal VI	55-65 Teachers
5	Principal VII	66-100 Teachers
6	Principal VIII	More than 100 Teachers

7  
8 The number of teachers supervised includes teachers and assistant principals  
9 paid from State funds only; it does not include teachers or assistant principals paid from  
10 non-State funds or the principal or teacher assistants.

11 The beginning classification for principals in alternative schools shall be the  
12 Principal III level. Principals in alternative schools who supervise 33 or more teachers  
13 shall be classified according to the number of teachers supervised.

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

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

26 **SECTION 7.2.(f)** There shall be no State requirement that superintendents  
27 in each local school unit shall receive in State-paid salary at least one percent (1%)  
28 more than the highest paid principal receives in State salary in that school unit;  
29 provided, however, the additional State-paid salary a superintendent who was employed  
30 by a local school administrative unit for the 1992-1993 fiscal year received because of  
31 that requirement shall not be reduced because of this subsection for subsequent fiscal  
32 years that the superintendent is employed by that local school administrative unit so  
33 long as the superintendent is entitled to at least that amount of additional State-paid  
34 salary under the rules in effect for the 1992-1993 fiscal year.

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

37 **SECTION 7.2.(h)**

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

43 (2) If a principal is reassigned to a lower job classification because the  
44 principal is transferred to a school within a local school administrative

1 unit with a smaller number of State-allotted teachers, the principal  
2 shall be placed on the salary schedule as if the principal had served the  
3 principal's entire career as a principal at the lower job classification.

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

9 **SECTION 7.2.(i)** Participants in an approved full-time masters in school  
10 administration program shall receive up to a 10-month stipend at the beginning salary of  
11 an assistant principal during the internship period of the masters program. The stipend  
12 shall not exceed the difference between the beginning salary of an assistant principal  
13 and any fellowship funds received by the intern as a full-time student, including awards  
14 of the Principal Fellows Program. The Principal Fellows Program or the school of  
15 education where the intern participates in a full-time masters in school administration  
16 program shall supply the Department of Public Instruction with certification of eligible  
17 full-time interns.

18 **SECTION 7.2.(j)** During the 2005-2006 fiscal year, the placement on the  
19 salary schedule of an administrator with a one-year provisional assistant principal's  
20 certificate shall be at the entry-level salary for an assistant principal or the appropriate  
21 step on the teacher salary schedule, whichever is higher.

## 22 23 **EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINCIPALS IN** 24 **PUBLIC SCHOOLS**

25 **SECTION 7.3.(a)** Funds in the Reserve for Experience Step Increase for  
26 Teachers and Principals in Public Schools shall be used for experience step increases for  
27 employees of schools operated by a local board of education, the Department of Health  
28 and Human Services, the Department of Correction, or the Department of Juvenile  
29 Justice and Delinquency Prevention, who are paid on the teacher salary schedule or the  
30 principal and assistant principal salary schedule.

31 **SECTION 7.3.(b)** Effective July 1, 2005, any permanent certified personnel  
32 employed on July 1, 2005, and paid on the teacher salary schedule with 29+ years of  
33 experience shall receive a one-time bonus equivalent to the average increase of the 26 to  
34 29 year steps, one and fifty-eighths percent (1.58%). Effective July 1, 2005, any  
35 permanent personnel employed on July 1, 2005, and paid at the top of the principal and  
36 assistant principal salary schedule shall receive a one-time bonus equivalent to two  
37 percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted  
38 pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the  
39 bonus.

## 40 41 **RETIRED TEACHERS RETURNING TO THE CLASSROOM WITHOUT** 42 **LOSS OF RETIREMENT BENEFITS/OPTION EXTENDED**

43 **SECTION 7.4.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as  
44 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

1       "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~  
2 2007."

3               **SECTION 7.4.(b)** The introductory language of Section 67 of S.L.  
4 1998-217, as amended by Section 31.18A of S.L. 2004-124 reads as rewritten:

5       "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005,~~ 2007,  
6 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

7               **SECTION 7.4.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as  
8 amended by Section 31.18A of S.L. 2004-124 reads as rewritten:

9       "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~  
10 2007."

11               **SECTION 7.4.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as  
12 amended by Section 31.18A of S.L. 2004-124 reads as rewritten:

13       "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June  
14 30, ~~2005.~~ 2007."

15               **SECTION 7.4.(e)** Subsection (g) of Section 31.18A of S.L. 2004-124 reads  
16 as rewritten:

17       "**SECTION 31.18A.(g)** Notwithstanding any other provision of law, effective July  
18 1, 2004, each local school administrative unit shall pay to the Teachers' and State  
19 Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and  
20 seventy hundredths percent (11.70%) as a percentage of covered salaries that the retired  
21 teachers, who are exempt from the earnings cap, are being paid. These payments shall  
22 not be deducted from the reemployed teacher's pay. Each local school administrative  
23 unit shall report monthly to the Retirement Systems Division on payments made  
24 pursuant to this subsection.

25       Notwithstanding any other provision of law, effective July 1, 2004, any portion of  
26 the payment made by a local school administrative unit to a reemployed teacher who is  
27 exempt from the earnings cap, consisting of salary plus the Reemployed Teacher  
28 Contribution rate, that exceeds the State-supported salary level for that position shall be  
29 paid from local funds."

### 31 **CENTRAL OFFICE SALARIES**

32               **SECTION 7.5.(a)** The monthly salary ranges that follow apply to assistant  
33 superintendents, associate superintendents, directors/coordinators, supervisors, and  
34 finance officers for the 2005-2006 fiscal year, beginning July 1, 2005.

35	School Administrator I	\$2,932	\$5,506
36	School Administrator II	\$3,112	\$5,841
37	School Administrator III	\$3,303	\$6,194
38	School Administrator IV	\$3,436	\$6,442
39	School Administrator V	\$3,574	\$6,701
40	School Administrator VI	\$3,792	\$7,108
41	School Administrator VII	\$3,945	\$7,394

42       The local board of education shall determine the appropriate category and  
43 placement for each assistant superintendent, associate superintendent,  
44 director/coordinator, supervisor, or finance officer within the salary ranges and within

1 funds appropriated by the General Assembly for central office administrators and  
 2 superintendents. The category in which an employee is placed shall be included in the  
 3 contract of any employee hired on or after July 1, 2005.

4 **SECTION 7.5.(b)** The monthly salary ranges that follow apply to public  
 5 school superintendents for the 2005-2006 fiscal year, beginning July 1, 2005.

6	Superintendent I	\$4,187	\$7,845
7	Superintendent II	\$4,445	\$8,155
8	Superintendent III	\$4,716	\$8,825
9	Superintendent IV	\$5,005	\$9,361
10	Superintendent V	\$5,312	\$9,931

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

15 Notwithstanding the provisions of this subsection, a local board of education  
 16 may pay an amount in excess of the applicable range to a superintendent who is entitled  
 17 to receive the higher amount under Section 7.2(f) of this act.

18 **SECTION 7.5.(c)** Longevity pay for superintendents, assistant  
 19 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 20 finance officers shall be as provided for State employees under the State Personnel Act.

21 **SECTION 7.5.(d)** Superintendents, assistant superintendents, associate  
 22 superintendents, directors/coordinators, supervisors, and finance officers with  
 23 certification based on academic preparation at the six-year degree level shall receive a  
 24 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to  
 25 the compensation provided pursuant to this section. Superintendents, assistant  
 26 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 27 finance officers with certification based on academic preparation at the doctoral degree  
 28 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per  
 29 month in addition to the compensation provided for under this section.

30 **SECTION 7.5.(e)** The State Board of Education shall not permit local  
 31 school administrative units to transfer State funds from other funding categories for  
 32 salaries for public school central office administrators.

33 **SECTION 7.5.(f)** The annual salary increase for all permanent full-time  
 34 personnel paid from the Central Office Allotment shall be two percent (2%),  
 35 commencing July 1, 2005. The State Board of Education shall allocate these funds to  
 36 local school administrative units. The local boards of education shall establish  
 37 guidelines for providing salary increases to these personnel.

### 38 **NONCERTIFIED PERSONNEL SALARY**

39 **SECTION 7.6.(a)** The annual salary increase for permanent, full-time  
 40 noncertified public school employees whose salaries are supported from the State's  
 41 General Fund shall be two percent (2%), commencing July 1, 2005.

42 **SECTION 7.6.(b)** Local boards of education shall increase the rates of pay  
 43 for such employees who were employed for all or part of fiscal year 2004-2005 and who  
 44

1 continue their employment for fiscal year 2005-2006 by providing an annual salary  
2 increase for employees of two percent (2%). For part-time employees, the pay increase  
3 shall be pro rata based on the number of hours worked.

4 **SECTION 7.6.(c)** The State Board of Education may adopt salary ranges for  
5 noncertified personnel to support increases of two percent (2%) for the 2005-2006 fiscal  
6 year.

## 8 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

9 **SECTION 7.7.** The State Board of Education shall use funds appropriated in  
10 this act for State Aid to Local School Administrative Units to provide incentive funding  
11 for schools that met or exceeded the projected levels of improvement in student  
12 performance during the 2004-2005 school year, in accordance with the ABCs of Public  
13 Education Program. In accordance with State Board of Education policy:

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

## 26 **CHILDREN WITH DISABILITIES**

27 **SECTION 7.8.** The State Board of Education shall allocate funds for  
28 children with disabilities on the basis of two thousand eight hundred thirty-eight dollars  
29 and thirty-nine cents (\$2,838.39) per child for a maximum of 169,164 children for the  
30 2005-2006 school year. Each local school administrative unit shall receive funds for the  
31 lesser of (i) all children who are identified as children with disabilities, or (ii) twelve  
32 and five-tenths percent (12.5%) of the 2005-2006 allocated average daily membership  
33 in the local school administrative unit.

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

## 39 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

40 **SECTION 7.9.** The State Board of Education shall allocate funds for  
41 academically or intellectually gifted children on the basis of nine hundred twenty-six  
42 dollars and fifty-five cents (\$926.55) per child. A local school administrative unit shall  
43 receive funds for a maximum of four percent (4%) of its 2005-2006 allocated average  
44 daily membership, regardless of the number of children identified as academically or

1 intellectually gifted in the unit. The State Board shall allocate funds for no more than  
2 55,895 children for the 2005-2006 school year.

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

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

9 **SECTION 7.10.(a)** If the State Board of Education does not have sufficient  
10 resources in the ADM Contingency Reserve line item to make allotment adjustments in  
11 accordance with the Allotment Adjustments for ADM Growth provisions of the North  
12 Carolina Public Schools Allotment Policy Manual, the State Board of Education may  
13 use funds appropriated to State Aid for Public Schools for this purpose.

14 **SECTION 7.10.(b)** If the higher of the first or second month average daily  
15 membership in a local school administrative unit is at least two percent (2%) or 100  
16 students lower than the anticipated average daily membership used for allotments for  
17 the unit, the State Board of Education shall reduce allotments for the unit. The reduced  
18 allotments shall be based on the higher of the first or second month average daily  
19 membership plus one-half of the number of students overestimated in the anticipated  
20 average daily membership.

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

## 24 25 **LOCAL EDUCATION AGENCY FLEXIBILITY**

26 **SECTION 7.11.** Within 14 days of the date this act becomes law, the State  
27 Board of Education shall notify each local school administrative unit of the amount the  
28 unit must reduce from State General Fund appropriations for the 2005-2006 fiscal year.  
29 The State Board shall determine the amount of the reduction for each unit for each fiscal  
30 year on the basis of average daily membership. Each unit shall report to the Department  
31 of Public Instruction on the discretionary budget reductions it has identified for the  
32 2005-2006 fiscal year for the unit within 30 days of the date this act becomes law. The  
33 State Board of Education shall make a summary report to the Office of State Budget and  
34 Management and the Fiscal Research Division on all reductions made by the LEAs to  
35 achieve this reduction for the 2005-2006 fiscal year by December 31, 2005. Local  
36 school administrators should make every effort to reduce spending whenever and  
37 wherever such budget reductions are appropriate as long as the targeted reductions do  
38 not directly impact classroom services or any services for students at risk or children  
39 with special needs, including those services or supports that are called for in students'  
40 Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions  
41 to the allotment categories listed in this paragraph are necessary in order to meet the  
42 reduction target, the local board of education shall submit an explanation of the  
43 anticipated impact of the reductions to student services along with the budget reductions  
44 to the Department of Public Instruction.



1  
2 **LEA ASSISTANCE PROGRAM**

3 **SECTION 7.12.(a)** All assistance to LEAs that is provided on behalf of the  
4 State Board of Education (SBE) by the Department of Public Instruction and its  
5 contractors shall be consolidated into the LEA Assistance Program (LEAAP) created in  
6 the 2003 Session of the General Assembly. The consolidated unit shall reside in the  
7 School Improvement Division and shall provide assistance to the State's low-performing  
8 local school administrative units (LEAs) and shall assist schools in meeting adequate  
9 yearly progress in each subgroup identified in the No Child Left Behind Act of 2001.

10 **SECTION 7.12.(b)** To accomplish this, up to six million five hundred  
11 thousand dollars (\$6,500,000) shall be transferred from within existing appropriations to  
12 the LEAAP. These funds shall come from appropriations currently supporting positions  
13 and related operating costs within the Department of Public Instruction for school  
14 improvement teams and for Closing the Gap positions and from the funds appropriated  
15 to the State Public School Fund being used for contractual services and associated costs  
16 for the Assistance Teams.

17 **SECTION 7.12.(c)** The State Board of Education shall develop the criteria  
18 for LEA Assistance Teams (i) the criteria for selecting LEAs and schools to receive  
19 assistance, (ii) measurable goals and objectives for the assistance program, and (iii) an  
20 explanation of the type of assistance to be provided with these combined resources. The  
21 Department will develop a revised organizational structure and budget for the provision  
22 of assistance services to LEAs to ensure the Department can meet the needs of the  
23 LEAs. This structure and budget must be approved by the State Board of Education.  
24 For 2005-2006 only, the State Board may transfer General Fund appropriations between  
25 personal service and nonpersonal service line items within this fund provided that it has  
26 been approved by the State Board and has prior approval from the Office of State  
27 Budget and Management, in order to have the flexibility during the transition year to  
28 structure itself most efficiently for the delivery of services. However, all funds  
29 transferred under this provision are only for this program and for the services described  
30 herein. Funds are not to be used to raise the salary of existing employees.

31 **SECTION 7.12.(d)** A report to the Office of State Budget and Management,  
32 the Fiscal Research Division, and the Joint Legislative Education Oversight Committee  
33 on the criteria and the new organizational structure, proposed budget, functions, and  
34 projected workloads shall be presented by August 1, 2005, for the 2005-2006 academic  
35 year. The report shall contain: (i) the criteria for selecting LEAs and schools to receive  
36 assistance, (ii) measurable goals and objectives for the assistance program, (iii) an  
37 explanation of the assistance provided, (iv) findings from the assistance program, (v)  
38 actual expenditures by category, (vi) recommendations for the continuance of this  
39 program, and (vii) any other information the State Board deems necessary. These funds  
40 shall not revert at the end of each fiscal year but shall remain available until expended  
41 for this purpose.

42 A report to the Office of State Budget and Management, the Fiscal Research  
43 Division, and the Joint Legislative Education Oversight Committee on the prior year's  
44 expenditure of these funds shall be presented by August 31 of each year.

**DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

**SECTION 7.13.(a)** Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of twenty-two million five hundred thousand dollars (\$22,500,000) shall be used to address the capacity needs of LEAs to meet the needs of disadvantaged students. For the 2005-2006 fiscal year only, these funds shall continue the nonrecurring funding that was provided to LEAs in the 2004-2005 fiscal year. For the 2006-2007 fiscal year, these funds shall be allocated under a new formula as determined by the State Board of Education.

**SECTION 7.13.(b)** The State Board of Education shall use funds appropriated in this act to annually evaluate strategies LEAs have implemented to assess their impact on student performance. The State Board of Education shall report the results of the evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by February 15, 2006, and by January 15 of each subsequent year.

**SECTION 7.13.(c)** The State Board of Education shall incorporate the results of the evaluation of strategies implemented in the 2004-2005 and 2005-2006 school years and a review of the variables that are most highly correlated with student academic achievement into a new funding mechanism. The new funding mechanism shall consolidate the Improving Student Accountability allotment category, the At-Risk/Alternative Schools allotment category, and the Disadvantaged Student allotment category. The State Board of Education shall report on the new formula and funding mechanism to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee by February 15, 2006. The new formula will be implemented in the 2006-2007 fiscal year.

**SECTION 7.13.(d)** Funds appropriated under this section shall be used to implement a plan jointly developed by each LEA and the LEA Assistance Program team based upon the needs of the students not achieving grade level proficiency. The plan must be approved by the State Board of Education prior to the allotment of these funds. All funds received pursuant to this section shall be used only: (i) to provide instructional or instructional support positions and/or professional development; (ii) to provide intensive in-school and/or after-school remediation; and (iii) to purchase diagnostic software and progress monitoring tools.

**SECTION 7.13.(e)** The State Board of Education may require districts receiving funding under the Disadvantaged Student Supplemental Fund to purchase the Education Value Added Assessment System in order to provide in-depth analysis of student performance and help identify strategies for improving student achievement.

**SECTION 7.13.(f)** In order for LEAs to remain eligible for the resources provided in this section, they must submit a report to the State Board of Education by August 31 of each year detailing the expenditure of the funds and the impact of these funds on student achievement. The State Board of Education shall report this information annually by October 31 to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

1 **USE OF FUNDS IN AT-RISK AND IMPROVING STUDENT**  
2 **ACCOUNTABILITY ALLOTMENTS**

3 **SECTION 7.14.(a)** Funds appropriated for the At-Risk/Alternative Schools  
4 allotment and the Improving Student Accountability allotment shall be used only: (i) to  
5 provide instructional or instructional support positions and/or professional development;  
6 (ii) to provide intensive in-school and/or after-school remediation; and (iii) to purchase  
7 diagnostic software and progress monitoring tools.

8 **SECTION 7.14.(b)** In order for LEAs to remain eligible for the resources  
9 provided in this section, they must submit a report to the State Board of Education by  
10 October 31 of each year detailing the expenditure of the funds and the impact of these  
11 funds on student achievement. The State Board of Education shall report this  
12 information annually by October 31 to the Office of State Budget and Management, the  
13 Joint Legislative Education Oversight Committee, and the Fiscal Research Division.  
14

15 **AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS**

16 **SECTION 7.15.** The State Board of Education may use up to two hundred  
17 thousand dollars (\$200,000) of the funds in Alternative Schools/At-Risk Student  
18 allotment each year for the 2005-2006 fiscal year and for the 2006-2007 fiscal year to  
19 implement G.S. 115C-12(4).  
20

21 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

22 **SECTION 7.16.(a)** Funds for Supplemental Funding. – The Governor finds  
23 that it is appropriate to provide supplemental funds in low-wealth counties to allow  
24 those counties to enhance the instructional program and student achievement.  
25 Therefore, funds are appropriated to State Aid to Local School Administrative Units for  
26 the 2005-2006 fiscal year and the 2006-2007 fiscal year to be used for supplemental  
27 funds for the schools.

28 **SECTION 7.16.(b)** Use of Funds for Supplemental Funding. – It is the  
29 intent that the additional funds appropriated in 2005-2006 and 2006-2007 be used to  
30 recruit and retain high quality teachers. To that end, at least fifteen percent (15%) shall  
31 be used for (i) bonuses to recruit and retain instructional personnel, and/or (ii) to  
32 provide full-time mentors for instructional and instructional support personnel. All  
33 remaining funds received pursuant to this section shall be used for (i) and/or (ii) above  
34 and/or: (iii) to provide instructional positions, instructional support positions, teacher  
35 assistant positions, clerical positions, school computer technicians, instructional  
36 supplies and equipment, staff development, and textbooks; (iv) for salary supplements  
37 for instructional personnel and instructional support personnel; and (v) to pay an amount  
38 not to exceed ten thousand dollars (\$10,000) of the plant operation contract cost charged  
39 by the Department of Public Instruction for services.

40 Local boards of education shall report to the State Board of Education by  
41 August 31 of each year on the expenditure of these funds and how these funds were  
42 targeted and used to implement specific improvement strategies of each local school  
43 administrative unit and its schools, such as teacher recruitment, closing the achievement  
44 gap, improving student accountability, addressing the needs of at-risk students, and

1 establishing and maintaining safe schools. The State Board of Education shall report  
2 this information annually by October 31 to the Office of State Budget and Management,  
3 the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

4 **SECTION 7.16.(c) Definitions.** – As used in this section:

5 (1) "Anticipated county property tax revenue availability" means the  
6 county-adjusted property tax base multiplied by the effective State  
7 average tax rate.

8 (2) "Anticipated total county revenue availability" means the sum of the:

- 9 a. Anticipated county property tax revenue availability,  
10 b. Local sales and use taxes received by the county that are levied  
11 under Chapter 1096 of the 1967 Session Laws or under  
12 Subchapter VIII of Chapter 105 of the General Statutes,  
13 c. Food stamp exemption reimbursement received by the county  
14 under G.S. 105-164.44C,  
15 d. Homestead exemption reimbursement received by the county  
16 under G.S. 105-277.1A,  
17 e. Inventory tax reimbursement received by the county under  
18 G.S. 105-275.1 and G.S. 105-277.001,  
19 f. Intangibles tax distribution and reimbursement received by the  
20 county under G.S. 105-275.2, and  
21 g. Fines and forfeitures deposited in the county school fund for the  
22 most recent year for which data are available.

23 (3) "Anticipated total county revenue availability per student" means the  
24 anticipated total county revenue availability for the county divided by  
25 the average daily membership of the county.

26 (4) "Anticipated State average revenue availability per student" means the  
27 sum of all anticipated total county revenue availability divided by the  
28 average daily membership for the State.

29 (5) "Average daily membership" means average daily membership as  
30 defined in the North Carolina Public Schools Allotment Policy  
31 Manual, adopted by the State Board of Education. If a county contains  
32 only part of a local school administrative unit, the average daily  
33 membership of that county includes all students who reside within the  
34 county and attend that local school administrative unit.

35 (6) "County-adjusted property tax base" shall be computed as follows:

- 36 a. Subtract the present-use value of agricultural land, horticultural  
37 land, and forestland in the county, as defined in G.S. 105-277.2,  
38 from the total assessed real property valuation of the county,  
39 b. Adjust the resulting amount by multiplying by a weighted  
40 average of the three most recent annual sales assessment ratio  
41 studies,  
42 c. Add to the resulting amount the:  
43 1. Present-use value of agricultural land, horticultural land,  
44 and forestland, as defined in G.S. 105-277.2,

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

1 (14) "State average adjusted property tax base per square mile" means the  
2 sum of the county-adjusted property tax bases for all counties divided  
3 by the number of square miles of land area in the State.

4 (14a) "Supplant" means to decrease local per student current expense  
5 appropriations from one fiscal year to the next fiscal year.

6 (15) "Weighted average of the three most recent annual sales assessment  
7 ratio studies" means the weighted average of the three most recent  
8 annual sales assessment ratio studies in the most recent years for which  
9 county current expense appropriations and adjusted property tax  
10 valuations are available. If real property in a county has been revalued  
11 one year prior to the most recent sales assessment ratio study, a  
12 weighted average of the two most recent sales assessment ratios shall  
13 be used. If property has been revalued the year of the most recent sales  
14 assessment ratio study, the sales assessment ratio for the year of  
15 revaluation shall be used.

16 **SECTION 7.16.(d)** Eligibility for Funds. – The State Board of Education  
17 shall allocate these funds to local school administrative units located in whole or in part  
18 in counties in which the county wealth as a percentage of the State average wealth is  
19 less than one hundred percent (100%).

20 **SECTION 7.16.(e)** Allocation of Funds. – The amount received per average  
21 daily membership for a county shall be the difference between the State average current  
22 expense appropriations per student and the current expense appropriations per student  
23 that the county could provide given the county's wealth and an average effort to fund  
24 public schools. (To derive the current expense appropriations per student that the  
25 county could be able to provide given the county's wealth and an average effort to fund  
26 public schools, multiply the county wealth as a percentage of State average wealth by  
27 the State average current expense appropriations per student.)

28 The funds for the local school administrative units located in whole or in part  
29 in the county shall be allocated to each local school administrative unit, located in  
30 whole or in part in the county, based on the average daily membership of the county's  
31 students in the school units.

32 If the funds appropriated for supplemental funding are not adequate to fund  
33 the formula fully, each local school administrative unit shall receive a pro rata share of  
34 the funds appropriated for supplemental funding.

35 **SECTION 7.16.(f)** Formula for Distribution of Supplemental Funding  
36 Pursuant to This Section Only. – The formula in this section is solely a basis for  
37 distribution of supplemental funding for low-wealth counties and is not intended to  
38 reflect any measure of the adequacy of the educational program or funding for public  
39 schools.

40 **SECTION 7.16.(g)** Minimum Effort Required. – Counties that had effective  
41 tax rates in the 1996-1997 fiscal year that were above the State average effective tax  
42 rate but that had effective rates below the State average in the 1997-1998 fiscal year or  
43 thereafter shall receive reduced funding under this section. This reduction in funding  
44 shall be determined by subtracting the amount that the county would have received

1 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount  
2 that the county would have received if qualified for full funding and multiplying the  
3 difference by ten percent (10%). This method of calculating reduced funding shall  
4 apply one time only.

5 This method of calculating reduced funding shall not apply in cases in which  
6 the effective tax rate fell below the statewide average effective tax rate as a result of a  
7 reduction in the actual property tax rate. In these cases, the minimum effort required  
8 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995  
9 Session Laws.

10 If the county documents that it has increased the per student appropriation to  
11 the school current expense fund in the current fiscal year, the State Board of Education  
12 shall include this additional per pupil appropriation when calculating minimum effort  
13 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

14 **SECTION 7.16.(h) Nonsupplant Requirement.** – A county in which a local  
15 school administrative unit receives funds under this section shall use the funds to  
16 supplement local current expense funds and shall not supplant local current expense  
17 funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not  
18 allocate funds under this section to a county found to have used these funds to supplant  
19 local per student current expense funds. The State Board of Education shall make a  
20 finding that a county has used these funds to supplant local current expense funds in the  
21 prior year, or the year for which the most recent data are available, if:

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

30 The State Board of Education shall adopt rules to implement this section.

31 **SECTION 7.16.(i) Reports.** – The State Board of Education shall report to  
32 the Joint Legislative Education Oversight Committee prior to May 1, 2006, if it  
33 determines that counties have supplanted funds.

34 **SECTION 7.16.(j) Department of Revenue Reports.** – The Department of  
35 Revenue shall provide to the Department of Public Instruction a preliminary report for  
36 the current fiscal year of the assessed value of the property tax base for each county  
37 prior to March 1 of each year and a final report prior to May 1 of each year. The reports  
38 shall include for each county the annual sales assessment ratio and the taxable values of  
39 (i) total real property, (ii) the portion of total real property represented by the  
40 present-use value of agricultural land, horticultural land, and forestland as defined in  
41 G.S. 105-277.2, (iii) property of public service companies determined in accordance  
42 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

#### 43 44 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

1           **SECTION 7.17.** Funds for Small School Systems. – Except as provided in  
2 subsection (b) of this section, the State Board of Education shall allocate funds  
3 appropriated for small school system supplemental funding (i) to each county school  
4 administrative unit with an average daily membership of fewer than 3,175 students and  
5 (ii) to each county school administrative unit with an average daily membership from  
6 3,175 to 4,000 students if the county in which the local school administrative unit is  
7 located has a county-adjusted property tax base per student that is below the  
8 State-adjusted property tax base per student and if the total average daily membership of  
9 all local school administrative units located within the county is from 3,175 to 4,000  
10 students. The allocation formula shall:

- 11           (1) Round all fractions of positions to the next whole position.
- 12           (2) Provide five and one-half additional regular classroom teachers in  
13           counties in which the average daily membership per square mile is  
14           greater than four, and seven additional regular classroom teachers in  
15           counties in which the average daily membership per square mile is  
16           four or fewer.
- 17           (3) Provide additional program enhancement teachers adequate to offer  
18           the standard course of study.
- 19           (4) Change the duty-free period allocation to one teacher assistant per 400  
20           average daily membership.
- 21           (5) Provide a base for the consolidated funds allotment of at least seven  
22           hundred forty thousand seventy-four dollars (\$740,074) for the  
23           2005-2006 fiscal year.
- 24           (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

25           If funds appropriated for each fiscal year for small school system  
26 supplemental funding are not adequate to fully fund the program, the State Board of  
27 Education shall reduce the amount allocated to each county school administrative unit  
28 on a pro rata basis. This formula is solely a basis for distribution of supplemental  
29 funding for certain county school administrative units and is not intended to reflect any  
30 measure of the adequacy of the educational program or funding for public schools. The  
31 formula is also not intended to reflect any commitment by the General Assembly to  
32 appropriate any additional supplemental funds for such county administrative units.  
33

#### 34 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

35           **SECTION 7.18.(a)** The State Board of Education shall develop guidelines  
36 for identifying and providing services to students with limited proficiency in the English  
37 language.

38           The State Board shall allocate these funds to local school administrative units  
39 and to charter schools under a formula that takes into account the average percentage of  
40 students in the units or the charters over the past three years who have limited English  
41 proficiency. The State Board shall allocate funds to a unit or a charter school only if (i)  
42 average daily membership of the unit or the charter school includes at least 20 students  
43 with limited English proficiency or (ii) students with limited English proficiency  
44 comprise at least two and one-half percent (2.5%) of the average daily membership of



1 the unit or charter school. For the portion of the funds that is allocated on the basis of  
2 the number of identified students, the maximum number of identified students for whom  
3 a unit or charter school receives funds shall not exceed ten and six-tenths percent  
4 (10.6%) of its average daily membership.

5 Local school administrative units shall use funds allocated to them to pay for  
6 classroom teachers, teacher assistants, tutors, textbooks, classroom  
7 materials/instructional supplies/equipment, transportation costs, and staff development  
8 of teachers for students with limited English proficiency.

9 A county in which a local school administrative unit receives funds under this  
10 section shall use the funds to supplement local current expense funds and shall not  
11 supplant local current expense funds.

12 **SECTION 7.18.(b)** The Department of Public Instruction shall prepare a  
13 current head count of the number of students classified with limited English proficiency  
14 by December 1 of each year.

15 Students in the head count shall be assessed at least once every three years to  
16 determine their level of English proficiency. A student who scores "superior" on the  
17 standard English language proficiency assessment instrument used in this State shall not  
18 be included in the head count of students with limited English proficiency.

## 19 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

20 **SECTION 7.19.(a)** Funds appropriated for the 2005-2006 fiscal year for  
21 Student Accountability Standards shall be used to assist students to perform at or above  
22 grade level in reading and mathematics in grades 3-8 as measured by the State's end of  
23 grade tests. The State Board of Education shall allocate these funds to LEAs based on  
24 the number of students who score at Level I or Level II on either reading or  
25 mathematics end of grade tests in grades 3-8. Funds in the allocation category shall be  
26 used to improve the academic performance of (i) students who are performing at Level I  
27 or II on either reading or mathematics end of grade tests in grades 3-8 or (ii) students  
28 who are performing at Level I or II on the writing tests in grades 4 and 7. These funds  
29 may also be used to improve the academic performance of students who are performing  
30 at Level I or II on the high school end of course tests. These funds shall not be  
31 transferred to other allocation categories or otherwise used for other purposes. Except  
32 as otherwise provided by law, local boards of education may transfer other funds  
33 available to them into this allocation category.

34 The principal of a school receiving these funds, in consultation with the  
35 faculty and the site-based management team, shall implement plans for expending these  
36 funds to improve the performance of students.

37 Local boards of education are encouraged to use federal funds such as Title I  
38 Comprehensive School Reform Development Funds and to examine the use of State  
39 funds to ensure that every student is performing at or above grade level in reading and  
40 mathematics.

41 **SECTION 7.19.(b)** Funds appropriated for Student Accountability  
42 Standards shall not revert at the end of each fiscal year but shall remain available for  
43 expenditure until August 31 of the subsequent fiscal year.  
44

**LEARN AND EARN**

**SECTION 7.20.(a)** Funds are appropriated in this act for the Learn and Earn high school workforce development program. The purpose of the program shall be to identify students who may not plan to attend or be adequately prepared to attend a two- or four-year degree program and to provide the assistance those students need to earn an Associate Degree or two years of college credit by the conclusion of the year after their senior year in high school. The State Board of Education shall work closely with the Education Cabinet and the New Schools Project in administering the program.

**SECTION 7.20.(b)** These funds shall be used to establish new high schools in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers. Funds shall not be allotted until Learn and Earn high schools are certified as operational.

**SECTION 7.20.(c)** The State Board of Education in consultation with the State Board of Community Colleges and the UNC Board of Governors shall conduct an annual evaluation of this program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability, (ii) recommended statutory and policy changes, and (iii) recommendations for improvement of the program. The State Board of Education shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division, by September 15 of each year.

**SMALL SPECIALTY HIGH SCHOOLS PILOT PROGRAM**

**SECTION 7.21.(a)** Funds are appropriated in this act for a pilot program to create 11 small specialty high schools within existing schools. The purpose of the program shall be to improve graduation rates and achieve higher student performance as measured by standard tests and post-graduate gainful employment or admittance into an institution of higher education. The State Board of Education shall work closely with the Education Cabinet and the New Schools Project in administering the program.

**SECTION 7.21.(b)** The State Board of Education shall conduct an evaluation of this program. The evaluation shall include measures as identified in G.S. 115C-238.55. It shall also include (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability and (ii) recommendations for improvement of the program. The State Board of Education shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by November 15, 2006.

**TEACHING FELLOWS PROGRAM FOR SCIENCE AND MATHEMATICS**

**SECTION 7.22.** G.S. 115C-363.23A reads as rewritten:  
**"§ 115C-363.23A. Teaching Fellows Program established; administration.**

1 (a) A Teaching Fellows Program shall be administered by the North Carolina  
2 Teaching Fellows Commission. The Teaching Fellows Program shall be used to provide  
3 a four-year scholarship loan of six thousand five hundred dollars (\$6,500) per year to  
4 North Carolina high school seniors interested in preparing to teach in the public schools  
5 of the State. Beginning July 1, 2006, the Teaching Fellows Program shall be used to  
6 provide 50 two-year scholarship loans of six thousand five hundred dollars (\$6,500) per  
7 year to North Carolina college juniors who intend to obtain licensure in middle school  
8 or high school mathematics or science. The Commission shall adopt very stringent  
9 standards, including minimum grade point average and scholastic aptitude test scores,  
10 for awarding these scholarship loans to ensure that only the best high school seniors  
11 receive them.

12 (b) The Commission shall administer the program in cooperation with teacher  
13 training institutions selected by the Commission. Teaching Fellows should be exposed  
14 to a range of extra-curricular activities while in college. These activities should be  
15 geared to instilling a strong motivation not only to remain in teaching but to provide  
16 leadership for tomorrow's schools.

17 (c) The Commission shall form regional review committees to assist it in  
18 identifying the best high school seniors or college juniors for the program. The  
19 Commission and the review committees shall make an effort to identify and encourage  
20 minority students and students who may not otherwise consider a career in teaching to  
21 enter the program.

22 (d) All scholarship loans shall be evidenced by notes made payable to the  
23 Commission that shall bear interest at the rate of ten percent (10%) per year beginning  
24 September 1 after completion of the program, or immediately after termination of the  
25 scholarship loan, whichever is earlier. The scholarship loan may be terminated by the  
26 recipient withdrawing from school or by the recipient not meeting the standards set by  
27 the Commission.

28 (e) The Commission shall forgive the four-year loan if, within seven years after  
29 graduation, the recipient teaches for four years and forgive the two-year loan if the  
30 recipient teaches for three years at a North Carolina public school or at a school  
31 operated by the United States government in North Carolina. The Commission shall  
32 also forgive the four-year loan if, within seven years after graduation, the recipient  
33 teaches for three consecutive years and forgive the two-year loan if the recipient teaches  
34 for two years, unless the recipient takes an approved leave of absence, at a North  
35 Carolina public school in a local school administrative unit that, at the time the recipient  
36 accepts employment with the unit, is a low-performing school system identified in  
37 accordance with Article 6A of this Chapter or is on warning status as defined by the  
38 State Board of Education. The Commission shall also forgive the four-year loan and the  
39 two-year loan if it finds that it is impossible for the recipient to teach ~~for four years~~,  
40 within seven years after graduation, at a North Carolina public school or at a school  
41 operated by the United States government in North Carolina, because of the death or  
42 permanent disability of the recipient.

43 (f) All funds appropriated to or otherwise received by the Teaching Fellows  
44 Program for scholarships, all funds received as repayment of scholarship loans, and all

1 interest earned on these funds, shall be placed in a revolving fund. This revolving fund  
2 shall be used for scholarship loans granted under the Teaching Fellows Program. With  
3 the prior approval of the General Assembly in the Current Operations Appropriations  
4 Act, the revolving fund may also be used for campus and summer program support, and  
5 costs related to disbursement of awards and collection of loan repayments.

6 The Public School Forum, as administrator for the Teaching Fellows Program, may  
7 use up to one hundred fifty thousand dollars (\$150,000) annually from the fund balance  
8 for costs associated with administration of the Teaching Fellows Program.

9 (g) The State Education Assistance Authority is responsible for the collection of  
10 a loan awarded under this section if the loan repayment is outstanding for more than 30  
11 days."

12  
13 **TRANSFER PROSPECTIVE TEACHER SCHOLARSHIP LOAN AND**  
14 **TEACHER ASSISTANT SCHOLARSHIP LOAN TO THE NC STATE**  
15 **EDUCATION ASSISTANCE AUTHORITY**

16 **SECTION 7.23.** The Prospective Teacher Scholarship Loan and the Teacher  
17 Assistant Scholarship Loan programs currently administered by the North Carolina  
18 Department of Public Instruction are transferred to the University of North Carolina  
19 State Education Assistance Authority, as if by a Type I transfer as defined in  
20 G.S. 143A-6, with all the elements of such a transfer.

21  
22 **VISITING INTERNATIONAL FACULTY**

23 **SECTION 7.24.** The State Board of Education shall convert teacher  
24 positions to dollars for Visiting International Faculty Program teachers for the  
25 2005-2006 fiscal year and the 2006-2007 fiscal year on the basis of the allotted average  
26 teacher salary and benefits.

27  
28 **FUNDS FOR TEACHER RECRUITMENT INITIATIVES**

29 **SECTION 7.25.** The State Board of Education may use up to two hundred  
30 thousand dollars (\$200,000) of the funds appropriated for State Aid to Local School  
31 Administrative Units each year for the 2005-2006 fiscal year and for the 2006-2007  
32 fiscal year to enable teachers who have received NBPTS certification or who have  
33 otherwise received special recognition to advise the State Board of Education on teacher  
34 recruitment and other strategic priorities of the State Board.

35  
36 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**  
37 **EVALUATION**

38 **SECTION 7.26.** The State Board of Education may spend up to fifty  
39 thousand dollars (\$50,000) a year from the State Aid to Local School Administrative  
40 Units for the 2005-2006 and 2006-2007 fiscal years to continue support of a charter  
41 school advisory committee and to continue to evaluate charter schools.

42  
43 **REPLACEMENT SCHOOL BUSES FUNDS**

1           **SECTION 7.27.(a)** Of the funds appropriated to the State Board of  
2 Education, the Board may use up to fifty-five million one hundred six thousand  
3 ninety-two dollars (\$55,106,092) for the 2005-2006 fiscal year and up to fifty-seven  
4 million three hundred eighty-eight thousand three hundred sixty-seven dollars  
5 (\$57,388,367) for the 2006-2007 fiscal year for allotments to local boards of education  
6 for replacement school buses under G.S. 115C-249(c) and (d). In making these  
7 allotments, the State Board of Education may impose any of the following conditions:

- 8           (1) The local board of education must use the funds only to make the first,  
9           second, or third year's payment on a financing contract entered into  
10           pursuant to G.S. 115C-528.
- 11           (2) The term of a financing contract entered into under this section shall  
12           not exceed three years.
- 13           (3) The local board of education must purchase the buses only from  
14           vendors selected by the State Board of Education and on terms  
15           approved by the State Board of Education.
- 16           (4) The State Board of Education shall solicit bids for the direct purchase  
17           of buses and for the purchasing of buses through financing. The State  
18           Board of Education may solicit separate bids for financing if the Board  
19           determines that multiple financing options are more cost-efficient.
- 20           (5) A bus financed pursuant to this section must meet all federal motor  
21           vehicle safety regulations for school buses.
- 22           (6) Any other condition the State Board of Education considers  
23           appropriate.

24           **SECTION 7.27.(b)** Any term contract for the purchase or lease-purchase of  
25 school buses or school activity buses shall not require vendor payment of the electronic  
26 procurement transaction fee of the North Carolina E-Procurement Service.  
27

## 28 **LITIGATION RESERVE FUNDS**

29           **SECTION 7.28.** The State Board of Education may expend up to five  
30 hundred thousand dollars (\$500,000) each year for the 2005-2006 and 2006-2007 fiscal  
31 years from unexpended funds for certified employees' salaries to pay expenses related to  
32 pending litigation.  
33

## 34 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW** 35 **STUDENT INFORMATION SYSTEM**

36           **SECTION 7.29.** Funds appropriated for the Uniform Education Reporting  
37 System shall not revert at the end of the 2005-2006 and 2006-2007 fiscal years but shall  
38 remain available until expended.  
39

## 40 **EXPENDITURES FOR DRIVING EDUCATION CERTIFICATES**

41           **SECTION 7.30.** The State Board of Education may use funds appropriated  
42 for drivers education for the 2005-2006 fiscal year and for the 2006-2007 fiscal year for  
43 driving eligibility certificates.  
44

**PUBLIC SCHOOL BUILDING CAPITAL FUND**

**SECTION 7.31.** G.S. 115C-546.1(b) reads as rewritten:

"(b) (**See Editor's Note**) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3 minus three million seven hundred fifty thousand dollars (\$3,750,000). Effective July 1, 2005, the Secretary of Revenue shall, on a quarterly basis, deposit three million seven hundred fifty thousand dollars (\$3,750,000) into the State Public School Fund. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

Period	Fraction
10/1/97 to 9/30/98	One-fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty-ninths (2/29)
10/1/99 to 9/30/00	One-fourteenth (1/14)
After 9/30/00	Five sixty-ninths (5/69)".

**STANDARDS REVIEW OF MSA PROGRAMS**

**SECTION 7.32.** The State Board of Education, working with the UNC Board of Governors, shall review standards for the Masters in School Administration (MSA) programs to ensure that appropriate competencies related to teacher retention, teacher evaluations, teacher support programs, and teacher effectiveness are included and emphasized.

**EVALUATION OF SCHOOL PRINCIPALS**

**SECTION 7.33.** The State Board of Education shall ensure that principals are evaluated annually as specified in G.S. 115C-333 and revise the standards for the evaluations of school administrators (SBE Policy QP-C-006) to include accountability measures of teacher retention, teacher support, and school climate. This will require revision of the evaluation instruments currently approved by the State Board of Education for this purpose.

**PLANNING TIME FOR TEACHERS**

**SECTION 7.34.** The State Board of Education, in collaboration with the North Carolina Professional Teaching Standards Commission, shall report on best practices from North Carolina schools for providing a minimum of five hours per week for planning, collaborating with colleagues and parents, and professional development within the instructional day with a special emphasis on elementary school schedules. The State Board shall submit its report to the NC Education Cabinet by December 31, 2005. It shall be the duty of the State Board of Education to disseminate this information to schools and school systems across the State.

**PART VIII. COMMUNITY COLLEGES**

**USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT**

**SECTION 8.1.(a)** Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2004-2005 fiscal year but shall remain available until expended.

**SECTION 8.1.(b)** 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 8.1.(c)** Subsection (a) of this section becomes effective June 30, 2005.

**CARRYFORWARD FOR EQUIPMENT**

**SECTION 8.2.(a)** Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community College System may carry forward an amount not to exceed ten million dollars (\$10,000,000) of the operating funds held in reserve that were not reverted in fiscal year 2004-2005 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 8.2.(b)** This section becomes effective June 30, 2005.

**SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF**

**SECTION 8.3.(a)** 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. Colleges may provide additional increases from funds available.

**SECTION 8.3.(b)** The State Board of Community Colleges shall adopt rules to ensure that these funds are used only to increase faculty and professional staff salaries. These funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

**FOCUSED INDUSTRIAL TRAINING AND NEW AND EXPANDING INDUSTRY TRAINING COMBINED INTO CUSTOMIZED INDUSTRY TRAINING**

**SECTION 8.4.(a)** The Focused Industrial Training Program (FIT) and the New and Expanding Industry Training Program (NEIT) are to be merged into a new program to be known as the Customized Industry Training Program (CIT). All references currently found in G.S. 115-D that reference either Focused Industrial Training Program, FIT, the New and Expanding Industry Program, or NEIT are to be stricken and renamed Customized Industry Program.

**SECTION 8.4.(b)** The CIT program shall offer training services as new options for assisting existing business and industry to remain productive, profitable and within the State. Before a business or industry qualifies to receive assistance under the

1 CIT, the System President and the Vice President for Economic Workforce  
2 Development must determine that:

- 3 (1) The business is making an appreciable capital investment;
- 4 (2) The business is deploying new technology;
- 5 (3) The skills of the workers will be enhanced by the assistance; and
- 6 (4) The average wage of the workers receiving the training will increase  
7 measurably.

8 **SECTION 8.4.(c)** The State Board shall report on an annual basis to the  
9 Joint Legislative Education Oversight Committee, the Office of State Budget and  
10 Management, and the Governor's Economic Development Board:

- 11 (1) The total amount of funds received by the company;
- 12 (2) The amount of funds per trainee received by the company;
- 13 (3) The amount of funds received per trainee by the community college  
14 delivering the training;
- 15 (4) The number of trainees trained by the company and the community  
16 college; and
- 17 (5) The number of years the companies have been funded.

18 The State Board shall adopt rules and policies to implement this provision.  
19

## 20 **NONREVERSION OF CUSTOMIZED INDUSTRY TRAINING PROGRAM** 21 **FUNDS**

22 **SECTION 8.5.(a)** Funds available to the New and Expanding Industries  
23 Training Program shall not revert at the end of the 2004-2005 fiscal year but shall  
24 remain available to the Customized Industry Training Program until expended. The  
25 amount available shall not exceed ten million dollars (\$10,000,000).

26 **SECTION 8.5.(b)** This provision becomes effective June 30, 2005.  
27

## 28 **REAUTHORIZATION OF HOUSE BILL 275 – EMPLOYMENT SECURITY** 29 **COMMISSION FUNDS**

30 **SECTION 8.6.(a)** Section 8 of S.L. 1999-321, as amended by Section  
31 30.5(f) of S.L. 2001-424, reads as rewritten:

32 "**SECTION 8.** Section 1 of this act is effective with respect to calendar quarters  
33 beginning on or after April 1, 1999. Section 7 of this act becomes effective July 1, 1999.  
34 The remainder of this act is effective with respect to calendar quarters beginning on or  
35 after January 1, 2000. G.S. 96-6.1, as enacted by Section 2 of this act, is repealed  
36 effective with respect to calendar quarters beginning on or after January 1, ~~2006.~~ 2011."

37 **SECTION 8.6.(b)** Funds appropriated from the Employment Security  
38 Commission Training and Employment Account created in G.S. 96-6.1 to the North  
39 Carolina Community College System shall be distributed as follows:

40 Equipment Funds	Sixty-six percent (66%)
41 Customized Industry Training	Thirty-four percent (34%)

42 **SECTION 8.6.(c)** Funds allocated in this manner shall not revert and shall  
43 remain available until expended. Funds allocated for equipment shall be placed in the



1 Equipment Reserve Fund and shall be allocated in accordance with the State Board's  
2 equipment allocation formula.

3  
4 **TRANSFER OF THE NORTH CAROLINA CENTER FOR APPLIED TEXTILE**  
5 **TECHNOLOGY TO GASTON COLLEGE**

6 **SECTION 8.7.(a)** The North Carolina Center for Applied Textile  
7 Technology (NCCATT) shall, subject to policies and regulations of the State Board of  
8 Community Colleges, be administered by Gaston Community College and governed by  
9 Gaston Community College's local board of trustees. The local Board of Trustees of the  
10 North Carolina Center for Applied Textile Technology is dissolved and the ownership  
11 of all real property is to be transferred to the trustees of Gaston Community College,  
12 pursuant to G.S. 115D-14.

13 **SECTION 8.7.(b)** As a result of abolishing the local Board of Trustees of  
14 the North Carolina Center of Applied Textile Technology, Article 6 of Chapter 115D of  
15 the General Statutes, G.S. 115D-68, 115D-69, 115D-70, and 115D-71, is repealed.

16 **SECTION 8.7.(c)** The State Board of Community Colleges shall adopt rules  
17 and policies to implement subsection (a) of this section. These shall include, at a  
18 minimum:

- 19 (1) Developing a new mission and business/operating plan for the  
20 NCCATT;
- 21 (2) Developing statewide outreach and partnerships with the textile  
22 manufacturers, industry associations, research and educational entities,  
23 and local, State and national government agencies;
- 24 (3) Providing industry-driven services, and being a champion for  
25 innovation and new markets;
- 26 (4) Providing technical education and training assistance to the textile  
27 industry, including educational agreements with other community  
28 colleges and high schools to develop necessary technical skills.

29 **SECTION 8.7.(d)** The funds appropriated in this act to NCCATT shall be  
30 transferred to Gaston Community College. The College shall have flexibility in  
31 reallocating funds to meet the new mission and requirements of the Center. However,  
32 they shall be accounted for separately. A report detailing how these funds were  
33 reallocated to meet the new mission of the Center shall be submitted in the report  
34 reference in subsection (e) of this section. Included in this report shall be an  
35 explanation of any reductions in the overall administrative costs of the Center, and how  
36 those savings were redirected to fulfilling the Center's new mission.

37 **SECTION 8.7.(e)** The State Board of Community Colleges shall report the  
38 results of these actions to the Joint Legislative Education Oversight Committee and the  
39 Office of State Budget and Management no later than September 1, 2006.

40  
41 **STATE BOARD OF COMMUNITY COLLEGES MANAGEMENT**  
42 **FLEXIBILITY**

43 **SECTION 8.8.** Within 30 days of the date this act becomes law, the State  
44 Board of Community Colleges shall notify each college of the amount the college must

1 reduce from State General Fund appropriations. The State Board shall determine the  
2 amount of the reduction for each unit on the basis of FTE or another method that  
3 accounts for the unique needs of specific colleges.

4 Each college shall report to the State Board of Community Colleges on the  
5 discretionary budget reductions it has identified for the college within 60 days of the  
6 date this act becomes law. No later than December 31, 2005, the State Board of  
7 Community Colleges shall make a summary report to the Office of State Budget and  
8 Management and the Fiscal Research Division on all reductions made by the colleges to  
9 achieve this reduction.

10 Local colleges are urged to make every effort to reduce spending whenever  
11 and wherever such budget reductions are appropriate and to make every effort so that  
12 the targeted reductions do not directly impact classroom services or those services that  
13 are identified as a high-need area for the State. By February 15, 2006, the State Board of  
14 Community Colleges will determine the changes to the allotment categories to make  
15 such reductions permanent.

## 16 17 **PART IX: UNIVERSITIES**

### 18 19 **UNC FLEXIBILITY GUIDELINES**

20 **SECTION 9.1.** The Chancellor of each constituent institution shall report to  
21 the Board of Governors of The University of North Carolina on the reductions made to  
22 the General Fund budget codes in order to meet the reduction reserve amounts for that  
23 institution. The President of The University of North Carolina shall report to the Board  
24 of Governors of The University of North Carolina on the reductions made to the  
25 General Fund budget codes controlled by the Board in order to meet the reduction  
26 reserve amounts for those entities. The Board of Governors shall make a summary  
27 report to the Office of State Budget and Management and the Fiscal Research Division  
28 by December 31, 2005, on all reductions made by these entities and constituent  
29 institutions in order to reduce the budgets by the targeted amounts.

### 30 31 **UNC-NCCCS JOINT INITIATIVE FOR TEACHER EDUCATION AND** 32 **RECRUITMENT**

33 **SECTION 9.2.(a)** Funds appropriated in this act to The University of North  
34 Carolina for the UNC-NCCCS Joint Initiative for Teacher Education and Recruitment  
35 shall be used to establish eight FTE. These individuals shall have an office in and work  
36 with staff in the Regional Alternative Licensure Centers of the Department of Public  
37 Instruction. Their responsibilities are to assist in increasing the number of certified  
38 teachers in the Public Schools of North Carolina, and to accomplish this, their specific  
39 tasks are as follows:

- 40 (1) Resolve curriculum issues between UNC campuses and the  
41 community colleges within each region to ensure seamless  
42 articulation;
- 43 (2) Serve as licensure advisors to prospective teachers and assist with  
44 individual reviews for lateral entry candidates;

1 (3) Offer admissions advice to community college students seeking to  
2 transfer to a four-year institution; and

3 (4) Recruit prospective teachers on community college campuses.

4 Funds have been included in the recommended appropriation to ensure these staff can  
5 travel routinely among all the UNC and community college sites within a region.

6 **SECTION 9.2.(b)** The results of this initiative shall be reported annually,  
7 and shall include at a minimum, the following performance outcomes by region in  
8 which the advisors are working:

9 (1) Number of community college students articulated and working  
10 toward teacher licensure, their "base" community college, and the  
11 UNC institution to which they have moved;

12 (2) Number of lateral entry teachers worked with by these advisors who  
13 are actively pursuing certification, and the number licensed;

14 (3) Headcount of the number of students in process of receiving courses  
15 towards certification, their home county, where/at what institution(s)  
16 they are taking the course(s), and whether they are taking the course by  
17 regular attendance or via distance education (or the respective  
18 percentages if both methods are being employed);

19 (4) Total FTE and SCH that the headcount, above, represents;

20 (5) Articulation issues and/or curriculum changes effectively made as a  
21 result of these advisors; and

22 (6) Articulation issues that are under discussion but have not been  
23 satisfactorily resolved.

24 **SECTION 9.2.(c)** These results shall be reported by September 1, 2006, and  
25 annually thereafter to the State Board of Education, the Board of Governors of The  
26 University of North Carolina, the State Board of Community Colleges, the Education  
27 Cabinet, the Joint Legislative Education Oversight Commission, and the Office of State  
28 Budget and Management.

### 29 30 **UNC-NCCCS 2+2 E-LEARNING INITIATIVE**

31 **SECTION 9.3.** Funds appropriated in this act to The University of North  
32 Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2  
33 E-Learning Initiative shall be used to fund further development of online courses for  
34 2+2 programs. Based on a mutually agreed upon decision by the State Board of  
35 Education Chairman, the President of the North Carolina Community College System,  
36 and the President of The University of North Carolina as to the areas of greatest need,  
37 funds are available to support joint technology development, systems to track student  
38 progress and articulation between a NC community college and a UNC campus, and  
39 develop technology to support online courses and 2+2 programs.

### 40 41 **USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

42 **SECTION 9.4.(a)** There is appropriated from the Escheat Fund income to  
43 the Board of Governors of The University of North Carolina the sum of thirty-nine  
44 million five hundred sixty-two thousand six hundred seventy-nine dollars (\$39,562,679)

1 for fiscal year 2005-2006 and the sum of twenty-six million three hundred seventy-five  
2 thousand one hundred twenty dollars (\$26,375,120) for fiscal year 2006-2007; to the  
3 State Board of Community Colleges the sum of eight million two hundred thirty-five  
4 thousand nine hundred one dollars (\$8,235,901) for fiscal year 2005-2006 and the sum  
5 of eight million two hundred thirty-five thousand nine hundred one dollars (\$8,235,901)  
6 for fiscal year 2006-2007; to the Department of Administration, Division of Veterans  
7 Affairs, the sum of two million eight hundred six thousand four hundred thirty-eight  
8 dollars (\$2,806,438) for fiscal year 2005-2006 and the sum of one million six hundred  
9 seventy-eight thousand six hundred sixty-seven dollars (\$1,678,667) for fiscal year  
10 2006-2007. These funds shall be allocated by the State Educational Assistance  
11 Authority for need-based student financial aid in accordance with G.S. 116B-7.

12 If the interest income generated from the Escheat Fund is less than the  
13 amounts referenced in this section, the difference may be taken from the Escheat Fund  
14 principal to reach the appropriations referenced in this section.

15 **SECTION 9.4.(b)** The North Carolina State Education Assistance Authority  
16 (SEAA) shall perform all of the administrative functions necessary to implement this  
17 program of financial aid. The SEAA shall conduct periodic evaluations of expenditures  
18 of the Scholarship Programs to determine if allocations are utilized to ensure access to  
19 institutions of higher learning and to meet the goals of the respective programs. SEAA  
20 may make recommendations for redistribution of funds to The University of North  
21 Carolina, and/or the President of the Community College System regarding their  
22 respective scholarship programs, who then may authorize redistribution of unutilized  
23 funds for a particular fiscal year.

24 **SECTION 9.4.(c)** All obligations to students for uses of the funds set out in  
25 sections that were made before the date this act becomes law shall be fulfilled as to  
26 students who remain eligible under the provisions of the respective programs.

## 27 **AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURES**

29 **SECTION 9.5.(a)** Funds appropriated in this act to the Board of Governors  
30 of The University of North Carolina for aid to private colleges shall be disbursed in  
31 accordance with the provisions of G.S. 116-19, 116-21, and 116-22, and are budgeted  
32 on an average of one thousand one hundred dollars (\$1,100) per student. These funds  
33 shall provide a fixed sum of money per full-time equivalent North Carolina  
34 undergraduate student enrolled at a private institution as of October 1, 2005, for fiscal  
35 year 2005-2006 and as of October 1, 2006, for fiscal year 2006-2007. These funds shall  
36 be placed in a separate, identifiable account in each eligible institution's budget or chart  
37 of accounts. All funds in this account shall be provided as scholarship funds for needy  
38 North Carolina students during the fiscal year. Each student awarded a scholarship  
39 from this account shall be notified of the source of the funds and of the amount of the  
40 award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant  
41 program as defined in G.S. 116-21.2.

42 **SECTION 9.5.(b)** In addition to any funds appropriated pursuant to  
43 G.S. 116-19 and in addition to all other financial assistance made available to private

1 educational institutions located within the State, or to students attending these  
2 institutions, there is granted to each full-time North Carolina undergraduate student  
3 attending an approved institution as defined in G.S. 116-22, a sum, not to exceed one  
4 thousand eight hundred dollars (\$1,800) for the 2005-2006 academic year and one  
5 thousand eight hundred dollars (\$1,800) for the 2006-2007 academic year, which shall  
6 be distributed to the student as hereinafter provided.

7 **SECTION 9.5.(c)** The tuition grants provided for in this section shall be  
8 administered by the State Education Assistance Authority pursuant to rules adopted by  
9 the State Education Assistance Authority not inconsistent with this section. The State  
10 Education Assistance Authority shall not approve any grant until it receives proper  
11 certification from an approved institution that the student applying for the grant is an  
12 eligible student. Upon receipt of the certification, the State Education Assistance  
13 Authority shall remit at such times, as it shall prescribe the grant to the approved  
14 institution on behalf, and to the credit, of the student.

15 **SECTION 9.5.(d)** In the event a student on whose behalf a grant has been  
16 paid is not enrolled and carrying a minimum academic load as of the tenth classroom  
17 day following the beginning of the school term for which the grant was paid, the  
18 institution shall refund the full amount of the grant to the State Education Assistance  
19 Authority. Each approved institution shall be subject to examination by the State  
20 Auditor for the purpose of determining whether the institution has properly certified  
21 eligibility and enrollment of students and credited grants paid on behalf of the students.

22 **SECTION 9.5.(e)** Expenditures made pursuant to this section may be used  
23 only for secular educational purposes at nonprofit institutions of higher learning.

24 **SECTION 9.5.(f)** Expenditures made pursuant to this section shall not be  
25 used for any student who:

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

31 **SECTION 9.5.(g)** No Legislative Tuition Grant funds shall be expended for  
32 a program at an off-campus site of a private institution, as defined in G.S. 116-22(1),  
33 established after May 15, 1987, unless (i) the private institution offering the program  
34 has previously notified and secured agreement from other private institutions operating  
35 degree programs in the county in which the off-campus program is located or operating  
36 in the counties adjacent to that county or (ii) the degree program is neither available nor  
37 planned in the county with the off-campus site or in the counties adjacent to that county.  
38 An "off-campus program" is any program offered for degree credit away from the  
39 institution's main, permanent campus.

40 **SECTION 9.5.(g)** The State Education Assistance Authority shall document  
41 the number of full-time equivalent North Carolina undergraduate students that are  
42 enrolled in off-campus programs and the State funds collected by each institution  
43 pursuant to G.S. 116-19 for those students. The State Education Assistance Authority  
44 shall also document the number of scholarships and the amount of the scholarships that

1 are awarded under G.S. 116-19 to students enrolled in off-campus programs. An  
2 "off-campus program" is any program offered for degree credit away from the  
3 institution's main permanent campus.

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

7 **SECTION 9.5.(h)** Any member of the armed services, as defined in  
8 G.S. 116-143.3(a), abiding in this State incident to active military duty, who does not  
9 qualify as a resident for tuition purposes, as defined under G.S. 116-143.1, is eligible for  
10 a legislative tuition grant pursuant to this section if the member is enrolled as a full-time  
11 student. The member's legislative tuition grant shall not exceed the cost of tuition less  
12 any tuition assistance paid by the member's employer.

13 **SECTION 9.5.(i)** In the event there are not sufficient funds to provide each  
14 eligible student with a full grant:

- 15 (1) The Board of Governors of The University of North Carolina, with the  
16 approval of the Office of State Budget and Management, may transfer  
17 available funds to meet the needs of the programs; or
- 18 (2) Each eligible student shall receive a pro rata share of funds then  
19 available for the remainder of the academic year within the fiscal  
20 period covered by the current appropriation.

21 Any remaining funds shall revert to the General Fund.  
22

## 23 **BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS**

24 **SECTION 9.6.** The current Board of Governors' Medical Scholarship  
25 Program, under the purview of the Board of Governors of The University of North  
26 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship  
27 loan awards. The Board of Governors' Medical Scholarship Program is administered by  
28 the Board of Governors of The University of North Carolina. The Board of Governors'  
29 Medical Scholarship Program shall be used to provide a four-year scholarship loan of  
30 relevant tuition and fees, mandatory medical insurance, required laptop computers, and  
31 an annual stipend of five thousand dollars (\$5,000) per year to students who have been  
32 accepted for admission to either Duke University School of Medicine, Brody School of  
33 Medicine at East Carolina University, the University of North Carolina at Chapel Hill  
34 School of Medicine, or the Wake Forest University School of Medicine. The Board  
35 may adopt standards, including minimum grade point average and scholastic aptitude  
36 test scores, for awarding these scholarship loans to ensure that only the most qualified  
37 students receive them. The Board shall make an effort to identify and encourage  
38 minority and economically disadvantaged youth to enter the program. All scholarship  
39 loans shall be evidenced by notes made payable to the Board that shall bear interest at  
40 the rate of ten percent (10%) per year beginning September 1 after completion of the  
41 program, or immediately after termination of the scholarship loan, whichever is earlier.  
42 The scholarship loan may be terminated by the recipient withdrawing from school or by  
43 the recipient not meeting the standards set by the Board. The Board shall forgive the  
44 loan if, within seven years after graduation, the recipient practices medicine in North

1 Carolina for four years. The Board shall also forgive the loan if it finds that it is  
2 impossible for the recipient to practice medicine in North Carolina for four years, within  
3 seven years after graduation, because of the death or permanent disability of the  
4 recipient. All unused funds appropriated to or otherwise received by the Board for  
5 scholarships, all funds received as repayment of scholarship loans, and all interest  
6 earned on these funds, shall revert to the General Fund at the end of each fiscal year.

7  
8 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

9 **SECTION 9.7.** The current Board of Governors' Dental Scholarship  
10 Program, under the purview of the Board of Governors of The University of North  
11 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship  
12 loan awards. The Board of Governors' Dental Scholarship Program is administered by  
13 the Board of Governors of The University of North Carolina. The Board of Governors'  
14 Dental Scholarship Program shall be used to provide a four-year scholarship loan of  
15 relevant tuition and fees, mandatory medical insurance, required laptop computers for  
16 first-year students, required dental equipment and an annual stipend of five thousand  
17 dollars (\$5,000) per year to students who have been accepted for admission to the  
18 School of Dentistry at the University of North Carolina at Chapel Hill. The Board may  
19 adopt standards, including minimum grade point average and scholastic aptitude test  
20 scores, for awarding these scholarship loans to ensure that only the most qualified  
21 students receive them. The Board shall make an effort to identify and encourage  
22 minority and economically disadvantaged youth to enter the program. All scholarship  
23 loans shall be evidenced by notes made payable to the Board that shall bear interest at  
24 the rate of ten percent (10%) per year beginning September 1 after completion of the  
25 program, or immediately after termination of the scholarship loan, whichever is earlier.  
26 The scholarship loan may be terminated by the recipient withdrawing from school or by  
27 the recipient not meeting the standards set by the Board. The Board shall forgive the  
28 loan if, within seven years after graduation, the recipient practices medicine in North  
29 Carolina for four years. The Board shall also forgive the loan if it finds that it is  
30 impossible for the recipient to practice medicine in North Carolina for four years, within  
31 seven years after graduation, because of the death or permanent disability of the  
32 recipient. All unused funds appropriated to or otherwise received by the Board for  
33 scholarships, all funds received as repayment of scholarship loans, and all interest  
34 earned on these funds, shall revert to the General Fund at the end of each fiscal year.

35  
36 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES**

37 **SECTION 9.8.(a)** The Director of the Budget shall transfer to the Board of  
38 Governors of The University of North Carolina sufficient funds from the Reserve for  
39 Compensation Increases, created in this act for fiscal year 2005-2006, to provide an  
40 annual average salary increase of two percent (2%), including funds for the employer's  
41 retirement and social security contributions, commencing July 1, 2005, for all  
42 employees of The University of North Carolina, as well as employees other than  
43 teachers of the North Carolina School of Science and Mathematics, supported by State  
44 funds and whose salaries are exempt from the State Personnel Act (EPA). These funds

1 shall be allocated to individuals according to the rules adopted by the Board of  
2 Governors or the Board of Trustees of the North Carolina School of Science and  
3 Mathematics, as appropriate, and may not be used for any purpose other than for salary  
4 increases and necessary employer contributions provided by this section.

5       **SECTION 9.8.(b)** The Director of the Budget shall transfer to the Board of  
6 Governors of The University of North Carolina sufficient funds from the Reserve for  
7 Compensation Increases, created in this act for fiscal year 2005-2006, to provide an  
8 annual average salary increase of two percent (2%), including funds for the employer's  
9 retirement and social security contributions, commencing July 1, 2005, for all teaching  
10 employees of the North Carolina School of Science and Mathematics, supported by  
11 State funds and whose salaries are exempt from the State Personnel Act (EPA). These  
12 funds shall be allocated to individuals according to the rules adopted by the Board of  
13 Trustees of the North Carolina School of Science and Mathematics, as appropriate, and  
14 may not be used for any purpose other than for salary increases and necessary employer  
15 contributions provided by this section.

#### 16 17 **ENROLLMENT GROWTH FUNDS**

18       **SECTION 9.9.(a)** The University of North Carolina Board of Governors'  
19 Task Force on Meeting Teacher Supply and Demand called for the President to develop  
20 a plan for enrollment growth in UNC's teacher education programs to respond to the  
21 State's shortage of teachers. In a presentation to the Joint Education Oversight  
22 Committee and to the Board, a commitment has been made to increase the number of  
23 teacher education graduates in 2005-2006 and in 2006-2007. Of the funds appropriated  
24 to UNC for Enrollment Growth, UNC-OP is directed to obtain plans from each campus  
25 as to how they will maintain their current enrollment in the teacher education programs  
26 and achieve their growth targets to ensure such increases in those programs occur.  
27 Enrollment growth funds will not be released until such plans are received and approved  
28 by the Office of the President. Plans may include using enrollment growth funds for  
29 targeted admissions, enhanced student support and advising, recruiting, increases in  
30 faculty in necessary instructional areas that lead to certification and other methods it  
31 believes will achieve those results. UNC-OP shall report back to the Office of State  
32 Budget and Management and the Joint Legislative Education Oversight Committee no  
33 later than December 30, 2005, on each campus's plan. No later than March 31, 2006,  
34 UNC-OP shall submit a report on progress towards meeting this priority for the  
35 2006-2007 academic year, based on each campus's current students in the education  
36 programs, and the students who have been accepted for the 2006-2007 fiscal year who  
37 are enrolling in the education programs. The report shall also explain the distribution of  
38 enrollment growth funds by specific initiative.

39       **SECTION 9.9.(b)** In 2006-2007, the Office of the President shall have the  
40 discretion to reallocate up to five percent (5%) of the total enrollment growth funding of  
41 the campuses that have failed to meet their goals if it is deemed that the campuses have  
42 not done what is needed in order to generate such increases in teacher education  
43 enrollment.



**1 ENROLLMENT GROWTH FUNDING MODEL**

2       **SECTION 9.10.** The Office of State Budget and Management, jointly with  
3 The University of North Carolina and the Fiscal Research Division of the General  
4 Assembly shall conduct a comprehensive review of the enrollment funding model to  
5 review the assumptions contained within each element of the formula, to obtain current  
6 benchmark information related to specific elements within the formula, and to examine  
7 the impact of alternative elements and assumptions. An alternative to the current model  
8 shall be the result of this analysis. This alternative shall be used to prepare a request for  
9 enrollment growth funding for the budget to be submitted for the 2006 session of the  
10 General Assembly, and shall be shown in comparison to the use of the current formula.

**11**  
**12 STUDY OF DISTANCE EDUCATION**

13       **SECTION 9.11.** The Office of State Budget and Management shall conduct  
14 a study to identify and analyze the distance education programs at the institutions in The  
15 University. The study shall identify any duplication in course and program offerings,  
16 leader courses and programs at campuses in a particular area of study, and determine  
17 which campuses are best suited to offer a particular course or program of study. This  
18 study shall be reported to the Joint Legislative Education Oversight Committee no later  
19 than April 30, 2006.

**20**  
**21 INFORMATION TECHNOLOGY PROCUREMENT**

22       **SECTION 9.12.** For purposes of purchasing hardware, software licenses,  
23 and multiyear maintenance agreements, The University of North Carolina and its  
24 constituent institutions may participate in the aggregation of purchasing administered by  
25 the Office of State Technology Services, as defined in G.S. 147-33.72F. The Office of  
26 State Budget and Management shall conduct a cost comparison study of hardware,  
27 software license, and multiyear maintenance agreement purchases made by The  
28 University of North Carolina and its constituent institutions and by the Office of State  
29 Technology Services, to determine if further aggregation is cost-justified. Such a report  
30 of comparative unit costs shall be completed by December 31, 2005, to ensure that if  
31 changes are warranted that they can be made in time for the aggregated purchase in July  
32 2006.

**33**  
**34 PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES****35**  
**36 CENTRAL MANAGEMENT****37**  
**38 SCHOOL-BASED CHILD AND FAMILY SUPPORT TEAMS**

39       **SECTION 10.1.** In implementing the School-Based Child and Family  
40 Support Teams initiative, the Department of Health and Human Services shall manage  
41 the funds appropriated in this budget for LME Coordinators and Child and Family Team  
42 Facilitators in the most effective manner to serve at-risk students. The Department is  
43 authorized to transfer funds between budget codes in order to adjust the number of LME

1 Care Coordinators and Child and Family Team Facilitators to ensure the maximum  
2 number of at-risk children are identified and served.

3  
4 **RESERVE FOR INFORMATION TECHNOLOGY**

5 **SECTION 10.2.** Funds budgeted for development and implementation of  
6 specific automated projects in the Department of Health and Human Services, including  
7 the local governmental units, that remain unexpended at the end of the year shall not  
8 revert until the automation development project is complete and ready to be moved into  
9 production.

10  
11 **SENIOR CARE PROGRAM ADMINISTRATION**

12 **SECTION 10.3.** The Department of Health and Human Services may  
13 administer the "Senior Care" prescription drug access program approved by the Health  
14 and Wellness Trust Fund Commission and funded from the Health and Wellness Trust  
15 Fund.

16  
17 **MEDICAL CARE COMMISSION TEMPORARY RULE-MAKING**  
18 **AUTHORITY EXTENDED**

19 **SECTION 10.4.** Notwithstanding 26 NCAC 2C .0102(11), the Medical Care  
20 Commission may adopt temporary rules as provided in this section until July 1, 2007.

21  
22 **LIABILITY INSURANCE**

23 **SECTION 10.5.(a)** The Secretary of the Department of Health and Human  
24 Services, the Secretary of the Department of Environment and Natural Resources, and  
25 the Secretary of the Department of Correction may provide medical liability coverage  
26 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of  
27 the Departments licensed to practice medicine or dentistry, on behalf of all licensed  
28 physicians who are faculty members of The University of North Carolina who work on  
29 contract for the Division of Mental Health, Developmental Disabilities, and Substance  
30 Abuse Services for incidents that occur in Division programs, and on behalf of  
31 physicians in all residency training programs from The University of North Carolina  
32 who are in training may include commercial insurance or self-insurance and shall cover  
33 these individuals for institutions operated by the Department of Health and Human  
34 Services. This covers their acts or omissions only while they are engaged in providing  
35 medical and dental services pursuant to their State employment or training.

36 **SECTION 10.5.(b)** The coverage provided under this section shall not cover  
37 any individual for any act or omission that the individual knows or reasonably should  
38 know constitutes a violation of the applicable criminal laws of any state or the United  
39 States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of  
40 any act amounting to willful or wanton negligence.

41 **SECTION 10.5.(c)** The coverage provided pursuant to this section shall not  
42 require any additional appropriations and shall not apply to any individual providing  
43 contractual service to the Department of Health and Human Services, the Department of  
44 Environment and Natural Resources, or the Department of Correction, with the

1 exception that coverage may include physicians in all residency training programs from  
2 The University of North Carolina who are in training at institutions operated by the  
3 Department of Health and Human Services and licensed physicians who are faculty  
4 members of The University of North Carolina who work for the Division of Mental  
5 Health, Developmental Disabilities, and Substance Abuse Services.

#### 6 7 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

8 **SECTION 10.6.** G.S. 143-3.3 is amended by adding the following new  
9 subsection to read:

10 "(m) Payroll Deduction for State Employee of the Department of Health and  
11 Human Services for Child Care Services Allowed. – An employee of the Department of  
12 Health and Human Services may authorize, in writing, the periodic deduction from the  
13 employee's salary or wages paid for employment by the State of a designated lump sum  
14 to be paid to satisfy the cost of services received for child care provided by the  
15 Department."

#### 16 17 **MORE AT FOUR PROGRAM**

18 **SECTION 10.7.(a)** Funds appropriated to the Department of Health and  
19 Human Services for the purposes of the More At Four Prekindergarten Program shall be  
20 used to implement a voluntary prekindergarten program for at-risk four-year-olds.

21 **SECTION 10.7.(b)** The Department of Health and Human Services and the  
22 Department of Public Instruction shall establish the "More At Four" Pre-K Task Force  
23 to advise on implementation of the public prekindergarten program. The membership  
24 shall include:

- 25 (1) Parents of at-risk children.
- 26 (2) Representatives with expertise in early childhood development.
- 27 (3) Classroom teachers who are certified in early childhood education.
- 28 (4) Representatives of the private not-for-profit and for-profit child care  
29 providers in North Carolina.
- 30 (5) Employees of the Department of Health and Human Services who are  
31 knowledgeable in the areas of early childhood.
- 32 (6) Employees of the Department of Public Instruction who are  
33 knowledgeable in the areas of early childhood.
- 34 (7) Representatives of the North Carolina Partnership for Children.
- 35 (8) Representatives of local Smart Start partnerships.
- 36 (9) Representatives of local school administrative units.
- 37 (10) Representatives of Head Start prekindergarten programs in North  
38 Carolina.
- 39 (11) Employees of the Department of Public Instruction.

40 **SECTION 10.7.(c)** The Department of Health and Human Services and the  
41 Department of Public Instruction, with guidance from the Task Force, shall continue the  
42 implementation of the "More At Four" prekindergarten program for at-risk  
43 four-year-olds who are at risk of failure in kindergarten. The program is available  
44 statewide to all counties that choose to participate, including underserved areas. The

1 goal of the program is to provide quality prekindergarten services to a greater number of  
2 at-risk children in order to enhance kindergarten readiness for these children. The  
3 program shall be consistent with standards and assessments established jointly by the  
4 Department of Health and Human Services, and the Department of Public Instruction  
5 may consider the "More At Four" Pre-K Task Force recommendations. The program  
6 shall include:

- 7 (1) A process and system for identifying children at risk of academic  
8 failure.
- 9 (2) A process and system for identifying children who are not being  
10 served in formal early education programs as the first priority, such as  
11 child care, public or private preschools, Head Start, Early Head Start,  
12 early intervention programs, or other such programs, who demonstrate  
13 educational needs and who are eligible to enter kindergarten the next  
14 school year. Children who are underserved in programs that do not  
15 meet More At Four standards may be considered as the second  
16 priority.
- 17 (3) Curricula that are research-based and meet specified criteria  
18 established by the Task Force and More At Four Pre-K Program.  
19 Curricula shall: (i) focus primarily on oral language and emergent  
20 literacy; (ii) engage children through key experiences and provide  
21 background knowledge requisite for formal learning and successful  
22 reading in the early elementary years; (iii) involve active learning; (iv)  
23 promote measurable kindergarten language-readiness skills that focus  
24 on emergent literacy and mathematical skills; (v) develop skills that  
25 will prepare children emotionally and socially for kindergarten; and  
26 (vi) facilitate implementation of the North Carolina Early Learning  
27 Standards.
- 28 (4) An emphasis on ongoing family involvement with the prekindergarten  
29 program.
- 30 (5) Evaluation of child progress, as well as ongoing assessment of the  
31 children by teachers.
- 32 (6) Guidelines for a system to reimburse local school boards and systems,  
33 private child care providers, and other entities willing to establish and  
34 provide prekindergarten programs to serve at-risk children.
- 35 (7) A system built upon existing local school boards and systems, private  
36 child care providers, and other entities that demonstrate the ability to  
37 establish or expand prekindergarten capacity.
- 38 (8) A quality-control system. Participating providers shall comply with  
39 standards and guidelines as established by the More At Four Program.  
40 The Department may use the child care rating system to assist in  
41 determining program participation.
- 42 (9) Standards for minimum teacher qualifications. Funded More At Four  
43 classrooms shall have a teacher who is licensed or provisionally  
44 licensed in birth to kindergarten education, or working toward that

1 license within specified timelines. Exceptions may be made on a  
2 case-by-case basis by the More At Four Pre-K Program.

3 (10) A local contribution. Programs must demonstrate that they are  
4 accessing resources other than "More At Four".

5 (11) A system of accountability.

6 (12) Collaboration with State agencies and other organizations. The More  
7 At Four Program shall collaborate with State agencies and other  
8 organizations in the implementation of the program.

9 (13) Consideration of the reallocation of existing funds. In order to  
10 maximize current funding and resources, the Department of Health and  
11 Human Services, the Department of Public Instruction, and the Task  
12 Force shall consider the reallocation of existing funds from State and  
13 local programs that provide prekindergarten related care and services.

14 (14) Recommendations for long-term organizational placement and  
15 administration of the program.

16 **SECTION 10.7.(d)** A collaborative plan for expansion of the "More At  
17 Four" program quality standards may be established, to begin with five-star-rated  
18 centers and schools serving four-year-olds and later moving to four-star-rated centers  
19 and schools as feasible. The More At Four Pre-K Program shall work with the Division  
20 of Child Development and the North Carolina Partnership for Children, Inc. to develop  
21 guidelines for these programs. The four- and five-star centers that choose to meet the  
22 Pre-K Program Standards consistent with a "More At Four" program shall, at a  
23 minimum, receive access to training and workshops for "More At Four" programs and  
24 be considered along with other "More At Four" programs for T.E.A.C.H. funding within  
25 available resources.

26 **SECTION 10.7.(e)** An annual progress report shall be submitted on the  
27 progress of the More At Four Program by May 30 each year to the Joint Legislative  
28 Commission on Governmental Operations, the Joint Legislative Education Oversight  
29 Committee, the Senate Appropriations Committee on Health and Human Services, the  
30 House of Representatives Appropriations Subcommittee on Health and Human  
31 Services, and the Fiscal Research Division. This final report shall include the following:

32 (1) The number of children participating in the program.

33 (2) The number of children participating in the program who have never  
34 been served in other early education programs, such as child care,  
35 public or private preschool, Head Start, Early Head Start, or early  
36 intervention programs.

37 (3) The expected expenditures for the programs and the source of the local  
38 match for each grantee.

39 (4) The location of program sites and the corresponding number of  
40 children participating in the program at each site.

41 (5) A comprehensive cost analysis of the program, including the cost per  
42 child served by the program.

- 1           (6) Update on the program to recognize licensed centers that meet the  
2           North Carolina Prekindergarten Program Standards consistent with  
3           More At Four.

4           **SECTION 10.7.(f)** The "More At Four" program shall establish income  
5           eligibility requirements for the program not to exceed two hundred fifty percent (250%)  
6           of poverty level, with priority given to families that meet seventy-five percent (75%) of  
7           the State median income. Up to twenty percent (20%) of children enrolled may have  
8           family incomes in excess of the income eligibility standard if they have other designated  
9           risk factors.

10  
11 **MORE AT FOUR TRANSPORTATION**

12           **SECTION 10.8.** GS 115C-242(1) reads as rewritten:

- 13           "(1) A school bus may be used for the transportation of pupils enrolled in  
14           and employees in the operation of the school to which such bus is  
15           assigned by the superintendent of the local school administrative unit.  
16           Except as otherwise herein provided, such transportation shall be  
17           limited to transportation to and from such school for the regularly  
18           organized school day, and from and to the points designated by the  
19           principal of the school to which such bus is assigned, for the receiving  
20           and discharging of passengers. No pupil or employee shall be so  
21           transported upon any bus other than the bus to which such pupil or  
22           employee has been assigned pursuant to the provisions of this Article:  
23           Provided, that children enrolled in a Headstart program which is  
24           housed in a building owned and operated by a local school  
25           administrative unit where school is being conducted may be  
26           transported on public school buses, so long as the contractual  
27           arrangements made cause no extra expense to the State: Provided  
28           ~~further,~~ that children with special needs may be transported to and  
29           from the nearest appropriate private school having a special education  
30           program approved by the State Board of Education if the children to be  
31           transported are or have been placed in that program by a local school  
32           administrative unit as a result of the State or the unit's duty to provide  
33           such children with a free appropriate public ~~education.~~ education;  
34           provided further that children enrolled in the State-funded More At  
35           Four Prekindergarten Program may be transported to and from Head  
36           Start Programs and child care centers serving those children that are  
37           not located in buildings owned and operated by the local school  
38           administrative unit and there is no extra expense to the State."

39  
40 **OFFICE OF POLICY AND PLANNING**

41           **SECTION 10.9.(a)** To promote coordinated policy development and  
42           strategic planning for the State's health and human services systems, the Secretary of  
43           Health and Human Services shall establish an Office of Policy and Planning from  
44           existing resources across the Department. The Director of the Office of Policy and

1 Planning shall report directly to the Secretary and shall have the following  
2 responsibilities:

- 3 (1) Coordinate the development of departmental policies, plans, and rules,  
4 in consultation with the Divisions of the Department.
- 5 (2) Development of a departmental process for the development and  
6 implementation of new policies, plans, and rules.
- 7 (3) Development of a departmental process for the review of existing  
8 policies, plans, and rules to ensure that departmental policies, plans,  
9 and rules are relevant.
- 10 (4) Coordination and review of all departmental policies before  
11 dissemination to ensure that all policies are well coordinated within  
12 and across all programs.
- 13 (5) Implementation of ongoing strategic planning that integrates budget,  
14 personnel, and resources with the mission and operational goals of the  
15 Department.
- 16 (6) Review, disseminate, monitor, and evaluate best practice models.

17 **SECTION 10.9.(b)** Under the direction of the Secretary of Health and  
18 Human Services, the Director of the Office of Policy and Planning shall have the  
19 authority to direct Divisions, offices, and programs within the Department to conduct  
20 periodic reviews of policies, plans, and rules and shall advise the Secretary when it is  
21 determined to be appropriate or necessary to modify, amend, and repeal departmental  
22 policies, plans, and rules. All policy and management positions within the Office of  
23 Policy and Planning are exempt positions as that term is defined in G.S. 126-5.  
24

## 25 **NONMEDICAID REIMBURSEMENT CHANGES**

26 **SECTION 10.10.** Providers of medical services under the various State  
27 programs, other than Medicaid, offering medical care to citizens of the State shall be  
28 reimbursed at rates no more than those under the North Carolina Medical Assistance  
29 Program.

30 When the Medical Assistance Program's per diem rates for inpatient services  
31 and its interim rates for outpatient services are used to reimburse providers in  
32 non-Medicaid medical service programs, retroactive adjustments to claims already paid  
33 shall not be required.

34 Notwithstanding the provisions of paragraph 1, the Department of Health and  
35 Human Services may negotiate with providers of medical services under the various  
36 Department of Health and Human Services programs, other than Medicaid, for rates as  
37 close as possible to Medicaid rates for the following purposes: contracts or agreements  
38 for medical services and purchases of medical equipment and other medical supplies.  
39 These negotiated rates are allowable only to meet the medical needs of its  
40 non-Medicaid-eligible patients, residents, and clients who require such services which  
41 cannot be provided when limited to the Medicaid rate.

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

44 Medical Eye      Rehabilitation Except

	<u>Family Size</u>	<u>Care Adults</u>	<u>DSB Over 55 Grant</u>	<u>Other</u>
1	1	\$4,860	\$8,364	\$4,200
2	2	5,940	10,944	5,300
3	3	6,204	13,500	6,400
4	4	7,284	16,092	7,500
5	5	7,821	18,648	7,900
6	6	8,220	21,228	8,300
7	7	8,772	21,708	8,800
8	8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

<u>Income</u> <u>(% of poverty)</u>	<u>State Participation</u>	<u>Client Participation</u>
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

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

**DIVISION OF AGING**

**SPECIAL ASSISTANCE IN-HOME PROGRAM**

**SECTION 10.11.** The Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide



1 Special Assistance payments to eligible individuals in in-home living arrangements.  
2 These payments may be made for up to 800 individuals during the 2005-2006 fiscal  
3 year and the 2006-2007 fiscal year. The standard monthly payment to individuals  
4 enrolled in the Special Assistance in-home program shall be fifty percent (50%) of the  
5 monthly payment the individual would receive if the individual resided in an adult care  
6 home and qualified for Special Assistance, except if a lesser payment amount is  
7 appropriate for the individual as determined by the local case manager. For State fiscal  
8 years 2005-2006 and 2006-2007, qualified individuals shall not receive payments at  
9 rates less than they would have been eligible to receive in State fiscal year 2002-2003.  
10 The Department shall implement Special Assistance in-home eligibility policies and  
11 procedures to assure that in-home program participants are those individuals who need  
12 and, but for the in-home program, would seek placement in an adult care home facility.  
13 The Department's policies and procedures shall include the use of a functional  
14 assessment. The Department shall make this in-home option available to all counties on  
15 a voluntary basis. To the maximum extent possible, the Department shall consider  
16 geographic balance in the dispersion of payments to individuals across the State.  
17

## 18 SENIOR CENTER OUTREACH

19 **SECTION 10.12.(a)** Funds appropriated to the Department of Health and  
20 Human Services, Division of Aging, for senior center development for the 2005-2007  
21 biennium, shall be used by the Division of Aging to enhance senior center programs as  
22 follows:

- 23 (1) To expand the outreach capacity of senior centers to reach unserved or  
24 underserved areas; or
- 25 (2) To provide start-up funds for new senior centers.
- 26 (3) All of these funds shall be allocated by October 1 of each fiscal year.

27 **SECTION 10.12.(b)** Prior to funds being allocated pursuant to this section  
28 for start-up funds for a new senior center, the county commissioners of the county in  
29 which the new center will be located shall:

- 30 (1) Formally endorse the need for such a center;
- 31 (2) Formally agree on the sponsoring agency for the center; and
- 32 (3) Make a formal commitment to use local funds to support the ongoing  
33 operation of the center.

34 **SECTION 10.12.(c)** State funding shall not exceed seventy-five percent  
35 (75%) of reimbursable costs.  
36

## 37 DIVISION OF CHILD DEVELOPMENT

### 38 CRIMINAL HISTORY RECORD CHECKS

39 **SECTION 10.13.** It is the intent of the General Assembly that the Division  
40 of Child Development be able to conduct criminal history record checks in an expedient  
41 manner during the 2005-2007 fiscal biennium. The Division of Child Development  
42 may use lapsed salary funds to support up to three additional temporary positions during  
43

1 the 2005-2007 fiscal biennium to eliminate the backlog and keep current the criminal  
2 history record checks process.

3  
4 **CHILD CARE SUBSIDY PAYMENTS**

5 **SECTION 10.14.(a)** The maximum gross annual income for initial  
6 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five  
7 percent (75%) of the State median income, adjusted for family size.

8 **SECTION 10.14.(b)** Fees for families who are required to share in the cost  
9 of care shall be established based on a percent of gross family income and adjusted for  
10 family size. Fees shall be determined as follows:

11 FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
12 1-3	10%
13 4-5	9%
14 6 or more	8%.

15 **SECTION 10.14.(c)** Payments for the purchase of child care services for  
16 low-income children shall be in accordance with the following requirements:

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

34 **SECTION 10.14.(d)** Provision of payment rates for child care providers in  
35 counties that do not have at least 50 children in each age group for center-based and  
36 home-based care are as follows:

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

1           **SECTION 10.14.(e)** A market rate shall be calculated for child care centers  
2 and homes at each rated license level for each county and for each age group or age  
3 category of enrollees and shall be representative of fees charged to unsubsidized  
4 privately paying parents for each age group of enrollees within the county. The  
5 Division of Child Development shall also calculate a statewide rate and regional market  
6 rates for each rated license level for each age category.

7           **SECTION 10.14.(f)** Facilities licensed pursuant to Article 7 of Chapter 110  
8 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate  
9 in the program that provides for the purchase of care in child care facilities for minor  
10 children of needy families. No separate licensing requirements shall be used to select  
11 facilities to participate. In addition, child care facilities shall be required to meet any  
12 additional applicable requirements of federal law or regulations. Child care  
13 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the  
14 General Statutes shall meet the requirements established by other State law and by the  
15 Social Services Commission.

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

20           **SECTION 10.14.(g)** Payment for subsidized child care services provided  
21 with Work First Block Grant funds shall comply with all regulations and policies issued  
22 by the Division of Child Development for the subsidized child care program.

23           **SECTION 10.14.(h)** Noncitizen families who reside in this State legally  
24 shall be eligible for child care subsidies if all other conditions of eligibility are met. If  
25 all other conditions of eligibility are met, noncitizen families who reside in this State  
26 illegally shall be eligible for child care subsidies only if at least one of the following  
27 conditions is met:

- 28           (1) The child for whom a child care subsidy is sought is developmentally  
29           delayed or at risk of being developmentally delayed.
- 30           (2) The child for whom a child care subsidy is sought is a citizen of the  
31           United States.

### 32 33 **CHILD CARE ALLOCATION FORMULA**

34           **SECTION 10.15.(a)** The Department of Health and Human Services shall  
35 allocate child care subsidy voucher funds to pay the costs of necessary child care for  
36 minor children of needy families. The mandatory thirty percent (30%) Smart Start  
37 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each  
38 county's child care subsidy allocation. The Department of Health and Human Services  
39 shall use the following method when allocating federal and State child care funds, not  
40 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 41           (1) Funds shall be allocated based upon the projected cost of serving  
42           children in a county under age 11 in families with all parents working  
43           who earn less than seventy-five percent (75%) of State median income.

- 1 (2) No county's allocation shall be less than ninety percent (90%) of the  
2 2001-2002 fiscal year initial child care subsidy allocation.

3 **SECTION 10.15.(b)** The Department of Health and Human Services may  
4 reallocate unused child care subsidy voucher funds in order to meet the child care needs  
5 of low-income families. Any reallocation of funds shall be based upon the expenditures  
6 of all child care subsidy voucher funding, including Smart Start funds, within a county.

7 **SECTION 10.15.(c)** Notwithstanding subsection (a) of this section, of the  
8 funds appropriated in this act to the Department of Health and Human Services for the  
9 2005-2007 fiscal biennium to increase State and federal Block Grant funds for  
10 subsidized child care services, the Department may allocate those funds for the  
11 2005-2007 fiscal biennium in order to prevent termination of services.

### 12 13 **CHILD CARE REVOLVING LOAN**

14 **SECTION 10.16.** Notwithstanding any law to the contrary, funds budgeted  
15 for the Child Care Revolving Loan Fund may be transferred to and invested by the  
16 financial institution contracted to operate the Fund. The principal and any income to the  
17 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral  
18 for borrowers, pay the contractor's cost of operating the Fund, or to pay the  
19 Department's cost of administering the program.

### 20 21 **DIVISION OF PUBLIC HEALTH**

#### 22 23 **AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

24 **SECTION 10.17.** For the 2005-2006 fiscal year and for the 2006-2007 fiscal  
25 year, the Department of Health and Human Services, with the approval of the Office of  
26 State Budget and Management, may increase the eligibility of the ADAP Program  
27 above one hundred twenty-five percent (125%), but not more than two hundred percent  
28 (200%), of FPL provided appropriate recurring resources are identified. These sources  
29 could include drug rebates generated by this program, and federal Ryan White funds, or  
30 other appropriate federal resources.

#### 31 32 **PUBLIC HEALTH IMPROVEMENTS**

33 **SECTION 10.18.** Of the funds appropriated in this act to the Department of  
34 Health and Human Services, Division of Public Health, the sum of fifty thousand  
35 dollars (\$50,000) for the 2005-2006 fiscal year and the sum of fifty thousand dollars  
36 (\$50,000) for the 2006-2007 fiscal year shall be allocated to accredited local public  
37 health agencies for one or more of the following purposes:

- 38 (1) To facilitate the creation of Quality Officers in each agency to oversee  
39 the quality improvement structure and process, develop and ensure  
40 compliance with the agency's quality improvement plan against  
41 internal and external requirements, develop critical incident reporting  
42 and management plans, assess organizational and workforce  
43 development gaps, and oversee the accreditation process.

- 1 (2) To facilitate the development of private or public partnerships through  
2 contracts, interlocal agreements, memoranda of understanding, and  
3 community grants.
- 4 (3) To provide incentives to agencies to collaborate and partner with other  
5 counties in the development of regional public health incubators to  
6 improve service delivery, organization, and preparedness.
- 7 (4) To enable accredited agencies to assist other counties in their efforts to  
8 achieve public health accreditation.
- 9 (5) To promote partnerships between local agencies and universities  
10 through development of academic health departments.
- 11 (6) To provide incentives to develop local and regional business plans to  
12 create hybrid health departments, including public health authorities  
13 and public health districts, and identify new sources of public health  
14 revenue.
- 15 (7) To create community health plans to improve community health and  
16 reduce health disparities, including the creation of a Community  
17 Wellness Index.
- 18 (8) To strengthen the role of local boards of health through training,  
19 technical assistance, and consultation.
- 20 (9) To create public internships at the local level.
- 21 (10) To support new insights and innovative solutions to health problems  
22 that will result in improved quality, greater accountability, improved  
23 health outcomes, and the elimination of health disparities.  
24

## 25 ACCREDITATION FOR LOCAL HEALTH DEPARTMENTS

26 **SECTION 10.19.(a)** The Department of Health and Human Services shall  
27 expand the accreditation process for local health departments to include additional  
28 counties.

29 **SECTION 10.19.(b)** The Accreditation Board (hereafter "Board") is  
30 established within the North Carolina Institute for Public Health. The Board shall be  
31 composed of 15 members appointed by the Secretary of Health and Human Services as  
32 follows:

- 33 (1) Four county commissioners recommended by the North Carolina  
34 Association of County Commissioners, and four shall be members of a  
35 local board of health as recommended by the North Carolina  
36 Association of Local Boards of Health.
- 37 (2) Two local health directors.
- 38 (3) One staff member from the Department of Health and Human  
39 Services, Division of Public Health.
- 40 (4) Three at-large members.
- 41 (5) One person recommended by the Secretary of Environment and  
42 Natural Resources, from the Division of Environmental Health.

43 **SECTION 10.19.(c)** Members of the Board who are not officers or  
44 employees of the State shall receive reimbursement for travel and subsistence expenses

1 at the rates specified in G.S. 138-5. Members of the Board who are officers or  
2 employees of the State shall receive reimbursement for travel and subsistence at the rate  
3 set out in G.S. 138-6.

4 **SECTION 10.19.(d)** The Board shall evaluate the Department's  
5 accreditation process for local health departments, including the following:

- 6 (1) The standards by which the local health departments are judged.
- 7 (2) The self-assessment process used by the counties.
- 8 (3) The process for local site reviews and appeals.
- 9 (4) The makeup of the proposed State accrediting entity and its  
10 relationship to the Department.
- 11 (5) The cost of meeting the accreditation standards in the counties.

12 **SECTION 10.19.(e)** Of the funds appropriated in this act to the Department  
13 of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the  
14 2005-2006 fiscal year shall be allocated for administrative costs and for activities of the  
15 Accreditation Board for the accreditation of additional local health departments. The  
16 Department shall contract with the Institute for Public Health, which shall be  
17 responsible for the accreditation process.

## 18 **IMMUNIZATION PROGRAM FUNDING**

19 **SECTION 10.20.(a)** Of the funds appropriated in this act to the Department  
20 of Health and Human Services for childhood immunization programs for positions,  
21 operating support, equipment, and pharmaceuticals, the sum of one million dollars  
22 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars  
23 (\$1,000,000) for the 2006-2007 fiscal year may be used for projects and activities that  
24 are also designed to increase childhood immunization rates in North Carolina. These  
25 projects and activities shall include the following:

- 26 (1) Outreach efforts at the State and local levels to improve service  
27 delivery of vaccines. Outreach efforts may include educational  
28 seminars, media advertising, support services to parents to enable  
29 children to be transported to clinics, longer operating hours for clinics,  
30 and mobile vaccine units.
- 31 (2) Continued development of an automated immunization registry.

32 **SECTION 10.20.(b)** Funds authorized to be used for immunization efforts  
33 under subsection (a) of this section shall not be used to fund additional State positions in  
34 the Department of Health and Human Services or contracts, except for contracts to  
35 develop an automated immunization registry or contracts with local health departments  
36 for outreach.

## 37 **DIVISION OF SOCIAL SERVICES**

### 38 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 39 **PERFORMANCE ENHANCEMENTS**

40 **SECTION 10.21.(a)** Notwithstanding the provisions of G.S. 143B-150.6,  
41 the Intensive Family Preservation Services Program shall provide intensive services to  
42

1 children and families in cases of abuse, neglect, and dependency where a child is at  
2 imminent risk of removal from the home and to children and families in cases of abuse  
3 where a child is not at imminent risk of removal. The Program shall be developed and  
4 implemented statewide on a regional basis. The IFPS shall ensure the application of  
5 standardized assessment criteria for determining imminent risk and clear criteria for  
6 determining out-of-home placement.

7 **SECTION 10.21.(b)** The Department of Health and Human Services shall  
8 require that any program or entity that receives State, federal, or other funding for the  
9 purpose of Intensive Family Preservation Services shall provide information and data  
10 that allows for:

- 11 (1) An established follow-up system with a minimum of six months of  
12 follow-up services.
- 13 (2) Detailed information on the specific interventions applied, including  
14 utilization indicators and performance measurement.
- 15 (3) Cost-benefit data.
- 16 (4) Data on long-term benefits associated with Intensive Family  
17 Preservation Services. This data shall be obtained by tracking families  
18 through the intervention process.
- 19 (5) The number of families remaining intact and the associated  
20 interventions while in IFPS and 12 months thereafter.
- 21 (6) The number and percentage by race of children who received Intensive  
22 Family Preservation Services compared to the ratio of their distribution  
23 in the general population involved with Child Protective Services.

24 **SECTION 10.21.(c)** The Department shall establish performance-based  
25 funding protocol and shall only provide funding to those programs and entities  
26 providing the required information specified in subsection (c) of this section. The  
27 amount of funding shall be based on the individual performance of each program.

## 28 29 **FUNDS FOR FOOD BANKS**

30 **SECTION 10.22.** Of the funds appropriated to the Department of Health and  
31 Human Services in this act, the sum of one million dollars (\$1,000,000) for the  
32 2005-2006 fiscal year shall be allocated equally among the six Second Harvest North  
33 Carolina food banks.

## 34 35 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

36 **SECTION 10.23.(a)** The maximum rates for State participation in the foster  
37 care assistance program are established on a graduated scale as follows:

- 38 (1) \$390.00 per child per month for children aged birth through 5;
- 39 (2) \$440.00 per child per month for children aged 6 through 12; and
- 40 (3) \$490.00 per child per month for children aged 13 through 18.

41 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the child.

42 **SECTION 10.23.(b)** The maximum rates for State participation in the  
43 adoption assistance program are established on a graduated scale as follows:

- 44 (1) \$390.00 per child per month for children aged birth through 5;

1 (2) \$440.00 per child per month for children aged 6 through 12; and

2 (3) \$490.00 per child per month for children aged 13 through 18.

3 **SECTION 10.23.(c)** In addition to providing board payments to foster and  
4 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter  
5 324 of the 1995 Session Laws, any additional funds remaining that were appropriated  
6 for this purpose shall be used to provide medical training in avoiding HIV transmission  
7 in the home.

8 **SECTION 10.23.(d)** The maximum rates for the State participation in HIV  
9 foster care and adoption assistance are established on a graduated scale as follows:

10 (1) \$800.00 per child per month with indeterminate HIV status;

11 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;

12 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and

13 (4) \$1,600 per child per month terminally ill with complex care needs.  
14

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

16 **SECTION 10.24.(a)** Of the funds appropriated to the Department of Health  
17 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)  
18 shall be used to support the Special Children Adoption Fund for the 2005-2006 fiscal  
19 year. The Division of Social Services, in consultation with the North Carolina  
20 Association of County Directors of Social Services and representatives of licensed  
21 private adoption agencies, shall develop guidelines for the awarding of funds to licensed  
22 public and private adoption agencies upon the adoption of children described in  
23 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption  
24 Fund by participating agencies shall be used exclusively to enhance the adoption  
25 services. No local match shall be required as a condition for receipt of these funds. In  
26 accordance with State rules for allowable costs, the Special Children Adoption Fund  
27 may be used for post-adoption services for families whose income exceed two hundred  
28 percent (200%) of the federal poverty level.

29 **SECTION 10.24.(b)** Of the total funds appropriated for the Special Children  
30 Adoption Fund each year, twenty percent (20%) of the total funds available shall be  
31 reserved for payment to participating private adoption agencies. If the funds reserved in  
32 this subsection for payments to private agencies have not been spent on or before March  
33 31, 2006, the Division of Social Services may reallocate those funds, in accordance with  
34 this section, to other participating adoption agencies.

35 **SECTION 10.24.(c)** The Division of Social Services shall monitor the total  
36 expenditures in the Special Children Adoption Fund and redistribute unspent funds to  
37 ensure that the funds are used according to the guidelines established in subsection (a)  
38 of this section. The Division shall implement strategies to ensure that funds that have  
39 historically reverted for this program are used for the intended purpose.  
40

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

42 **SECTION 10.25.(a)** It is the intent of the General Assembly to increase the  
43 productivity and enhance the performance of child support enforcement offices  
44 statewide.



1           **SECTION 10.25.(b)** The Department of Health and Human Services shall  
2 implement and maintain performance standards developed for each of the State and  
3 county child support enforcement offices across the State. These performance standards  
4 shall include the following:

- 5           (1) Cost per collections.
- 6           (2) Consumer satisfaction.
- 7           (3) Paternity establishments.
- 8           (4) Administrative costs.
- 9           (5) Orders established.
- 10          (6) Collections on arrearages.
- 11          (7) Location of absent parents.
- 12          (8) Other related performance measures.

13          The Department of Health and Human Services shall monitor the  
14 performance of each office and shall implement a system of reporting that allows each  
15 local office to review its performance as well as the performance of other local offices.  
16 The Department of Health and Human Services shall publish an annual performance  
17 report that shall include the statewide and local office performance of each child support  
18 office.

## 19           **DIVISION OF MEDICAL ASSISTANCE**

### 20           **MEDICAID COST CONTAINMENT**

21           **SECTION 10.26.(a)** The Department of Health and Human Services,  
22 Division of Medical Assistance, is authorized to implement cost-containment programs  
23 in order to achieve expenditure reductions included in the budget for the 2005-2007  
24 fiscal biennium. Such cost-containment programs may include:  
25

- 26           (1) Prospective reimbursement methods,
- 27           (2) Incentive-based reimbursement methods,
- 28           (3) Service limits, such as a limit on the number of visits or frequency of  
29           procedures (this should not be construed as the elimination of any  
30           service category),
- 31           (4) Prior authorization of services, medical equipment, supplies, and  
32           appliances,
- 33           (5) Periodic medical necessity reviews,
- 34           (6) Revised medical necessity criteria,
- 35           (7) Volume purchase plans,
- 36           (8) Contracting for services,
- 37           (9) Single source procurement,
- 38           (10) Preadmissions to hospitals,
- 39           (11) Prior approval for certain outpatient surgeries before they may be  
40           performed in an inpatient setting,
- 41           (12) Service provision in the least costly settings, and  
42           (13) Other cost-containment activities.
- 43

1 The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as  
2 necessary to achieve the cost-containment goal.

3 **SECTION 10.26.(b)** The Department may use not more than three million  
4 dollars (\$3,000,000) in each year of the 2005-2007 fiscal biennium in Medicaid funds  
5 budgeted for program services to support the cost of administrative activities to support  
6 cost-containment programs when cost-effectiveness and savings are demonstrated. The  
7 funds shall be used for activities that will contain the cost of the Medicaid Program,  
8 including contracting for services or hiring additional staff. Funds may be expended  
9 under this paragraph only after the Office of State Budget and Management has  
10 approved a proposal for the expenditure submitted by the Department. Proposals for  
11 expenditure of funds under this section shall include the cost of implementing the  
12 cost-containment activity and documentation of the amount of savings expected to be  
13 realized from the cost-containment activity. The Department shall provide a copy of  
14 proposals for expenditures under this section to the Fiscal Research Division.

## 15 16 **PHARMACY COST CONTAINMENT**

17 **SECTION 10.27.** The Department shall devise and implement a pharmacy  
18 plan in order to achieve expenditure reductions included in the budget for the  
19 2005-2007 fiscal biennium. The pharmacy plan may include the following activities:

- 20 (1) Maintaining the prior authorization program which manages utilization  
21 of high-cost, brand-name drugs.
- 22 (2) Developing physician prescribing practice profiles and other  
23 educational tools to enable physicians to better manage their  
24 prescriptions.
- 25 (3) Establishing therapeutic limits based on appropriate dosage or usage  
26 standards.
- 27 (4) Encouraging use of generic drugs.
- 28 (5) Contracting with a pharmacy benefits manager to implement more  
29 extensive drug utilization review.
- 30 (6) Changing the six prescription drug monthly limit.
- 31 (7) A more rigorous prior authorization program to ensure cost decisions  
32 are made based on evidence-based clinical guidelines.
- 33 (8) Expanding disease management initiatives.
- 34 (9) Working with Community Care of North Carolina physicians to  
35 develop and implement drug utilization management initiatives.
- 36 (10) If cost-effectiveness is demonstrated, expanding Medicaid drug  
37 coverage to include selected over-the-counter medications.

38 The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as  
39 necessary to achieve the cost-containment goal.

## 40 41 **MEDICAID**

42 **SECTION 10.28.** Funds appropriated in this Title for services provided in  
43 accordance with Title XIX of the Social Security Act (Medicaid) are for both the  
44 categorically needy and the medically needy. Funds appropriated for these services

1 shall be expended in accordance with the following schedule of services and payment  
2 bases. All services and payments are subject to the language at the end of this  
3 subsection.

4 Services and payment bases:

- 5 (1) Hospital-Inpatient. – Payment for hospital inpatient services will be  
6 prescribed in the State Plan as established by the Department of Health  
7 and Human Services.
- 8 (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a  
9 prospective reimbursement plan as established by the Department of  
10 Health and Human Services.
- 11 (3) Nursing Facilities. – Payment for nursing facility services will be  
12 prescribed in the State Plan as established by the Department of Health  
13 and Human Services. Nursing facilities providing services to Medicaid  
14 recipients who also qualify for Medicare must be enrolled in the  
15 Medicare program as a condition of participation in the Medicaid  
16 program. State facilities are not subject to the requirement to enroll in  
17 the Medicare program. Residents of nursing facilities who are eligible  
18 for Medicare coverage of nursing facility services must be placed in a  
19 Medicare-certified bed. Medicaid shall cover facility services only  
20 after the appropriate services have been billed to Medicare. The  
21 Division of Medical Assistance shall allow nursing facility providers  
22 sufficient time from the effective date of this act to certify additional  
23 Medicare beds if necessary. In determining the date that the  
24 requirements of this subdivision become effective, the Division of  
25 Medical Assistance shall consider the regulations governing  
26 certification of Medicare beds and the length of time required for this  
27 process to be completed.
- 28 (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed  
29 in the State Plan established by the Department of Health and Human  
30 Services.
- 31 (5) Drugs. – Drug costs as allowed by federal regulations plus a  
32 professional services fee per month excluding refills for the same drug  
33 or generic equivalent during the same month. Reimbursement shall be  
34 available for up to six prescriptions per recipient, per month, including  
35 refills. Payments for drugs are subject to the provisions of Section 37.8  
36 and to the provisions at the end of Section 37.1, or in accordance with  
37 the State Plan adopted by the Department of Health and Human  
38 Services consistent with federal reimbursement regulations. Payment  
39 of the professional services fee shall be made in accordance with the  
40 State Plan adopted by the Department of Health and Human Services,  
41 consistent with federal reimbursement regulations. The professional  
42 services fee shall be five dollars and sixty cents (\$5.60) per  
43 prescription for generic drugs and four dollars (\$4.00) per prescription

- 1 for brand-name drugs. Adjustments to the professional services fee  
2 shall be established by the General Assembly.
- 3 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified  
4 Nurse Midwife Services, Nurse Practitioners. – Fee schedules as  
5 developed by the Department of Health and Human Services.  
6 Payments for dental services are subject to the provisions of Section  
7 37.7.
- 8 (7) Community Alternative Program, EPSDT Screens. – Payment to be  
9 made in accordance with rate schedule developed by the Department  
10 of Health and Human Services.
- 11 (8) Home Health and Related Services, Private Duty Nursing, Clinic  
12 Services, Prepaid Health Plans, Durable Medical Equipment. –  
13 Payment to be made according to reimbursement plans developed by  
14 the Department of Health and Human Services.
- 15 (9) Medicare Buy-In. – Social Security Administration premium.
- 16 (10) Ambulance Services. – Uniform fee schedules as developed by the  
17 Department of Health and Human Services. Public ambulance  
18 providers will be reimbursed at cost.
- 19 (11) Hearing Aids. – Actual cost plus a dispensing fee.
- 20 (12) Rural Health Clinic Services. – Provider-based, reasonable cost;  
21 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 22 (13) Family Planning. – Negotiated rate for local health departments. For  
23 other providers, see specific services, for instance, hospitals,  
24 physicians.
- 25 (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules  
26 as developed by the Department of Health and Human Services.
- 27 (15) Optical Supplies. – Payment for materials is made to a contractor in  
28 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing  
29 providers are negotiated fees established by the State agency based on  
30 industry charges.
- 31 (16) Ambulatory Surgical Centers. – Payment as prescribed in the  
32 reimbursement plan established by the Department of Health and  
33 Human Services.
- 34 (17) Medicare Crossover Claims. – An amount up to the actual coinsurance  
35 or deductible or both, in accordance with the State Plan, as approved  
36 by the Department of Health and Human Services.
- 37 (18) Physical Therapy and Speech Therapy. – Services limited to EPSDT  
38 eligible children. Payments are to be made only to qualified providers  
39 at rates negotiated by the Department of Health and Human Services.  
40 Physical therapy (including occupational therapy) and speech therapy  
41 services are subject to prior approval and utilization review.
- 42 (19) Personal Care Services. – Payment in accordance with the State Plan  
43 approved by the Department of Health and Human Services.

- 1 (20) Case Management Services. – Reimbursement in accordance with the  
2 availability of funds to be transferred within the Department of Health  
3 and Human Services.
- 4 (21) Hospice. – Services may be provided in accordance with the State Plan  
5 developed by the Department of Health and Human Services.
- 6 (22) Other Mental Health Services. – Unless otherwise covered by this  
7 section, coverage is limited to:
- 8 a. Services as defined by the Division of Mental Health,  
9 Developmental Disabilities, and Substance Abuse Services and  
10 approved by the Centers for Medicare and Medicaid Services  
11 (CMS) when provided in agencies meeting the requirements of  
12 the rules established by the Commission for Mental Health,  
13 Developmental Disabilities, and Substance Abuse Services and  
14 reimbursement is made in accordance with a State Plan  
15 developed by the Department of Health and Human Services  
16 not to exceed the upper limits established in federal regulations,  
17 and
- 18 b. For children eligible for EPSDT services provided by:
- 19 1. Licensed or certified psychologists, licensed clinical  
20 social workers, certified clinical nurse specialists in  
21 psychiatric mental health advanced practice, nurse  
22 practitioners certified as clinical nurse specialists in  
23 psychiatric mental health advanced practice, licensed  
24 psychological associates, licensed professional  
25 counselors, licensed marriage and family therapists,  
26 certified clinical addictions specialists, and certified  
27 clinical supervisors, when Medicaid-eligible children are  
28 referred by the Community Care of North Carolina  
29 primary care physician, a Medicaid-enrolled psychiatrist,  
30 or the area mental health program or local management  
31 entity, and
- 32 2. Institutional providers of residential services as defined  
33 by the Division of Mental Health, Developmental  
34 Disabilities, and Substance Abuse Services and approved  
35 by the Centers for Medicare and Medicaid Services  
36 (CMS) for children and Psychiatric Residential  
37 Treatment Facility services that meet federal and State  
38 requirements as defined by the Department.
- 39 c. For Medicaid-eligible adults, services provided by licensed or  
40 certified psychologists, licensed clinical social workers,  
41 certified clinical nurse specialists in psychiatric mental health  
42 advanced practice, and nurse practitioners certified as clinical  
43 nurse specialists in psychiatric mental health advanced practice,  
44 licensed psychological associates, licensed professional

1 counselors, licensed marriage and family therapists, certified  
2 clinical addictions specialists, and certified clinical supervisors.  
3 Medicaid-eligible adults may be self-referred.

4 d. Payments made for services rendered in accordance with this  
5 subdivision shall be to qualified providers in accordance with  
6 approved policies and the State Plan. Nothing in  
7 sub-subdivision b. or c. of this subdivision shall be interpreted  
8 to modify the scope of practice of any service provider,  
9 practitioner, or licensee, nor to modify or attenuate any  
10 collaboration or supervision requirement related to the  
11 professional activities of any service provider, practitioner, or  
12 licensee. Nothing in sub-subdivision b. or c. of this subdivision  
13 shall be interpreted to require any private health insurer or  
14 health plan to make direct third-party reimbursements or  
15 payments to any service provider, practitioner, or licensee.

16 e. The Department of Health and Human Services shall not enroll  
17 licensed psychological associates, licensed professional  
18 counselors, licensed marriage and family therapists, certified  
19 clinical addiction specialists, and certified clinical supervisors  
20 until all of the following conditions have been met:

- 21 1. The fiscal impact of payments to these qualified  
22 providers has been projected;
- 23 2. Funding for any projected requirements in excess of  
24 budgeted Division of Medical Assistance funding has  
25 been identified from within State funds appropriated to  
26 the Department of Health and Human Services, Division  
27 of Mental Health, Developmental Disabilities, and  
28 Substance Abuse Services, to support area mental health  
29 programs or county programs, or identified from other  
30 sources; and
- 31 3. Approval has been obtained from the Office of State  
32 Budget and Management to transfer these State or other  
33 source funds from the Division of Mental Health,  
34 Developmental Disabilities, and Substance Abuse  
35 Services to the Division of Medical Assistance. Upon  
36 approval and implementation, the Department of Health  
37 and Human Services shall, on a quarterly basis, provide a  
38 status report to the Office of State Budget and  
39 Management and the Fiscal Research Division.

40 Notwithstanding G.S. 150B-21.1(a), the Department of Health and  
41 Human Services may adopt temporary rules in accordance with  
42 Chapter 150B of the General Statutes further defining the  
43 qualifications of providers and referral procedures in order to  
44 implement this subdivision. Coverage policy for services defined by

1 the Division of Mental Health, Developmental Disabilities, and  
2 Substance Abuse Services under sub-subdivisions a. and b.2 of this  
3 subdivision shall be established by the Division of Medical Assistance.

4 (23) Medically Necessary Prosthetics or Orthotics. – Reimbursement in  
5 accordance with the State Plan approved by the Department of Health  
6 and Human Services, except that in order to be eligible for  
7 reimbursement providers must be Board certified not later than July 1,  
8 2005. Medically necessary prosthetics and orthotics are subject to prior  
9 approval and utilization review.

10 (24) Health Insurance Premiums. – Payments to be made in accordance  
11 with the State Plan adopted by the Department of Health and Human  
12 Services consistent with federal regulations.

13 (25) Medical Care/Other Remedial Care. – Services not covered elsewhere  
14 in this section include related services in schools; health professional  
15 services provided outside the clinic setting to meet maternal and infant  
16 health goals; and services to meet federal EPSDT mandates. Services  
17 addressed by this paragraph are limited to those prescribed in the State  
18 Plan as established by the Department of Health and Human Services.

19 (26) Pregnancy-Related Services. – Covered services for pregnant women  
20 shall include nutritional counseling, psychosocial counseling, and  
21 predelivery and postpartum home visits by maternity care coordinators  
22 and public health nurses.

23 Services and payment bases may be changed with the approval of the  
24 Director of the Budget.

25 Payment is limited to Medicaid-enrolled providers that purchase a  
26 performance bond in an amount not to exceed one hundred thousand dollars (\$100,000)  
27 naming as beneficiary the Department of Health and Human Services, Division of  
28 Medical Assistance, or provide to the Department a validly executed letter of credit or  
29 other financial instrument issued by a financial institution or agency honoring a demand  
30 for payment in an equivalent amount. The Department may waive or limit the  
31 requirements of this paragraph for one or more classes of Medicaid-enrolled providers  
32 based on the provider's dollar amount of monthly billings to Medicaid or the length of  
33 time the provider has been licensed in this State to provide services. In waiving or  
34 limiting requirements of this paragraph, the Department shall take into consideration the  
35 potential fiscal impact of the waiver or limitation on the State Medicaid Program.

36 Reimbursement is available for up to 24 visits per recipient per year to any  
37 combination of the following: physicians, clinics, hospital outpatient, optometrists,  
38 chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms,  
39 and mental health services subject to independent utilization review are exempt from the  
40 visit limitations contained in this paragraph. Exceptions may be authorized by the  
41 Department of Health and Human Services where the life of the patient would be  
42 threatened without such additional care. Any person who is determined by the  
43 Department to be exempt from the 24-visit limitation may also be exempt from the  
44 six-prescription limitation.

**SECTION 10.29.** Allocation of Nonfederal Cost of Medicaid. – 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.

**SECTION 10.30.** Copayment for Medicaid Services. – The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation in order to achieve the reductions included in the budget for fiscal years 2005-2007.

**SECTION 10.31.** Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and the Standard of Need for Work First Family Assistance shall be as follows:

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

\*Work First Family Assistance; 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.

**SECTION 10.32.** 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 facilities 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



1	\$101.00 to \$200.99	\$ 80.00
2	\$201.00 to \$300.99	\$ 130.00
3	\$301.00 and greater	\$ 212.00

4  
 5           **SECTION 10.33.** Dispensing of Generic Drugs. – Notwithstanding  
 6 G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the  
 7 Medical Assistance Program (Title XIX of the Social Security Act), and except as  
 8 otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in  
 9 the narrow therapeutic index, a prescription order for a drug designated by a trade or  
 10 brand name shall be considered to be an order for the drug by its established or generic  
 11 name, except when the prescriber has determined, at the time the drug is prescribed, that  
 12 the brand name drug is medically necessary and has written on the prescription order the  
 13 phrase "medically necessary". An initial prescription order for an atypical antipsychotic  
 14 drug or a drug listed in the narrow therapeutic drug index that does not contain the  
 15 phrase "medically necessary" shall be considered an order for the drug by its established  
 16 or generic name, except that a pharmacy shall not substitute a generic or established  
 17 name prescription drug for subsequent brand or trade name prescription orders of the  
 18 same prescription drug without explicit oral or written approval of the prescriber given  
 19 at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the  
 20 Medical Assistance Program rather than trade or brand name drugs. As used in this  
 21 section, "brand name" means the proprietary name the manufacturer places upon a drug  
 22 product or on its container, label, or wrapping at the time of packaging; and "established  
 23 name" has the same meaning as in Section 502(e)(3) of the Federal Food, Drug, and  
 24 Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

25           **SECTION 10.34.** Exceptions to Service Limitations, Eligibility  
 26 Requirements, and Payments. – Service limitations, eligibility requirements, and  
 27 payments bases in this section may be waived by the Department of Health and Human  
 28 Services, with the approval of the Director of the Budget, to allow the Department to  
 29 carry out pilot programs for prepaid health plans, contracting for services, managed care  
 30 plans, or community-based services programs in accordance with plans approved by the  
 31 United States Department of Health and Human Services, or when the Department  
 32 determines that such a waiver will result in a reduction in the total Medicaid costs for  
 33 the recipient. The Department of Health and Human Services may proceed with  
 34 planning and development work on the Program of All-Inclusive Care for the Elderly.

35           **SECTION 10.35.** For all Medicaid eligibility classifications for which the  
 36 federal poverty level is used as an income limit for eligibility determination, the income  
 37 limits will be updated each April 1 immediately following publication of federal poverty  
 38 guidelines.

39           **SECTION 10.36.** The Department of Health and Human Services, Division  
 40 of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and  
 41 disabled people who have incomes equal to or less than one hundred percent (100%) of  
 42 the federal poverty guidelines, as revised each April 1.

1           **SECTION 10.37.** The Department of Health and Human Services shall  
2 provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and  
3 regulations.

4           **SECTION 10.38.** The Department of Health and Human Services shall  
5 provide coverage to pregnant women and to children according to the following  
6 schedule:

7           (1) Pregnant women with incomes equal to or less than one hundred  
8 eighty-five percent (185%) of the federal poverty guidelines as revised  
9 each April 1 shall be covered for Medicaid benefits.

10          (2) Until January 1, 2006, infants under the age of 1 with family incomes  
11 equal to or less than one hundred eighty-five percent (185%) of the  
12 federal poverty guidelines as revised each April 1 shall be covered for  
13 Medicaid benefits. Effective January 1, 2006, infants under the age of  
14 1 with family incomes equal to or less than two hundred percent  
15 (200%) of the federal poverty guidelines as revised each April 1 shall  
16 be covered for Medicaid benefits.

17           Until January 1, 2006, children aged 1 through 5 with family  
18 incomes equal to or less than one hundred thirty-three percent (133%)  
19 of the federal poverty guidelines as revised each April 1 shall be  
20 covered for Medicaid benefits. Effective January 1, 2006, children  
21 aged 1 through 5 with family incomes equal to or less than two  
22 hundred percent (200%) of the federal poverty guidelines as revised  
23 each April 1 shall be covered for Medicaid benefits

24          (4) Children aged 6 through 18 with family incomes equal to or less than  
25 the federal poverty guidelines as revised each April 1 shall be covered  
26 for Medicaid benefits.

27          (5) The Department of Health and Human Services shall provide Medicaid  
28 coverage for adoptive children with special or rehabilitative needs  
29 regardless of the adoptive family's income.

30           Services to pregnant women eligible under this section continue throughout  
31 the pregnancy but include only those related to pregnancy and to those other conditions  
32 determined by the Department as conditions that may complicate pregnancy. In order to  
33 reduce county administrative costs and to expedite the provision of medical services to  
34 pregnant women, to infants, and to children described in subdivisions (3) and (4) of this  
35 section, no resources test shall be applied.

36           **SECTION 10.39.** Medicaid enrollment of categorically needy families with  
37 children shall be continuous for one year without regard to changes in income or assets.

38           **SECTION 10.40.** The Department of Health and Human Services shall  
39 submit a quarterly status report on expenditures for acute care and long-term-care  
40 services to the Fiscal Research Division and to the Office of State Budget and  
41 Management. This report shall include an analysis of budgeted versus actual  
42 expenditures for eligibles by category and for long-term-care beds. In addition, the  
43 Department shall revise the program's projected spending for the current fiscal year and  
44 the estimated spending for the subsequent fiscal year on a quarterly basis. The quarterly

1 expenditure report and the revised forecast shall be forwarded to the Fiscal Research  
2 Division and to the Office of State Budget and Management no later than the third  
3 Thursday of the month following the end of each quarter.

4 **SECTION 10.41.** The Division of Medical Assistance, Department of  
5 Health and Human Services, may provide incentives to counties that successfully  
6 recover fraudulently spent Medicaid funds by sharing State savings with counties  
7 responsible for the recovery of the fraudulently spent funds.

8 **SECTION 10.42.** If first approved by the Office of State Budget and  
9 Management, the Division of Medical Assistance, Department of Health and Human  
10 Services, may use funds that are identified to support the cost of development and  
11 acquisition of equipment and software through contractual means to improve and  
12 enhance information systems that provide management information and claims  
13 processing. The Department of Health and Human Services shall identify adequate  
14 funds to support the implementation and first year's operational costs that exceed the  
15 currently allocated funds for the new contract for the fiscal agent for the Medicaid  
16 Management Information System.

17 **SECTION 10.43.** The Department of Health and Human Services may adopt  
18 temporary rules according to the procedures established in G.S. 150B-21.1 when it finds  
19 that these rules are necessary to maximize receipt of federal funds within existing State  
20 appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior  
21 to the filing of these temporary rules with the Office of Administrative Hearings, the  
22 Department shall consult with the Office of State Budget and Management on the  
23 possible fiscal impact of the temporary rule and its effect on State appropriations and  
24 local governments.

25 **SECTION 10.44.** The Department shall report to the Fiscal Research  
26 Division of the Legislative Services Office and to the House of Representatives  
27 Appropriations Subcommittee on Health and Human Services and the Senate  
28 Appropriations Committee on Health and Human Services or the Joint Legislative  
29 Health Care Oversight Committee on any change it anticipates making in the Medicaid  
30 program that impacts the type or level of service, reimbursement methods, or waivers,  
31 any of which require a change in the State Plan or other approval by the Centers for  
32 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time  
33 they are submitted to CMS for approval.

34 **SECTION 10.45.** Upon approval of a demonstration waiver by the Centers  
35 for Medicare and Medicaid Services (CMS), the Department of Health and Human  
36 Services may provide Medicaid coverage for family planning services to men and  
37 women of child-bearing age with family incomes equal to or less than one hundred  
38 eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent  
39 upon federal approval of the waiver.

40 **SECTION 10.46.** The Department of Health and Human Services may apply  
41 federal transfer of assets policies, as described in Title XIX, Section 1917(c) of the  
42 Social Security Act, including the attachment of liens, to real property excluded as  
43 "income producing" tenancy-in-common, or as nonhomesite property made "income  
44 producing" under Title XIX, Section 1902(r)(2) of the Social Security Act. The transfer

1 of assets policy shall apply only to an institutionalized individual or the individual's  
2 spouse as defined in Title XIX, Section 1917(c) of the Social Security Act. This  
3 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset  
4 policies and attachment of liens to properties excluded as tenancy-in-common or as  
5 nonhomesite property made "income producing" in accordance with this subsection  
6 shall become effective not earlier than November 1, 2002.

#### 7 8 **COUNTY MEDICAID COST-SHARE**

9 **SECTION 10.47.** Effective July 1, 2000, the county share of the cost of  
10 Medicaid services currently and previously provided by area mental health authorities  
11 shall be increased incrementally each fiscal year until the county share reaches fifteen  
12 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

13 **SECTION 10.48.** Effective July 1, 2000, the county share of the cost of  
14 Medicaid Personal Care Services paid to adult care homes shall be decreased  
15 incrementally each fiscal year until the county share reaches fifteen percent (15%) of  
16 the nonfederal share by State fiscal year 2009-2010.

#### 17 18 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

19 **SECTION 10.49.(a)** Disproportionate share receipts reserved at the end of  
20 the 2005-2006 and 2006-2007 fiscal years shall be deposited with the Department of  
21 State Treasurer as nontax revenue for each of those fiscal years.

22 **SECTION 10.49.(b)** For the 2005-2007 fiscal biennium, as it receives funds  
23 associated with Disproportionate Share Payments from State hospitals, the Department  
24 of Health and Human Services, Division of Medical Assistance, shall deposit up to one  
25 hundred million dollars (\$100,000,000) of these Disproportionate Share Payments to the  
26 Department of State Treasurer for deposit as nontax revenue. Any Disproportionate  
27 Share Payments collected in excess of one hundred million dollars (\$100,000,000) shall  
28 be reserved by the State Treasurer for future appropriations.

#### 29 30 **NC HEALTH CHOICE**

31 **SECTION 10.50.** The total amount of funds appropriated to the North  
32 Carolina Health Choice for Children Program for the 2005-2007 fiscal biennium may be  
33 increased through budget transfers, subject to the approval of the Office of State Budget  
34 and Management, if needed to match available federal funds to support program  
35 expenditures.

#### 36 37 **TRANSFER ELIGIBLE CHILDREN UNDER FIVE FROM HEALTH CHOICE** 38 **TO MEDICAID**

39 **SECTION 10.51.(a)** G.S. 108A-70.21(a)(1) reads as rewritten:

40 "(1) Children must:

- 41 a. Be under the age of 19;
- 42 b. Be ineligible for Medicaid, Medicare, or other federal  
43 government-sponsored health insurance;
- 44 c. Be uninsured;

- 1                   d.    ~~Be in a family that meets the following family income~~  
2                   ~~requirements: Be age 6 years through 18 years and be in a~~  
3                   ~~family whose family income is above one hundred percent~~  
4                   ~~(100%) through two hundred percent (200%) of the federal~~  
5                   ~~poverty level;~~  
6                    1.    ~~Infants under the age of one year whose family income is~~  
7                    ~~from one hundred eighty five percent (185%) through~~  
8                    ~~two hundred percent (200%) of the federal poverty level;~~  
9                    2.    ~~Children age one year through five years whose family~~  
10                  ~~income is above one hundred thirty three percent (133%)~~  
11                  ~~through two hundred percent (200%) of the federal~~  
12                  ~~poverty level; and~~  
13                  3.    ~~Children age six years through eighteen years whose~~  
14                  ~~family income is above one hundred percent (100%)~~  
15                  ~~through two hundred percent (200%) of the federal~~  
16                  ~~poverty level;~~  
17                  e.    Be a resident of this State and eligible under federal law; and  
18                  f.    Have paid the Program enrollment fee required under this Part."

19                   **SECTION 10.51.(b)** G.S. 108A-70.21(b) reads as rewritten:

20                   "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,  
21                   copayments, and other cost-sharing charges, health benefits coverage provided to  
22                   children eligible under the Program shall be equivalent to coverage provided for  
23                   dependents under the North Carolina Teachers' and State Employees' Comprehensive  
24                   Major Medical Plan, including optional prepaid plans. Prescription drug providers shall  
25                   accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the  
26                   average wholesale price for the prescription drug or the amounts published by the  
27                   Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and  
28                   sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per  
29                   prescription for brand name drugs. All other health care providers providing services to  
30                   Program enrollees shall accept as payment in full for services rendered the maximum  
31                   allowable charges under the North Carolina Teachers' and State Employees'  
32                   Comprehensive Major Medical Plan for services less any copayments assessed to  
33                   enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program  
34                   shall be required by the Plan to change health care providers as a result of being  
35                   enrolled in the Program.

36                   In addition to the benefits provided under the Plan, the following services and  
37                   supplies are covered under the Health Insurance Program for Children established under  
38                   this Part:

- 39                   (1)    Dental: Oral examinations, teeth cleaning, and scaling twice during a  
40                   12-month period, full mouth X-rays once every 60 months,  
41                   supplemental bitewing X-rays showing the back of the teeth once  
42                   during a 12-month period, fluoride applications twice during a  
43                   12-month period, fluoride varnish, sealants, simple extractions,  
44                   therapeutic pulpotomies, prefabricated stainless steel crowns, and

1 routine fillings of amalgam or other tooth-colored filling material to  
2 restore diseased teeth. No benefits are to be provided for services  
3 under this subsection that are not performed by or upon the direction  
4 of a dentist, doctor, or other professional provider approved by the  
5 Plan nor for services and materials that do not meet the standards  
6 accepted by the American Dental Association.

7 (2) Vision: Scheduled routine eye examinations once every 12 months,  
8 eyeglass lenses or contact lenses once every 12 months, routine  
9 replacement of eyeglass frames once every 24 months, and optical  
10 supplies and solutions when needed. Optical services, supplies, and  
11 solutions must be obtained from licensed or certified ophthalmologists,  
12 optometrists, or optical dispensing laboratories. Eyeglass lenses are  
13 limited to single vision, bifocal, trifocal, or other complex lenses  
14 necessary for a Plan enrollee's visual welfare. Coverage for oversized  
15 lenses and frames, designer frames, photosensitive lenses, tinted  
16 contact lenses, blended lenses, progressive multifocal lenses, coated  
17 lenses, and laminated lenses is limited to the coverage for single  
18 vision, bifocal, trifocal, or other complex lenses provided by this  
19 subsection. Eyeglass frames are limited to those made of zylonite,  
20 metal, or a combination of zylonite and metal. All visual aids covered  
21 by this subsection require prior approval of the Plan. Upon prior  
22 approval by the Plan, refractions may be covered more often than once  
23 every 12 months.

24 (3) Hearing: Auditory diagnostic testing services and hearing aids and  
25 accessories when provided by a licensed or certified audiologist,  
26 otolaryngologist, or other hearing aid specialist approved by the Plan.  
27 Prior approval of the Plan is required for hearing aids, accessories,  
28 earmolds, repairs, loaners, and rental aids.

29 ~~The Department may provide services to children aged birth through five years~~  
30 ~~enrolled in the Program through the State Medical Assistance managed care program.~~  
31 ~~Services provided through the managed care program shall be paid from Program~~  
32 ~~funds."~~

33 **SECTION 10.51.(c)** This section becomes effective January 1, 2006.

## 34 **DIVISION OF MENTAL HEALTH**

### 35 **PHYSICIAN SERVICES**

36  
37 **SECTION 10.52.** With the approval of the Office of State Budget and  
38 Management, the Department of Health and Human Services may use funds  
39 appropriated in this act for across-the-board salary increases and performance pay to  
40 offset similar increases in the costs of contracting with private and independent  
41 universities for the provision of physician services to clients in facilities operated by the  
42 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.  
43

1 This offsetting shall be done in the same manner as is currently done with the  
2 constituent institutions of The University of North Carolina.

3  
4 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

5 **SECTION 10.53.(a)** To ensure uniformity in rates charged to area programs  
6 and funded with State-allocated resources, the Division of Mental Health,  
7 Developmental Disabilities, and Substance Abuse Services of the Department of Health  
8 and Human Services may require a private agency that provides services under contract  
9 with an area program or county program, except for hospital services that have an  
10 established Medicaid rate, to complete an agency-wide uniform cost finding in  
11 accordance with G.S. 122C-147.2. The resulting cost shall be the maximum included  
12 for the private agency in the contracting area program's unit cost finding.

13 **SECTION 10.53.(b)** If a private agency fails to timely and accurately  
14 complete the required agency-wide uniform cost finding in a manner acceptable to the  
15 Department's controller's office, the Department may suspend all Department funding  
16 and payment to the private agency until such time as an acceptable cost finding has been  
17 completed by the private agency and approved by the Department's controller's office.

18  
19 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**  
20 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE**  
21 **ABUSE SERVICES**

22 **SECTION 10.54.** The Department of Health and Human Services, Division  
23 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in  
24 cooperation with area mental health authorities and county programs identify and  
25 eliminate administrative and fiscal barriers created by existing State and local policies  
26 and procedures in the delivery of community-based mental health, developmental  
27 disabilities, and substance abuse services provided through the area programs and  
28 county programs, including services provided through the Comprehensive Treatment  
29 Services Program for Children and services delivered to multiply diagnosed adults. The  
30 Department shall implement changes in policies and procedures in order to facilitate all  
31 of the following:

- 32 (1) The provision of services to adults and children as defined in the  
33 Mental Health System Reform State Plan as priority or targeted  
34 populations.
- 35 (2) A revised system of allocating State and federal funds to area mental  
36 health authorities and county programs that reflects projected needs,  
37 including the impact of system reform efforts rather than historical  
38 allocation practices and spending patterns.
- 39 (3) The provision of services to children not deemed eligible for the  
40 Comprehensive Treatment Services Program for Children, but who  
41 would otherwise be in need of medically necessary treatment services  
42 to prevent out-of-home placement.
- 43 (4) The provision of services in the community to adults remaining in and  
44 being placed in State institutions addressed in Olmstead v. L.C.

1 Area mental health, developmental disabilities, and substance abuse services authorities  
2 and county programs shall use all funds appropriated for and necessary to provide  
3 mental health, developmental disabilities, and substance abuse services to meet the need  
4 for these services. If excess funds are available after expending appropriated funds to  
5 fully meet service needs, one-half of these excess funds shall not revert to the General  
6 Fund but shall be transferred to the Trust Fund for Mental Health, Developmental  
7 Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that  
8 one-half of the funds appropriated for the Comprehensive Treatment Services Program  
9 for Children that are unexpended and unencumbered shall not revert to the General  
10 Fund but shall be carried forward and used only for services for children and  
11 adolescents.

### 12 13 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

14 **SECTION 10.55.(a)** In keeping with the United States Supreme Court  
15 decision in Olmstead vs. L.C. & E.W., the State's policy is to provide appropriate  
16 services to clients in the least restrictive and most appropriate environment. The goal is  
17 to develop mechanisms and identify resources needed to enable patients and their  
18 families to receive the necessary services and supports based on the following guiding  
19 principles:

- 20 (1) Individuals shall be provided acute psychiatric care in non-State  
21 facilities when appropriate.
- 22 (2) Individuals shall be provided acute psychiatric care in State facilities  
23 only when non-State facilities are unavailable.
- 24 (3) Individuals shall receive evidenced-based psychiatric services and care  
25 that are cost efficient.
- 26 (4) The State shall minimize cost shifting to other State and local facilities  
27 or institutions.

28 **SECTION 10.55.(b)** The Department of Health and Human Services shall  
29 conduct an analysis of the individual patient service needs and shall develop and  
30 implement an individual transition plan, as appropriate, for patients in each hospital.  
31 The State shall ensure that each individual transition plan, as appropriate, shall take into  
32 consideration the availability of appropriate alternative placements based on the needs  
33 of the patient and within resources available for the mental health, developmental  
34 disabilities, and substance abuse services system. In developing each plan, the  
35 Department shall consult with the patient and the patient's family or other legal  
36 representative.

### 37 38 **MENTAL RETARDATION CENTER DOWNSIZING**

39 **SECTION 10.56.(a)** In accordance with the Department of Health and  
40 Human Services' plan for mental health, developmental disabilities, and substance abuse  
41 system reform, downsizing the State's regional mental retardation facilities shall be  
42 continually based upon residents' needs and the availability of community-based  
43 services with a targeted goal of not less than four percent (4%) each year. The  
44 Department shall implement cost-containment and reduction strategies to ensure the



1 corresponding financial and staff downsizing of each facility. The Department shall  
2 manage the client population of the mental retardation centers in order to ensure that  
3 placements for ICF/MR level of care shall be made in non-State facilities. Admissions  
4 to State ICF/MR facilities are permitted only as a last resort and only upon approval of  
5 the Department. The corresponding budgets for each of the State mental retardation  
6 centers shall be reduced, and positions shall be eliminated as the census of each facility  
7 decreases. At no time shall mental retardation center positions be transferred to other  
8 units within a facility or assigned nondirect care activities such as outreach.

9 **SECTION 10.56.(b)** Any savings in State appropriations in each year of the  
10 2005-2007 fiscal biennium that result from reductions in beds or services shall be  
11 applied as follows:

12 (1) Nonrecurring savings shall be placed in the Trust Fund for Mental  
13 Health, Developmental Disabilities, and Substance Abuse Services and  
14 Bridge Funding Needs and shall be used to facilitate the transition of  
15 clients into appropriate community-based services and support in  
16 accordance with G.S. 143-15.3D; and

17 (2) Recurring savings realized through implementation of this section  
18 shall be retained by the Department of Health and Human Services,  
19 Division of Mental Health, Developmental Disabilities, and Substance  
20 Abuse Services, to support the recurring costs of additional  
21 community-based placements from Division facilities in accordance  
22 with Olmstead vs. L.C. & E.W. In determining the savings in this  
23 section, savings shall include all savings realized from the downsizing  
24 of the State mental retardation centers, including both the savings in  
25 direct State appropriations in the budgets of the State mental  
26 retardation centers as well as the savings in the State matching portion  
27 of reduced Medicaid payments associated with downsizing.

28 **SECTION 10.56.(c)** The Department of Health and Human Services shall  
29 report on its progress in complying with this section to the Senate Appropriations  
30 Committee on Health and Human Services, the House of Representatives  
31 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
32 Division. The annual progress reports shall be submitted not later than May 1, 2005, and  
33 May 1, 2006.

## 34 **PART XI. DEPARTMENT OF COMMERCE**

### 35 **ONE NORTH CAROLINA FUND**

36  
37 **SECTION 11.1.** Of the funds appropriated by Section 1(a) of S.L. 2004-88  
38 to the One North Carolina Fund, the Department of Commerce may use up to three  
39 hundred thousand dollars (\$300,000) to cover its expenses in administering the One  
40 North Carolina Fund and other economic development incentive grant programs during  
41 the 2005-2006 fiscal year.  
42

### 43 **TOURISM PROMOTION GRANTS**

44

1           **SECTION 11.2.(a)** Tourism promotion funds appropriated to the  
2 Department of Commerce shall be allocated to counties based on need. Determination  
3 of counties that are most in need of State assistance will be made in accordance with the  
4 existing State tier formula as defined in G.S. 105-129.3.

5           **SECTION 11.2.(b)** Funds appropriated in this act to the Department of  
6 Commerce for tourism promotion grants shall be allocated according to the economic  
7 development tier assigned by the Department of Commerce in the following manner:

8           (1) Eligible organizations in counties with a Tier 1 or 2 designation are  
9 each eligible to receive a maximum grant of seven thousand five  
10 hundred dollars (\$7,500) for each fiscal year, provided these funds are  
11 matched on the basis of one non-State dollar (\$1.00) for every four  
12 State dollars (\$4.00).

13           (2) Eligible organizations in counties with a Tier 3 or 4 designation are  
14 each eligible to receive a maximum grant of three thousand five  
15 hundred dollars (\$3,500) for two of the next three fiscal years,  
16 provided these funds are matched on the basis of one non-State dollar  
17 (\$1.00) for every three State dollars (\$3.00).

18           (3) Eligible organizations in counties with a Tier 5 designation are each  
19 eligible to receive a maximum grant of three thousand five hundred  
20 dollars (\$3,500) in alternating fiscal years, provided these funds are  
21 matched on the basis of two non-State dollars (\$2.00) for every one  
22 State dollar (\$1.00).

23           **SECTION 11.2.(c)** An eligible organization that applies and is turned down  
24 for funding may apply for and be awarded funding in the following fiscal year. The fact  
25 that one or more eligible organizations in a county are awarded funding in a given fiscal  
26 year does not bar other eligible organizations in that county from applying for and being  
27 awarded funding in the next fiscal year.

## 28 29 **FILM INCENTIVE FUNDS DO NOT REVERT**

30           **SECTION 11.3.** Funds appropriated to the Department of Commerce for the  
31 2005-2006 fiscal year for Film Incentives that are unexpended and unencumbered as of  
32 June 30, 2006, shall not revert to the General Fund on June 30, 2006, but shall remain  
33 available to the Department of Commerce to fund film industry incentives.

## 34 35 **MOTORSPORTS PROMOTION**

36           **SECTION 11.4.** Notwithstanding any other provision of law, the sum of two  
37 hundred fifty thousand dollars (\$250,000) shall be transferred from the University of  
38 North Carolina-Charlotte, North Carolina Motorsports Testing and Research Complex  
39 project authorized in S.L. 2004-124, to the Department of Commerce, Division of Film,  
40 Tourism, and Sports, for the promotion of motorsports in North Carolina. These funds  
41 may be used to provide grants to nonprofit organizations that advocate and promote  
42 racing and the motorsports industry in North Carolina.

## 43 44 **BIOTECHNOLOGY CENTER**

1           **SECTION 11.5.(a)** The North Carolina Biotechnology Center shall  
2 recapture funds spent in support of successful research and development efforts in the  
3 for-profit private sector.

4           **SECTION 11.5.(b)** The North Carolina Biotechnology Center shall provide  
5 funding for biotechnology, biomedical, and related bioscience applications under its  
6 Business and Science Technology Programs.

7           **SECTION 11.5.(c)** The North Carolina Biotechnology Center shall:

8           (1) By January 15, 2006, and more frequently as requested, report to the  
9 Joint Legislative Commission on Governmental Operations and the  
10 Fiscal Research Division the following information:

- 11           a. State fiscal year 2004-2005 program activities, objectives, and  
12 accomplishments;  
13           b. State fiscal year 2004-2005 itemized expenditures and fund  
14 sources;  
15           c. State fiscal year 2005-2006 planned activities, objectives, and  
16 accomplishments, including actual results, through December  
17 31, 2005; and  
18           d. State fiscal year 2005-2006 estimated itemized expenditures  
19 and fund sources, including actual expenditures and fund  
20 sources, through December 31, 2005;

21           (2) By January 15, 2007, and more frequently as requested, report to the  
22 Joint Legislative Commission on Governmental Operations and the  
23 Fiscal Research Division the following information:

- 24           a. State fiscal year 2005-2006 program activities, objectives, and  
25 accomplishments;  
26           b. State fiscal year 2005-2006 itemized expenditures and fund  
27 sources;  
28           c. State fiscal year 2006-2007 planned activities, objectives, and  
29 accomplishments, including actual results, through December  
30 31, 2006; and  
31           d. State fiscal year 2006-2007 estimated itemized expenditures  
32 and fund sources, including actual expenditures and fund  
33 sources, through December 31, 2006; and

34           (3) Provide to the Fiscal Research Division a copy of the organization's  
35 annual audited financial statement within 30 days of issuance of the  
36 statement.

37           **SECTION 11.5.(d)** The North Carolina Biotechnology Center shall provide  
38 a report containing detailed budget, personnel, and salary information to the Office of  
39 State Budget and Management and to the Fiscal Research Division in the same manner  
40 as State departments and agencies in preparation for biennium budget requests.

41  
42 **REGULATORY FEE FOR UTILITIES COMMISSION**

43           **SECTION 11.6.(a)** The percentage rate to be used in calculating the public  
44 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent

1 (0.12% of 1%) for each public utility's North Carolina jurisdictional revenues earned  
2 during each quarter that begins on or after July 1, 2005.

3 **SECTION 11.6.(b)** The electric membership corporation regulatory fee  
4 imposed under G.S. 62-302(b1) for the 2005-2006 fiscal year is two hundred thousand  
5 dollars (\$200,000).

## 6 7 **EMPLOYMENT SECURITY COMMISSION**

8 **SECTION 11.7.** There is appropriated from the Special Employment  
9 Security Administration Fund to the Employment Security Commission of North  
10 Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the  
11 2005-2006 fiscal year to be used for the following purposes:

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

## 23 24 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL** 25 **RESOURCES**

### 26 27 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

28 **SECTION 12.1.** Notwithstanding the provisions of Chapter 159G of the  
29 General Statutes, the Department of Environment and Natural Resources may transfer  
30 and use up to one million five hundred thousand dollars (\$1,500,000) of the funds  
31 available in the General Water Supply Revolving Loan Account for the 2005-2006  
32 fiscal year to match the federal grant moneys authorized by section 1452 of the federal  
33 Safe Drinking Water Act Amendments of 1996 for the 2005-2006 fiscal year. The  
34 General Water Supply Revolving Loan Account is an account under the Clean Water  
35 Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean  
36 Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

### 37 38 **CLEAN WATER MANAGEMENT TRUST FUND**

39 **SECTION 12.2.** Notwithstanding G.S. 143-15.3B(a), the appropriation to  
40 the Clean Water Management Trust Fund for the 2005-2006 fiscal year is sixty-two  
41 million dollars (\$62,000,000) and sixty-two million dollars (\$62,000,000) for the  
42 2006-2007 fiscal year as provided by this act. The funds appropriated by this act to the  
43 Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

**PART XIII. DEPARTMENT OF INSURANCE**

**SECTION 13.1.** G.S. 58-6-25 is amended by adding the following new subsection to read:

"(d1) Transfer to the General Fund. – The Commissioner of Insurance shall transfer quarterly from the Fund to the General Fund to repay the funds expended by the Department of Insurance from the General Fund under subsection (d) of this section for each fiscal year, plus accrued interest at a rate determined by the State Treasurer."

**PART XIV. DEPARTMENT OF ADMINISTRATION****NONPUBLIC EDUCATION**

**SECTION 14.1.** All personnel and equipment presently assigned to the Division of Nonpublic Education for the purpose of carrying out Article 39 of Chapter 115C of the General Statutes are transferred to the Department of Public Instruction by a Type I transfer as defined by G.S. 143A-6(a).

**VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT FUND**

**SECTION 14.2.** In accordance with G.S. 116B-7(b), for the 2005-2006 and 2006-2007 fiscal years, there is appropriated from the Escheat Fund to the Department of Administration the amount of two million eight hundred six thousand four hundred thirty-eight dollars (\$2,806,438) for fiscal year 2005-2006 and the amount of one million six hundred seventy-eight thousand six hundred sixty-seven dollars (\$1,678,667) for fiscal year 2006-2007.

**FIRE PROTECTION GRANT FUND**

**SECTION 14.3.** G.S. 58-85A-1(c) reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund at least ~~three million eighty thousand dollars (\$3,080,000)~~ four million eighty thousand dollars (\$4,080,000) from the General Fund, one hundred fifty thousand dollars (\$150,000) from the Highway Fund, and nine hundred seventy thousand dollars (\$970,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

**PART XV. ADMINISTRATIVE OFFICE OF THE COURTS****FEDERAL GRANT FUNDS**

1           **SECTION 15.1.** The Judicial Department may use up to the sum of one  
2 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the  
3 Department to provide the State match needed in order to receive federal grant funds.  
4 Prior to using funds for this purpose, the Judicial Department shall report to the Chairs  
5 of the Senate and House of Representatives Appropriations Subcommittees on Justice  
6 and Public Safety and the Joint Legislative Commission on Governmental Operations  
7 on the grants to be matched using these funds.

## 8 9 **PART XVI. DEPARTMENT OF CORRECTION**

### 10 11 **FEDERAL GRANT MATCHING FUNDS**

12           **SECTION 16.1.** Notwithstanding the provisions of G.S. 148-2, the  
13 Department of Correction may use up to the sum of seven hundred fifty thousand  
14 dollars (\$750,000) in the 2005-2006 fiscal year and up to the sum of seven hundred fifty  
15 thousand dollars (\$750,000) in the 2006-2007 fiscal year from funds available to the  
16 Department to provide the State match needed in order to receive federal grant funds.  
17 Prior to using funds for this purpose, the Department shall report to the Chairs of the  
18 Senate and House of Representatives Appropriations Subcommittees on Justice and  
19 Public Safety and the Joint Legislative Commission on Governmental Operations on the  
20 grants to be matched using these funds.

### 21 22 **MEDIUM CUSTODY ROAD CREW COMPENSATION**

23           **SECTION 16.2.** Of funds appropriated to the Department of Transportation  
24 by this act, the sum of ten million dollars (\$10,000,000) per year shall be transferred by  
25 the Department to the Department of Correction during the 2005-2006 and 2006-2007  
26 fiscal years for the actual costs of highway-related labor performed by medium-custody  
27 prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the  
28 amount of two million five hundred thousand dollars (\$2,500,000). The Department of  
29 Transportation may use funds appropriated by this act to pay an additional amount  
30 exceeding the ten million dollars (\$10,000,000), but those payments shall be subject to  
31 negotiations among the Department of Transportation, the Department of Correction,  
32 and the Office of State Budget and Management prior to payment by the Department of  
33 Transportation.

### 34 35 **LIMIT USE OF OPERATIONAL FUNDS**

36           **SECTION 16.3.** Funds appropriated in this act to the Department of  
37 Correction for operational costs for additional facilities shall be used for personnel and  
38 operating expenses set forth in the budget approved by the General Assembly in this act.  
39 These funds shall not be expended for any other purpose, except as provided for in this  
40 act, and shall not be expended for additional prison personnel positions until the new  
41 facilities are within 180 days of projected completion, except for certain management,  
42 security, and support positions necessary to prepare the facility for opening, as  
43 authorized in the budget approved by the General Assembly.

**1 USE OF CLOSED PRISON FACILITIES**

2       **SECTION 16.4.** In conjunction with the closing of prison facilities,  
3 including small expensive prison units recommended for consolidation by the  
4 Government Performance Audit Committee, the Department of Correction shall consult  
5 with the county or municipality in which the unit is located, with the elected State and  
6 local officials, and with State agencies about the possibility of converting that unit to  
7 other use. The Department may also consult with any private for-profit or nonprofit firm  
8 about the possibility of converting the unit to other use. In developing a proposal for  
9 future use of each unit, the Department shall give priority to converting the unit to other  
10 criminal justice use. Consistent with existing law and the future needs of the  
11 Department of Correction, the State may provide for the transfer or the lease of any of  
12 these units to counties, municipalities, State agencies, or private firms wishing to  
13 convert them to other use. The Department of Correction may also consider converting  
14 some of the units recommended for closing from one security custody level to another,  
15 where that conversion would be cost effective. A prison unit under lease to a county  
16 pursuant to the provisions of this section for use as a jail is exempt for the period of the  
17 lease from any of the minimum standards adopted by the Secretary of Health and  
18 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that  
19 would subject the unit to greater standards than those required of a unit of the State  
20 prison system.

21       Prior to any transfer or lease of these units, the Department of Correction  
22 shall report on the terms of the proposed transfer or lease to the Joint Legislative  
23 Commission on Governmental Operations and the Joint Legislative Corrections, Crime  
24 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall  
25 also provide annual summary reports to the Joint Legislative Commission on  
26 Governmental Operations and the Joint Legislative Corrections, Crime Control, and  
27 Juvenile Justice Oversight Committee on the conversion of these units to other use and  
28 on all leases or transfers entered into pursuant to this section.

**29**  
**30 SHIFT PAY FOR SECURITY STAFF**

31       **SECTION 16.5.** The Department of Correction may use funds available for  
32 the 2005-2006 and 2006-2007 fiscal years for the payment to security staff of special  
33 supplemental weekend shift premium pay that exceeds standard weekend shift pay by  
34 up to ten percent (10%). The Department shall also continue to take steps to hold down  
35 the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour  
36 shifts whenever practical.

**37**  
**38 INMATE COSTS/FOOD, HEALTH CARE, PRESCRIPTION DRUGS, INMATE**  
**39 CLOTHING, AND LAUNDRY SERVICES**

40       **SECTION 16.6.(a)** Notwithstanding the provisions of G.S. 143-23(a2), the  
41 Department of Correction may use funds available during the 2005-2006 and 2006-2007  
42 fiscal years for food and health care expenses if the cost of providing food and health  
43 care to inmates housed in the Division of Prisons is anticipated to exceed the  
44 Department's budget for food and health care. Prior to exceeding the continuation

1 budget amount, the Department of Correction shall report the reasons for the anticipated  
2 cost increase and the source of funds the Department intends to use to cover those  
3 additional needs to the Joint Legislative Commission on Governmental Operations, the  
4 Chairs of the Senate and House of Representatives Appropriations Committees, and the  
5 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
6 Justice and Public Safety.

7 **SECTION 16.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the  
8 Department of Correction may use funds available during the 2005-2006 and 2006-2007  
9 fiscal years for the purchase of prescription drugs for inmates if expenditures are  
10 projected to exceed the Department's inmate medical continuation budget for  
11 prescription drugs. The Department shall consult with the Joint Legislative Commission  
12 on Governmental Operations prior to exceeding the continuation budget amount.

13 **SECTION 16.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the  
14 Department of Correction may use funds available during the 2005-2006 and 2006-2007  
15 fiscal years for the purchase of clothing and laundry services for inmates if expenditures  
16 are projected to exceed the Department's budget for clothing and laundry services. The  
17 Department shall consult with the Joint Legislative Commission on Governmental  
18 Operations prior to exceeding the continuation budget amount.

#### 19 20 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

21 **SECTION 16.7.** Notwithstanding the provisions of G.S. 143-23(a2), the  
22 Department of Correction may use funds available during the 2005-2006 and 2006-2007  
23 fiscal years for expenses for computer/data processing services if expenditures exceed  
24 the Department's continuation budget amount for those services. The Department shall  
25 report to the Joint Legislative Commission on Governmental Operations prior to  
26 exceeding the continuation budget amount.

#### 27 28 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

29 **SECTION 16.8.** The Department of Correction may continue to contract  
30 with Energy Committed To Offenders, Inc., for the purchase of prison beds for  
31 minimum security female inmates during the 2005-2006 and 2006-2007 fiscal years.  
32 Energy Committed To Offenders, Inc., shall report by February 1 of each year to the  
33 Joint Legislative Commission on Governmental Operations on the annual cost per  
34 inmate and the average daily inmate population compared to bed capacity using the  
35 same methodology as that used by the Department of Correction.

#### 36 37 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

38 **SECTION 16.9.** Notwithstanding the provisions of G.S. 143B-273.15  
39 specifying that grants to participating counties are for the full fiscal year and that  
40 unobligated funds are returned to the State-County Criminal Justice Partnership  
41 Account at the end of the grant period, the Department of Correction may reallocate  
42 unspent or unclaimed funds distributed to counties participating in the State-County  
43 Criminal Justice Partnership Program in an effort to maintain the level of services  
44 realized in previous fiscal years.



**PART XVII. SALARIES AND BENEFITS**

**GOVERNOR AND COUNCIL OF STATE**

**SECTION 17.1.(a)** Effective July 1, 2005, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty one thousand three hundred ninety one dollars (\$121,391)~~ one hundred twenty-two thousand seven hundred thirty-one dollars (\$122,731) annually, payable monthly."

**SECTION 17.1.(b)** Effective July 1, 2005, the annual salaries for the members of the Council of State, payable monthly, for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$108,319
Attorney General	108,319
Secretary of State	108,319
State Treasurer	108,319
State Auditor	108,319
Superintendent of Public Instruction	108,319
Agriculture Commissioner	108,319
Insurance Commissioner	108,319
Labor Commissioner	108,319

**NONELECTED DEPARTMENT HEAD/SALARY INCREASES**

**SECTION 17.2.** 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 are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$105,828
Secretary of Correction	105,828
Secretary of Crime Control and Public Safety	105,828
Secretary of Cultural Resources	105,828
Secretary of Commerce	105,828
Secretary of Environment and Natural Resources	105,828
Secretary of Human Resources	105,828
Secretary of Revenue	105,828
Secretary of Transportation	105,828

**CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

**SECTION 17.3.** The annual salaries, payable monthly, for the 2005-2006 and 2006-2007 fiscal years for the following executive branch officials are:

	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
1	Chairman, Alcoholic Beverage Control Commission	\$ 96,322
2	State Controller	134,802
3	Commissioner of Motor Vehicles	96,322
4	Commissioner of Banks	108,319
5	Chairman, Employment Security Commission	134,632
6	State Personnel Director	105,828
7	Chairman, Parole Commission	87,954
8	Members of the Parole Commission	81,202
9	Chairman, Utilities Commission	120,632
10	Members of the Utilities Commission	108,319
11	Executive Director, Agency for Public Telecommunications	81,202
12	General Manager, Ports Railway Commission	73,325
13	Director, Museum of Art	98,699
14	Executive Director, North Carolina Housing Finance Agency	119,209
15	Executive Director, North Carolina Agricultural	
16	Finance Authority	93,756
17	State Chief Information Officer	134,722
18		

#### JUDICIAL BRANCH OFFICIALS/SALARY INCREASE

**SECTION 17.4.(a)** The annual salaries, payable monthly, for specified Judicial Branch officials the 2005-2006 and 2006-2007 fiscal years are:

	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
20	Chief Justice, Supreme Court	\$122,732
21	Associate Justice, Supreme Court	119,525
22	Chief Judge, Court of Appeals	116,536
23	Judge, Court of Appeals	114,544
24	Judge, Senior Regular Resident Superior Court	111,432
25	Judge, Superior Court	108,319
26	Chief Judge, District Court	98,360
27	Judge, District Court	95,248
28	Administrative Officer of the Courts	111,432
29	Assistant Administrative Officer of the Courts	101,783
30		

**SECTION 17.4.(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 three hundred seventy-seven dollars (\$62,377), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-two thousand one hundred sixty-three dollars (\$32,163) effective July 1, 2005.

**CLERK OF SUPERIOR COURT SALARY INCREASES**

**SECTION 17.5.** Effective July 1, 2005, 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	<del>\$71,659</del> <u>\$72,450</u>
100,000 to 149,999	<del>80,413</del> <u>81,301</u>
150,000 to 249,999	<del>89,169</del> <u>90,154</u>
250,000 and above	<del>97,925.</del> <u>99,007.</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/ELIMINATE DEPUTY CLERK HIRING RATE**

**SECTION 17.6.** Effective July 1, 2005, 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	<del>\$27,515</del> <u>\$27,478</u>
Maximum	<del>47,626</del> <u>48,151</u>
Deputy Clerks	Annual Salary
Minimum	<del>\$23,565</del> <u>\$23,385</u>
Maximum	<del>36,934.</del> <u>37,238.</u>

**MAGISTRATES' SALARY INCREASES**

**SECTION 17.7.(a)** Effective July 1, 2005, G.S. 7A-171.1(a) reads as rewritten:



1           **SECTION 17.7.(b)** Effective July 1, 2005, G.S. 7A-171.1(a1) reads as  
 2 rewritten:

3           "(a1) Notwithstanding subsection (a) of this section, the following salary provisions  
 4 apply to individuals who were serving as magistrates on June 30, 1994:

5           (1) The salaries of magistrates who on June 30, 1994, were paid at a salary  
 6 level of less than five years of service under the table in effect that date  
 7 shall be as follows:

8	Less than 1 year of service	\$22,325	\$22,099
9	1 or more but less than 3 years of service	23,389	23,202
10	3 or more but less than 5 years of service	25,530.	25,420.

11           Upon completion of five years of service, those magistrates shall  
 12 receive the salary set as the Entry Rate in the table in subsection (a).

13           (2) The salaries of magistrates who on June 30, 1994, were paid at a salary  
 14 level of five or more years of service shall be based on the rates set out  
 15 in subsection (a) as follows:

16	Salary Level	Salary Level
17	on June 30, 1994	on July 1, 1994
18	5 or more but less than 7 years of service	Entry Rate
19	7 or more but less than 9 years of service	Step 1
20	9 or more but less than 11 years of service	Step 2
21	11 or more years of service	Step 3

22           Thereafter, their salaries shall be set in accordance with the  
 23 provisions in subsection (a).

24           (3) The salaries of magistrates who are licensed to practice law in North  
 25 Carolina shall be adjusted to the annual salary provided in the table in  
 26 subsection (a) as Step 4, and, thereafter, their salaries shall be set in  
 27 accordance with the provisions in subsection (a).

28           (4) The salaries of "part-time magistrates" shall be set under the formula  
 29 set out in subdivision (2) of subsection (a) but according to the rates  
 30 set out in this subsection."  
 31

32 **GENERAL ASSEMBLY PRINCIPAL CLERKS**

33           **SECTION 17.8.** Effective July 1, 2005, G.S. 120-37(c) reads as rewritten:

34           "(c) The principal clerks shall be full-time officers. Each principal clerk shall be  
 35 entitled to other benefits available to permanent legislative employees and shall be paid  
 36 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ ninety-one  
 37 thousand five hundred thirteen dollars (\$91,513) payable monthly. The Legislative  
 38 Services Commission shall review the salary of the principal clerks prior to submission  
 39 of the proposed operating budget of the General Assembly to the Governor and  
 40 Advisory Budget Commission and shall make appropriate recommendations for  
 41 changes in those salaries. Any changes enacted by the General Assembly shall be by  
 42 amendment to this paragraph."  
 43

44 **SERGEANT-AT-ARMS AND READING CLERKS**

1           **SECTION 17.9.** Effective July 1, 2005, G.S. 120-37(b) reads as rewritten:

2           "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a  
3 salary of ~~three hundred eleven dollars (\$311.00)~~ three hundred three dollars (\$303.00)  
4 per week plus subsistence at the same daily rate provided for members of the General  
5 Assembly, plus mileage at the rate provided for members of the General Assembly for  
6 one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall  
7 serve during sessions of the General Assembly and at such time prior to the convening  
8 of, and subsequent to adjournment or recess of, sessions as may be authorized by the  
9 Legislative Services Commission. The reading clerks shall serve during sessions only."  
10

#### 11 **LEGISLATIVE EMPLOYEES**

12           **SECTION 17.10.** The Legislative Services Officer shall increase the salaries  
13 of nonelected employees of the General Assembly in effect for fiscal year 2005-2006 by  
14 two percent (2%). Nothing in this act limits any of the provisions of G.S. 120-32.  
15

#### 16 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

17           **SECTION 17.11.** The Director of the Budget shall transfer from the Reserve  
18 for Compensation Increases, created in this act for fiscal years 2005-2006 and  
19 2006-2007, funds to the North Carolina Community Colleges System Office necessary  
20 to provide an annual salary increase of two percent (2%), including funds for the  
21 employer's retirement and social security contributions, commencing July 1, 2005, for  
22 all permanent full-time community college institutional personnel supported by State  
23 funds.  
24

#### 25 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES**

26           **SECTION 17.12.(a)** The Director of the Budget shall transfer to the Board  
27 of Governors of The University of North Carolina sufficient funds from the Reserve for  
28 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,  
29 to provide an annual salary increase of two percent (2%), including funds for the  
30 employer's retirement and social security contributions, commencing July 1, 2005, for  
31 all employees of The University of North Carolina, as well as employees other than  
32 teachers of the North Carolina School of Science and Mathematics, supported by State  
33 funds and whose salaries are exempt from the State Personnel Act (EPA).  
34

35           **SECTION 17.12.(b)** The Director of the Budget shall transfer to the Board  
36 of Governors of The University of North Carolina sufficient funds from the Reserve for  
37 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,  
38 to provide an annual salary increase of two percent (2%), including funds for the  
39 employer's retirement and social security contributions, commencing July 1, 2005, for  
40 all teaching employees of the North Carolina School of Science and Mathematics,  
41 supported by State funds and whose salaries are exempt from the State Personnel Act  
42 (EPA). These funds shall be allocated to individuals according to the rules adopted by  
43 the Board of Trustees of the North Carolina School of Science and Mathematics and  
44 may not be used for any purpose other than for salary increases and necessary employer  
contributions provided by this section.

1           **SECTION 17.12.(c)** The Director of the Budget shall transfer to the Board  
2 of Governors of The University of North Carolina sufficient funds from the Reserve for  
3 Experience Step Increase for Teachers and Principals in Public Schools to provide an  
4 annual average salary increase of two percent (2%), including funds for the employer's  
5 retirement and social security contributions, commencing July 1, 2005, for all teaching  
6 employees of the North Carolina School of Science and Mathematics, supported by  
7 State funds and whose salaries are exempt from the State Personnel Act (EPA). These  
8 funds shall be allocated to individuals according to the rules adopted by the Board of  
9 Trustees of the North Carolina School of Science and Mathematics and may not be used  
10 for any purpose other than for salary increases and necessary employer contributions  
11 provided by this section.

### 12 13 **MOST STATE EMPLOYEES**

14           **SECTION 17.13.(a)** The salaries in effect June 30, 2005, of all permanent  
15 full-time State employees whose salaries are set in accordance with the State Personnel  
16 Act and who are paid from the General Fund or the Highway Fund shall be increased,  
17 on or after July 1, 2005, unless otherwise provided by this act, by two percent (2%).

18           **SECTION 17.13.(b)** Except as otherwise provided in this act, the fiscal year  
19 2005-2006 salaries for permanent full-time State officials and persons in exempt  
20 positions that are recommended by the Governor or the Governor and the Advisory  
21 Budget Commission and set by the General Assembly shall be increased by two percent  
22 (2%), commencing July 1, 2005.

23           **SECTION 17.13.(c)** The salaries in effect for fiscal year 2005-2006 for all  
24 permanent part-time State employees shall be increased on and after July 1, 2005, by  
25 pro rata amounts of the two percent (2%) salary increase provided for permanent  
26 full-time employees covered under this part.

27           **SECTION 17.13.(d)** The Director of the Budget may allocate out of special  
28 operating funds or from other sources of the employing agency, except tax revenues,  
29 sufficient funds to allow a salary increase, on and after July 1, 2005, in accordance with  
30 subsection (a), (b), or (c) of this section, including funds for the employer's retirement  
31 and social security contributions, for the permanent full-time and part-time employees  
32 of the agency, provided the employing agency elects to make available the necessary  
33 funds.

34           **SECTION 17.13.(e)** Within regular Executive Budget Act procedures as  
35 limited by this act, all State agencies and departments may increase on an equitable  
36 basis the rate of pay of temporary and permanent hourly State employees, subject to  
37 availability of funds in the particular agency or department, by pro rata amounts of the  
38 two percent (2%) salary increase provided for permanent full-time employees covered  
39 by the provisions of subsection (a), commencing July 1, 2005.

### 40 41 **ALL STATE-SUPPORTED PERSONNEL**

42           **SECTION 17.14.(a)** Salaries and related benefits for positions that are  
43 funded partially from the General Fund or Highway Fund and partially from sources  
44 other than the General Fund or Highway Fund shall be increased from the General Fund

1 or Highway Fund appropriation only to the extent of the proportionate part of the  
2 salaries paid from the General Fund or Highway Fund.

3 **SECTION 17.14.(b)** The granting of the salary increases under this act does  
4 not affect the status of eligibility for salary increments for which employees may be  
5 eligible unless otherwise required by this act.

6 **SECTION 17.14.(c)** The salary increases provided in this act are to be  
7 effective July 1, 2005, and do not apply to persons separated from State service due to  
8 resignation, dismissal, reduction in force, death, or retirement, or whose last workday is  
9 prior to July 1, 2005.

10 Payroll checks issued to employees after July 1, 2005, which represent  
11 payment of services provided prior to July 1, 2005, shall not be eligible for salary  
12 increases provided for in this act. This subsection shall apply to all employees, subject  
13 to or exempt from the State Personnel Act, paid from State funds, including public  
14 schools, community colleges, and The University of North Carolina.

15 **SECTION 17.14.(d)** The Director of the Budget shall transfer from the  
16 Reserve for Compensation Increases in this act for fiscal year 2005-2006 all funds  
17 necessary for the salary increases provided by this act, including funds for the  
18 employer's retirement and social security contributions.

19 **SECTION 17.14.(e)** Nothing in this act authorizes the transfer of funds  
20 between the General Fund and the Highway Fund for salary increases.

## 21 22 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES** 23 **COMMISSION SALARIES**

24 **SECTION 17.15.** For the 2005-2006 and 2006-2007 fiscal years, the  
25 Secretary of Revenue shall transfer at the end of each quarter from the State sales and  
26 use tax net collections received by the Department of Revenue under Article 5 of  
27 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources  
28 Fund to fund the cost of any legislative salary increase for employees of the Wildlife  
29 Resources Commission.

## 30 31 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

32 **SECTION 17.16.(a)** Required employer salary-related contributions for  
33 employees whose salaries are paid from department, office, institution, or agency  
34 receipts shall be paid from the same source as the source of the employees' salary. If an  
35 employee's salary is paid in part from the General Fund or Highway Fund and in part  
36 from department, office, institution, or agency receipts, required employer salary-related  
37 contributions may be paid from the General Fund or Highway Fund only to the extent of  
38 the proportionate part paid from the General Fund or Highway Fund in support of the  
39 salary of the employee, and the remainder of the employer's requirements shall be paid  
40 from the source that supplies the remainder of the employee's salary. The requirements  
41 of this section as to source of payment are also applicable to payments on behalf of the  
42 employee for hospital-medical benefits, longevity pay, unemployment compensation,  
43 accumulated leave, workers' compensation, severance pay, separation allowances, and  
44 applicable disability income benefits.



1           **SECTION 17.16.(b)** Effective July 1, 2005, the State's employer  
2 contribution rates budgeted for retirement and related benefits as percentage of covered  
3 salaries for the 2005-2006 fiscal year are (i) six and five-hundredths percent (6.05%) –  
4 Teachers and State Employees; (ii) eleven and five-hundredths percent (11.05%) – State  
5 Law Enforcement Officers; (iii) ten and fifty-six hundredths percent (10.56%) –  
6 University Employees' Optional Retirement System; (iv) ten and fifty-six hundredths  
7 percent (10.56%) – Community College Optional Retirement Program; (v) fifteen and  
8 seventy-nine hundredths percent (15.79%) – Consolidated Judicial Retirement System;  
9 and (vi) three and two-tenths percent (3.2%) – Legislative Retirement System. Each of  
10 the foregoing contribution rates includes three and two-tenths percent (3.2%) for  
11 hospital and medical benefits. The rate for Teachers and State Employees, State Law  
12 Enforcement Officers, Community College Optional Retirement Program, and for the  
13 University Employees' Optional Retirement Program includes fifty-two hundredths  
14 percent (0.52%) for the Disability Income Plan. The rates for Teachers and State  
15 Employees and State Law Enforcement Officers include sixteen-hundredths percent  
16 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers  
17 includes five percent (5%) for Supplemental Retirement Income.

18           **SECTION 17.16.(c)** The maximum annual employer contributions, payable  
19 monthly, by the State for each covered employee or retiree for the 2005-2006 fiscal year  
20 to the Teachers' and State Employees' Comprehensive Major Medical Plan are as  
21 follows: (i) Medicare-eligible employees and retirees – July 2005 to September 2005:  
22 seven hundred thirty-one dollars (\$731.00); (ii) Medicare-eligible employees and  
23 retirees – October 2005 to June 2006: two thousand four hundred forty-nine dollars  
24 (\$2,449); (iii) non-Medicare-eligible employees and retirees – July 2005 to September  
25 2005: eight hundred fifty-eight dollars (\$858.00); and (iv) non-Medicare-eligible  
26 employees and retirees – October 2005 to June 2006: two thousand eight hundred  
27 seventy-two dollars (\$2,872).

28           **SECTION 17.16.(d)** The maximum annual employer contributions, payable  
29 monthly, by the State for each covered employee or retiree for the 2006-2007 fiscal year  
30 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)  
31 Medicare-eligible employees and retirees – July 2006 to June 2007: three thousand two  
32 hundred sixty-five dollars (\$3,265); (ii) Medicare-eligible employees and retirees – July  
33 2007 to September 2007: eight hundred sixteen dollars (\$816.00); (iii)  
34 non-Medicare-eligible employees and retirees – July 2006 to June 2007: three thousand  
35 eight hundred twenty-nine dollars (\$3,829); and (iv) non-Medicare-eligible employees  
36 and retirees – July 2007 to September 2007: nine hundred fifty-seven dollars (\$957.00).

37  
38 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**  
39 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**  
40 **JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE**  
41 **RETIREMENT SYSTEM**

42           **SECTION 17.17.(a)** G.S. 135-5 is amended by adding a new subsection to  
43 read:

1        "(nnn) From and after July 1, 2005, the retirement allowance to or on account of  
2 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased  
3 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with  
4 G.S. 135-5(o). Furthermore, from and after July 1, 2005, the retirement allowance to or  
5 on account of beneficiaries whose retirement commenced after July 1, 2004, but before  
6 June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the  
7 allowance payable as determined by the Board of Trustees based upon the number of  
8 months that a retirement allowance was paid between July 1, 2004, and June 30, 2005."

9        **SECTION 17.17.(b)** G.S. 135-65 is amended by adding a new subsection to  
10 read:

11        "(z) From and after July 1, 2005, the retirement allowance to or on account of  
12 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased  
13 by two percent (2%) of the allowance payable on June 1, 2005. Furthermore, from and  
14 after July 1, 2005, the retirement allowance to or on account of beneficiaries whose  
15 retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased  
16 by a prorated amount of two percent (2%) of the allowance payable as determined by  
17 the Board of Trustees based upon the number of months that a retirement allowance was  
18 paid between July 1, 2004, and June 30, 2005."

19        **SECTION 17.17.(c)** G.S. 120-4.22A is amended by adding a new subsection  
20 to read:

21        "(t) In accordance with subsection (a) of this section, from and after July 1, 2005,  
22 the retirement allowance to or on account of beneficiaries whose retirement commenced  
23 on or before January 1, 2005, shall be increased by two percent (2%) of the allowance  
24 payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement  
25 allowance to or on account of beneficiaries whose retirement commenced after January  
26 1, 2005, but before June 30, 2005, shall be increased by a prorated amount of two  
27 percent (2%) of the allowance payable as determined by the Board of Trustees based  
28 upon the number of months that a retirement allowance was paid between January 1,  
29 2005, and June 30, 2005."

30        **SECTION 17.17.(d)** G.S. 128-27 is amended by adding a new subsection to  
31 read:

32        "(ggg) From and after July 1, 2005, the retirement allowance to or on account of  
33 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased  
34 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with  
35 subsection (k) of this section. Furthermore, from and after July 1, 2005, the retirement  
36 allowance to or on account of beneficiaries whose retirement commenced after July 1,  
37 2004, but before June 30, 2005, shall be increased by a prorated amount of two percent  
38 (2%) of the allowance payable as determined by the Board of Trustees based upon the  
39 number of months that a retirement allowance was paid between July 1, 2004, and June  
40 30, 2005."

#### 41 42 **SALARY ADJUSTMENT FUND**

43        **SECTION 17.18.** Up to five million dollars (\$5,000,000) in any remaining  
44 appropriations in the Reserve for Compensation Increases authorized for salary

1 increases not required for that purpose may be used to supplement the Salary  
2 Adjustment Fund. The Office of State Budget and Management shall report to the Joint  
3 Legislative Commission on Governmental Operations prior to the allocation of any  
4 salary adjustment funds for any State agency. The Judicial Department is eligible for  
5 funding authorized in this section.

## 6 7 **PART XVIII. REVENUE LAW CHANGES**

### 8 9 **ALLOCABLE SHARE**

10 **SECTION 18.1.(a)** G.S. 66-291(b)(2) reads as rewritten:

11 "(2) To the extent that a tobacco product manufacturer establishes that the  
12 amount it was required to place into escrow on account of units sold in  
13 the State in a particular year was greater than the State's allocable  
14 share of the total payments that such manufacturer would have been  
15 required to make in that year under the Master Settlement Agreement  
16 (as determined pursuant to section IX(i)(2) of the Master Settlement  
17 Agreement, and before any of the adjustments or offsets described in  
18 section IX(i)(3) of that Agreement other than the Inflation Adjustment)  
19 the Master Settlement Agreement payments, as determined pursuant to  
20 section IX(i) of that Agreement, including after final determination of  
21 all adjustments, that the manufacturer would have been required to  
22 make on account of the units sold had it been a participating  
23 manufacturer, the excess shall be released from escrow and revert back  
24 to such tobacco product manufacturer; or".

25 **SECTION 18.1.(b)** If the section above, or any portion of the amendment  
26 made to G.S. 66-291(b)(2) by the section above, is held by a court of competent  
27 jurisdiction to be unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be  
28 repealed in its entirety. If G.S. 66-291(b) shall thereafter be held by a court of  
29 competent jurisdiction to be unconstitutional, then this act shall be repealed, and  
30 G.S. 66-291(b)(2) shall be restored as if no amendments had been made by this act.  
31 Neither any judicial holding of unconstitutionality nor the repeal of G.S. 66-291(b)(2)  
32 shall affect, impair, or invalidate any other portion of Part 1 of Article 37 of Chapter 66  
33 of the General Statutes, or the application of Part 1 of Article 37 of Chapter 66 of the  
34 General Statutes to any other person or circumstance, and the remaining portions of Part  
35 1 of Article 37 of Chapter 66 of the General Statutes shall at all times continue in full  
36 force and effect.

### 37 38 **MAINTAIN STATE SALES TAX RATE TO PROTECT EDUCATION**

39 **SECTION 18.2.** Section 34.13(c) of S.L. 2001-424, as amended by Section  
40 38.1 of S.L. 2003-284, reads as rewritten:

41 **"SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies  
42 to sales made on or after that date. ~~This section is repealed effective for sales made on~~  
43 ~~or after July 1, 2005.~~ This section does not affect the rights or liabilities of the State, a  
44 taxpayer, or another person arising under a statute amended or repealed by this section

1 before the effective date of its amendment or repeal; nor does it affect the right to any  
 2 refund or credit of a tax that accrued under the amended or repealed statute before the  
 3 effective date of its amendment or repeal."  
 4

5 **ADJUST ESTATE TAX**

6 **SECTION 18.3.(a)** Section 30C.3(b) of S.L. 2002-126, as amended by  
 7 Section 37A.4 of S.L. 2003-284, reads as rewritten:

8 "**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and  
 9 applies to the estates of decedents dying on or after that date. ~~This section is repealed~~  
 10 ~~effective for the estates of decedents dying on or after July 1, 2005.~~"

11  
 12 **PHASE DOWN UPPER INCOME TAX RATE TO EIGHT PERCENT IN 2006**

13 **SECTION 18.4.** Effective for taxable years beginning on or after January 1,  
 14 2006, and before January 1, 2007, G.S. 105-134.2(a) reads as rewritten:

15 "(a) A tax is imposed upon the North Carolina taxable income of every individual.  
 16 The tax shall be levied, collected, and paid annually and shall be computed at the  
 17 following percentages of the taxpayer's North Carolina taxable income.

- 18 (1) For married individuals who file a joint return under G.S. 105-152 and  
 19 for surviving spouses, as defined in section 2(a) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	NA	7.75%
<u>\$200,000</u>	<u>NA</u>	<u>8%</u>

- 25 (2) For heads of households, as defined in section 2(b) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	<del>NA</del> <u>\$160,000</u>	7.75%
<u>\$160,000</u>	<u>NA</u>	<u>8%</u>

- 31 (3) For unmarried individuals other than surviving spouses and heads of  
 32 households:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$12,750	6%
\$12,750	<del>\$60,000</del> <u>\$120,000</u>	7%
\$60,000	NA	7.75%
<u>\$120,000</u>	<u>NA</u>	<u>8%</u>

- 38 (4) For married individuals who do not file a joint return under  
 39 G.S. 105-152:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
0	\$10,625	6%
\$10,625	<del>\$50,000</del> <u>\$100,000</u>	7%
\$50,000	NA	7.75%
<u>\$100,000</u>	<u>NA</u>	<u>8%"</u>

**ELIMINATE UPPER INCOME TAX RATE IN 2007 TAX YEAR**

**SECTION 18.5.** Effective for taxable years beginning on or after January 1, 2007, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	<del>\$200,000</del> NA	7.75%
<del>\$200,000</del>	NA	8.25%

(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	<del>\$160,000</del> NA	7.75%
<del>\$160,000</del>	NA	8.25%

(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	<del>\$120,000</del> NA	7.75%
<del>\$120,000</del>	NA	8.25%

(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	<del>\$100,000</del> NA	7.75%
<del>\$100,000</del>	NA	8.25%"

**COMPLY WITH STREAMLINED SALES TAX AGREEMENT**

**SECTION 18.6.(a)** G.S. 105-164.3 is amended by adding the following new subdivisions to read:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(1a) Cable television service. – Programming distributed by a cable television system as defined in G.S. 153A-137.

...

1           (9a) Film or video production equipment. – Items used exclusively in the  
2           production of film or video products, including, but not limited to,  
3           cameras, camera supplies, camera accessories, lighting equipment,  
4           cables, wires, generators, motion picture film and video tape stock,  
5           cranes, booms, dollies, teleprompters, props, and building materials  
6           used in the production of sets.

7           ...."

8           **SECTION 18.6.(b)** G.S. 105-164.4 reads as rewritten:

9           "**§ 105-164.4. Tax imposed on retailers.**

10          (a) **(Effective for sales made before July 1, 2005)** A privilege tax is imposed on  
11          a retailer at the following percentage rates of the retailer's net taxable sales or gross  
12          receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

13          (a) **(Effective for sales made on or after July 1, 2005)** A privilege tax is  
14          imposed on a retailer at the following percentage rates of the retailer's net taxable sales  
15          or gross receipts, as appropriate. The general rate of tax is four percent (4%).

16           (1) The general rate of tax applies to the sales price of each item or article  
17           of tangible personal property that is sold at retail and is not subject to  
18           tax under another subdivision in this section.

19           (1a) The rate of two percent (2%) applies to the sales price of each  
20           manufactured home sold at retail, including all accessories attached to  
21           the manufactured home when it is delivered to the purchaser. The  
22           maximum tax is three hundred dollars (\$300.00) per article. Each  
23           section of a manufactured home that is transported separately to the  
24           site where it is to be erected is a separate article.

25           (1b) The rate of three percent (3%) applies to the sales price of each  
26           aircraft, boat, railway car, or locomotive sold at retail, including all  
27           accessories attached to the item when it is delivered to the purchaser.  
28           The maximum tax is one thousand five hundred dollars (\$1,500) per  
29           article.

30           ~~(1c) The rate of one percent (1%) applies to the sales price of the following~~  
31           ~~articles:~~

32           ~~a. Horses or mules by whomsoever sold.~~

33           ~~b. Semen to be used in the artificial insemination of animals.~~

34           ~~e. Sales of fuel, other than electricity, to farmers to be used by~~  
35           ~~them for any farm purposes other than preparing food, heating~~  
36           ~~dwellings, and other household purposes. The quantity of fuel~~  
37           ~~purchased or used at any one time shall not in any manner be a~~  
38           ~~determinative factor as to whether any sale or use of fuel is or is~~  
39           ~~not subject to the one percent (1%) rate of tax imposed by this~~  
40           ~~subdivision.~~

41           ~~d. Sales of fuel, other than electricity, to manufacturing industries~~  
42           ~~and manufacturing plants for use in connection with the~~  
43           ~~operation of such industries and plants other than sales of fuels~~  
44           ~~to be used for residential heating purposes. The quantity of fuel~~

- 1                   purchased or used at any one time shall not in any manner be a  
2                   determinative factor as to whether any sale or use of fuel is or is  
3                   not subject to the rate of tax provided in this subdivision.
- 4                   e.       Sales of fuel, other than electricity, to commercial laundries or  
5                   to pressing and dry-cleaning establishments for use in  
6                   machinery used in the direct performance of the laundering or  
7                   the pressing and cleaning service.
- 8                   f.       Sales to freezer locker plants of wrapping paper, cartons and  
9                   supplies consumed directly in the operation of such plant.
- 10               (1d)   The rate of one percent (1%) applies to the sales price of the articles  
11               listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00)  
12               per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term  
13               "accessories" does not include electricity.
- 14               a.       through k. Recodified as § 105-164.4A by Session Laws  
15               1999-360, s. 3(a), effective August 4, 1999.
- 16               (1e)   The rate of three percent (3%) applies to the sales price of each mobile  
17               classroom or mobile office sold at retail, including all accessories  
18               attached to the mobile classroom or mobile office when it is delivered  
19               to the purchaser. The maximum tax is one thousand five hundred  
20               dollars (\$1,500) per article. Each section of a mobile classroom or  
21               mobile office that is transported separately to the site where it is to be  
22               placed is a separate article.
- 23               (1f)   The rate of two and eighty-three-hundredths percent (2.83%) applies to  
24               the sales price of electricity described in this subdivision and measured  
25               by a separate meter or another separate device:
- 26               a.       Sales of electricity to farmers to be used by them for any farm  
27               purposes other than preparing food, heating dwellings, and  
28               other household purposes. The quantity of electricity or gas  
29               purchased or used at any one time shall not be a determinative  
30               factor as to whether its sale or use is or is not subject to the rate  
31               of tax provided in this subdivision.
- 32               b.       Sales of electricity to manufacturing industries and  
33               manufacturing plants for use in connection with the operation of  
34               the industries and plants other than sales of electricity to be  
35               used for residential heating purposes. The quantity of electricity  
36               purchased or used at any one time shall not be a determinative  
37               factor as to whether its sale or use is or is not subject to the rate  
38               of tax provided in this subdivision.
- 39               c.       Sales of electricity to commercial laundries or to pressing and  
40               dry-cleaning establishments for use in machinery used in the  
41               direct performance of the laundering or the pressing and  
42               cleaning service.
- 43               (1g)   Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004,  
44               and applicable to sales of electricity made on or after that date.

- 1           (1h) **(Expires for sales made on or after October 1, 2007)** The rate of  
2           seventeen-hundredths percent (0.17%) applies to the sales price of  
3           electricity sold to an aluminum smelting facility for use in connection  
4           with the operation of that facility and measured by a separate meter or  
5           measuring device.
- 6           (2) The applicable percentage rate applies to the gross receipts derived  
7           from the lease or rental of tangible personal property by a person who  
8           is engaged in the business of leasing or renting tangible personal  
9           property, or is a retailer and leases or rents property of the type sold by  
10          the retailer. The applicable percentage rate is the rate and the  
11          maximum tax, if any, that applies to a sale of the property that is  
12          leased or rented. A person who leases or rents property shall also  
13          collect the tax imposed by this section on the separate retail sale of the  
14          property.
- 15          (3) Operators of hotels, motels, tourist homes, tourist camps, and similar  
16          type businesses and persons who rent private residences and cottages  
17          to transients are considered retailers under this Article. A tax at the  
18          general rate of tax is levied on the gross receipts derived by these  
19          retailers from the rental of any rooms, lodgings, or accommodations  
20          furnished to transients for a consideration. This tax does not apply to  
21          any private residence or cottage that is rented for less than 15 days in a  
22          calendar year or to any room, lodging, or accommodation supplied to  
23          the same person for a period of 90 or more continuous days.
- 24                 As used in this subdivision, the term "persons who rent to  
25          transients" means (i) owners of private residences and cottages who  
26          rent to transients and (ii) rental agents, including "real estate brokers"  
27          as defined in G.S. 93A-2, who rent private residences and cottages to  
28          transients on behalf of the owners. If a rental agent is liable for the tax  
29          imposed by this subdivision, the owner is not liable.
- 30          (4) Every person engaged in the business of operating a dry cleaning,  
31          pressing, or hat-blocking establishment, a laundry, or any similar  
32          business, engaged in the business of renting clean linen or towels or  
33          wearing apparel, or any similar business, or engaged in the business of  
34          soliciting cleaning, pressing, hat blocking, laundering or linen rental  
35          business for any of these businesses, is considered a retailer under this  
36          Article. A tax at the general rate of tax is levied on the gross receipts  
37          derived by these retailers from services rendered in engaging in any of  
38          the occupations or businesses named in this subdivision. The tax  
39          imposed by this subdivision does not apply to receipts derived from  
40          coin, token, or card-operated washing machines, extractors, and dryers.  
41          The tax imposed by this subdivision does not apply to gross receipts  
42          derived from services performed for resale by a retailer that pays the  
43          tax on the total gross receipts derived from the services.



- 1 (4a) The rate of three percent (3%) applies to the gross receipts derived  
2 from sales of electricity, other than sales of electricity subject to tax  
3 under another subdivision in this section. A person who sells  
4 electricity is considered a retailer under this Article.
- 5 (4b) A person who sells tangible personal property at a specialty market,  
6 other than the person's own household personal property, is considered  
7 a retailer under this Article. A tax at the general rate of tax is levied on  
8 the sales price of each article sold by the retailer at the specialty  
9 market. The term "specialty market" has the same meaning as defined  
10 in G.S. 66-250.
- 11 (4c) The rate of ~~six percent (6%)~~ the combination of the general State rate  
12 of tax and the predominant local rate of tax applies to the gross  
13 receipts derived from providing telecommunications service. A person  
14 who provides telecommunications service is considered a retailer  
15 under this Article. Telecommunications service is taxed in accordance  
16 with G.S. 105-164.4C.
- 17 (4d) The sale or recharge of prepaid telephone calling service is taxable at  
18 the general rate of tax. The tax applies regardless of whether tangible  
19 personal property, such as a card or a telephone, is transferred. Prepaid  
20 telephone calling service is taxable at the point of sale instead of at the  
21 point of use and is sourced in accordance with G.S. 105-164.4B.  
22 Prepaid telephone calling service taxed under this subdivision is not  
23 subject to tax as a telecommunications service.
- 24 (5) Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1,  
25 1999.
- 26 (6) The rate of ~~five percent (5%)~~ the combination of the general State rate  
27 of tax and the predominant local rate of tax applies to the gross  
28 receipts derived from providing direct-to-home satellite service or  
29 providing cable television to subscribers in this State. A person  
30 engaged in the business of providing direct-to-home satellite service or  
31 cable television service is considered a retailer under this Article. If  
32 any gross receipts derived from providing cable television service are  
33 subject to a franchise tax under G.S. 153A-154 or G.S. 160A-214  
34 during a reporting period, the rate of tax levied by this Article on those  
35 gross receipts for that reporting period shall be reduced by the rate of  
36 franchise tax levied on the gross receipts under G.S. 153A-154 or  
37 G.S. 160A-214, as applicable, for that reporting period.
- 38 (7) The rate of ~~six percent (6%)~~ the combination of the general State rate  
39 of tax and the predominant local rate of tax applies to the sales price of  
40 spirituous liquor other than mixed beverages. As used in this  
41 subdivision, the terms "spirituous liquor" and "mixed beverage" have  
42 the meanings provided in G.S. 18B-101.
- 43 (8) The rate of two and one-half percent (2.5%) applies to the sales price  
44 of each modular home sold, including all accessories attached to the

1 modular home when it is delivered to the purchaser. For the purposes  
2 of this subdivision, the retail sale is deemed to be the sale of a modular  
3 home to a modular homebuilder.

4 (b) The tax levied in this section shall be collected from the retailer and paid by  
5 him at the time and in the manner as hereinafter provided. Provided, however, that any  
6 person engaging or continuing in business as a retailer shall pay the tax required on the  
7 net taxable sales of such business at the rates specified when proper books are kept  
8 showing separately the gross proceeds of taxable and nontaxable sales of tangible  
9 personal property in such form as may be accurately and conveniently checked by the  
10 Secretary or his duly authorized agent. If such records are not kept separately the tax  
11 shall be paid as a retailer on the gross sales of business, and the exemptions and  
12 exclusions provided by this Article shall not be allowed. The tax levied in this section is  
13 in addition to all other taxes, whether levied in the form of excise, license or privilege or  
14 other taxes.

15 (c) Certificate of Registration. – Before a person may engage in business as a  
16 retailer or a wholesale merchant, the person must obtain a certificate of registration from  
17 the Department in accordance with G.S. 105-164.29."

18 **SECTION 18.6.(c)** G.S. 105-164.4A is repealed.

## 19 20 **EQUALIZING TAX ON ENTERTAINMENT INDUSTRY**

21 **SECTION 18.7.(a)** G.S. 105-37.1(b) reads as rewritten:

22 "(b) Rate and Payment. – The rate of the privilege tax is ~~three percent (3%)~~ the  
23 combination of the general State rate of tax and the predominant local rate of tax of the  
24 gross receipts from the activities described in subsection (a) of this section. The tax is  
25 due when a return is due. A return is due by the 10th day after the end of each month  
26 and covers the gross receipts received during the previous month."

27 **SECTION 18.7.(b)** G.S. 105-38.1(a) reads as rewritten:

28 "(a) A privilege tax at the rate of ~~one percent (1%)~~ the combination of the general  
29 State rate of tax and the predominant local rate of tax is imposed on the gross receipts of  
30 a person who is engaged in the business of operating a motion picture show for which  
31 an admission is charged. The tax is due when a return is due. A return is due by the 10th  
32 day after the end of each month and covers the gross receipts received during the  
33 previous month. If a person offers an entertainment or amusement that includes both a  
34 motion picture taxable under this section and an entertainment or amusement taxable  
35 under G.S. 105-37.1, the tax in that statute applies to the entire gross receipts and the tax  
36 levied in this section does not apply."

## 37 38 **BROADENING THE SALES TAX BASE**

39 **SECTION 18.8.** G.S. 105-164.13 is amended by adding the following new  
40 subdivision to read:

41 "(6a) Candy."

1 **CHANGING EXEMPTIONS TO COMPLY WITH THE STREAMLINED**  
2 **SALES TAX INCLUDING FULL EXEMPTIONS OF FUEL USED IN**  
3 **FARMING AND FARM MACHINERY FROM SALES TAX**

4 **SECTION 18.9.(a)** G.S. 105-164.13 is amended by adding the following  
5 new subdivisions to read:

- 6 "(4e) a. Horses or mules by whomsoever sold.  
7 b. Semen to be used in the artificial insemination of animals.  
8 c. Sales of fuel, other than electricity, to farmers to be used by  
9 them for any farm purposes other than preparing food, heating  
10 dwellings, and other household purposes.

11 (4f) Farm machinery. – Sales to a farmer of machines and machinery, and  
12 parts and accessories for these machines and machinery, for use by the  
13 farmer in the planting, cultivating, harvesting, or curing of farm crops  
14 or in the production of dairy products, eggs, or animals. A "farmer"  
15 includes a dairy operator, a poultry farmer, an egg producer, a  
16 livestock farmer, a farmer of crops, and a farmer of an aquatic species,  
17 as defined in G.S. 106-758. Items that are exempt from tax under  
18 G.S. 105-164.13(4c) are not subject to tax under G.S. 105-164.4.

19 The term "machines and machinery" as used in this subdivision is  
20 defined as follows:

21 The term shall include all vehicular implements, designed and sold  
22 for any use defined in this subdivision, which are operated, drawn, or  
23 propelled by motor or animal power, but shall not include vehicular  
24 implements which are operated wholly by hand, and shall not include  
25 any motor vehicles required to be registered under Chapter 20 of the  
26 General Statutes.

27 The term shall include all nonvehicular implements and mechanical  
28 devices designed and sold for any use defined in this subdivision,  
29 which have moving parts, or which require the use of any motor or  
30 animal power, fuel, or electricity in their operation but shall not  
31 include nonvehicular implements which have no moving parts and are  
32 operated wholly by hand.

33 The term shall also include metal flues sold for use in curing  
34 tobacco, whether such flues are attached to handfired furnaces or used  
35 in connection with mechanical burners.

36 (4g) Tobacco equipment. – Sales to farmers of bulk tobacco barns and  
37 racks and all parts and accessories thereto and similar apparatus used  
38 for the curing and drying of any farm produce.

39 (4h) Farm storage facilities. – Sales to farmers of grain, feed, or soybean  
40 storage facilities and accessories thereto, whether or not dryers are  
41 attached, and all similar apparatus and accessories thereto for the  
42 storage of grain, feed, or soybeans.

43 (4i) Farm containers. – Sales of containers to farmers or producers for use  
44 in the planting, producing, harvesting, curing, marketing, packaging,

1 sale, or transporting or delivery of their products when such containers  
2 do not go with and become part of the sale of their products at  
3 wholesale or retail."

4 **SECTION 18.9.(b)** G.S. 105-164.13 is amended by adding the following  
5 new subdivisions to read:

6 "(5b) Machinery and machinery parts and accessories that are subject to tax  
7 under Article 5F of this Chapter.

8 (5c) Sales to a production company of film or video production  
9 equipment."

10 **SECTION 18.9.(c)** G.S. 105-164.13(18) reads as rewritten:

11 ~~"(18) Funeral services, expenses, including coffins and caskets, not to exceed~~  
12 ~~one thousand five hundred dollars (\$1,500). All other funeral~~  
13 ~~expenses, including gross receipts for services rendered, shall be~~  
14 ~~taxable at the general rate of tax set in G.S. 105-164.4. However,~~  
15 ~~"services rendered" shall not include those services which have been~~  
16 ~~taxed pursuant to G.S. 105-164.4(4), or to those services performed by~~  
17 ~~any beautician, cosmetologist, hairdresser or barber employed by or at~~  
18 ~~the specific direction of the family or personal representative of a~~  
19 ~~deceased; and "funeral expenses" and "services rendered" shall not~~  
20 ~~include death certificates procured by or at the specific direction of the~~  
21 ~~family or personal representative of a deceased. Where coffins, caskets~~  
22 ~~or vaults are purchased direct and a separate charge is paid for~~  
23 ~~services, the provisions of this subdivision shall apply to the total for~~  
24 ~~both."~~

25 **SECTION 18.9.(d)** G.S. 105-164.13(28) is repealed.

## 26 **INCREASE TOBACCO TAX FOR HEALTH CARE**

27 **SECTION 18.10.(a)** G.S. 105-113.5 reads as rewritten:

### 28 **"§ 105-113.5. Tax on cigarettes.**

29 For the period between September 1, 2005, and June 30, 2006, Aa tax is levied on  
30 the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of  
31 two and one half twenty mills per individual cigarette. For the period on or after July 1,  
32 2006, a tax is levied on the sale or possession for sale in this State, by a distributor, of  
33 all cigarettes at the rate of twenty-five mills per individual cigarette."

34 **SECTION 18.10.(b)** G.S. 105-113.35(a) reads as rewritten:

35 "(a) Tax. – For the period between September 1, 2005, and June 30, 2006, An an  
36 excise tax is levied on tobacco products other than cigarettes at the rate of two percent  
37 (2%) sixteen percent (16%) of the cost price of the products. For the period on or after  
38 July 1, 2006, an excise tax is levied on tobacco products other than cigarettes at the rate  
39 of eighteen percent (18%) of the cost price of the products. This tax does not apply to the  
40 following:

- 41 (1) ~~A tobacco product sold outside the State.~~
  - 42 (2) ~~A tobacco product sold to the federal government.~~
  - 43 (3) ~~A sample tobacco product distributed without charge."~~
- 44

1  
2 **MAINTAIN ONE PERCENT OR EIGHTY DOLLARS ON MANUFACTURING**  
3 **MACHINERY**

4 **SECTION 18.11.** G.S. 105-187.51 reads as rewritten:

5 **"§ 105-187.51. (Effective January 1, 2006) Tax imposed on mill machinery.**

6 (a) Scope. – A privilege tax is imposed on the following persons:

- 7 (1) A manufacturing industry or plant that purchases mill machinery or  
8 mill machinery parts or accessories for storage, use, or consumption in  
9 this State. A manufacturing industry or plant does not include a  
10 delicatessen, cafe, cafeteria, restaurant, or another similar retailer that  
11 is principally engaged in the retail sale of foods prepared by it for  
12 consumption on or off its premises.
- 13 (2) A contractor or subcontractor that purchases mill machinery or mill  
14 machinery parts or accessories for use in the performance of a contract  
15 with a manufacturing industry or plant.
- 16 (3) A subcontractor that purchases mill machinery or mill machinery parts  
17 or accessories for use in the performance of a contract with a general  
18 contractor that has a contract with a manufacturing industry or plant.
- 19 (4) A telephone company that is regularly engaged in providing telephone  
20 service to subscribers on a commercial basis that purchases central  
21 office equipment, switchboard and private branch exchange  
22 equipment, or prewritten computer programs used in providing  
23 telephone service to their subscribers.
- 24 (5) A commercial laundry or pressing and dry-cleaning establishment that  
25 purchases machinery used in the direct performance of the laundering  
26 or the pressing and cleaning service and parts and accessories thereto.
- 27 (6) A freezer locker plant that purchases machinery used in the direct  
28 operation of the freezer locker plant and of parts and accessories  
29 thereto.
- 30 (7) A commercial radio or television company which is under the  
31 regulation and supervision of the Federal Communications  
32 Commission and purchases broadcasting equipment and parts and  
33 accessories thereto and towers.
- 34 (8) A major recycling facility that purchases cranes, structural steel crane  
35 support systems, foundations related to the cranes and support systems,  
36 port and dock facilities, rail equipment, and material handling  
37 equipment for the use in the facility.
- 38 (9) An interstate air courier that purchases materials handling equipment,  
39 racking systems, and related parts and accessories, for the storage or  
40 handling and movement of tangible personal property at an airport or  
41 in a warehouse or distribution facility.
- 42 (10) An interstate passenger air carrier or an interstate air courier that  
43 purchases aircraft simulators for flight crew training for use at the air  
44 carrier or air courier's hub.

1           (11) A manufacturing industry and manufacturing plant that purchases or  
2           uses fuel, other than electricity, for use in connection with the  
3           operation of such industries and plants other than sales of fuels to be  
4           used for residential heating purposes.

5           (12) A commercial laundry and pressing and dry-cleaning establishment  
6           that purchases or uses fuel, other than electricity, for use in machinery  
7           used in the direct performance of the laundering or the pressing and  
8           cleaning service.

9           (13) A freezer locker plant that purchases wrapping paper, cartons, and  
10          supplies consumed directly in the operation of such plant.

11          (b) Rate. – The tax is one percent (1%) of the sales price of the machinery, part,  
12          or accessory purchased. The maximum tax is eighty dollars (\$80.00) per article."

### 14 **IMPLEMENT SALES TAX HOLIDAY CHANGES**

15           **SECTION 18.12.(a)** G.S. 105-164.3 is amended by adding the following  
16          new subdivisions to read:

#### 17 **"§ 105-164.3. Definitions.**

18          The following definitions apply in this Article:

19          ...

20          (4c) Computer supplies. – Items that are considered to be a "school  
21          computer supply" under the Streamlined Agreement.

22          ...

23          (37a) School supplies. – Items commonly used by students in the course of  
24          their studies and that are considered to be a "school supply", a "school  
25          art supply", or a "school instructional material" under the Streamlined  
26          Agreement.

27          ...

28          (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax  
29          Agreement adopted November 12, 2002, as amended on November 19,  
30          2003, and on November 16, 2004.

31          ...."

32          **SECTION 18.12.(b)** G.S. 105-164.13C(a) is amended by adding the  
33          following new subdivision to read:

34          "(a) The taxes imposed by this Article do not apply to the following items of  
35          tangible personal property if sold between 12:01 A.M. on the first Friday of August and  
36          11:59 P.M. the following Sunday:

37           (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per  
38           item.

39           (2) School supplies with a sales price of one hundred dollars (\$100.00) or  
40           less per item.

41           (3) Computers with a sales price of three thousand five hundred dollars  
42           (\$3,500) or less per item.

43           (4) Sport or recreational equipment with a sales price of fifty dollars  
44           (\$50.00) or less per item.

- 1           (5) Computer supplies with a sales price of two hundred fifty dollars  
2           (\$250.00) per item."

#### 3 4 **UPDATE IRC CODE REFERENCE**

5           **SECTION 18.13.** G.S. 105-228.90(b)(1b) reads as rewritten:

6           "(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2004,~~  
7           January 1, 2005, including any provisions enacted as of that date  
8           which become effective either before or after that ~~date.~~ date except for  
9           the State shall not conform to changes made to implement the qualified  
10           production activities deduction.

11           Notwithstanding the changes above, any amendments to the  
12           Internal Revenue Code enacted after May 1, 2004, that increase North  
13           Carolina taxable income for the 2004 taxable year become effective  
14           for taxable years beginning on or after January 1, 2005."

### 15 16 **PART XIX. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS**

#### 17 18 **CAPITAL APPROPRIATIONS/GENERAL FUND**

19           **SECTION 19.1.** There is appropriated from the General Fund for the  
20 2005-2006 fiscal year the following amount for capital improvements:

21           2005-2006 Department of Environment and Natural Resources	
22                 Water Resource Projects	\$13,013,000
23                 North Carolina Ports Authority	\$5,000,000
24                 TOTAL CAPITAL APPROPRIATION	\$18,013,000

25           **SECTION 19.2.(a)** Where the actual costs are different from the estimated  
26 costs under Section 17.1, the Department may adjust the allocations among projects as  
27 needed. If any projects funded under Section 19.1 are delayed and the budgeted State  
28 funds cannot be used during the 2005-2006 fiscal year, or if the projects funded under  
29 Section 19.1 are accomplished at a lower cost, the Department may use the resulting  
30 fund availability to fund any of the following:

- 31           (1) Corps of Engineers project feasibility studies.  
32           (2) Corps of Engineers projects whose schedules have advanced and  
33           require State-matching funds in fiscal year 2005-2006.  
34           (3) State-local water resources development projects. Funds not expended  
35           or encumbered for these purposes shall revert to the General Fund at  
36           the end of the 2004-2005 fiscal year.

37           **SECTION 19.2.(b)** The Department shall make quarterly reports on the use  
38 of these funds to the Joint Legislative Commission on Governmental Operations, the  
39 Fiscal Research Division, and the Office of State Budget and Management. Each report  
40 shall include all of the following:

- 41           (1) All projects listed in this section.  
42           (2) The estimated cost of each project.  
43           (3) The date that work on each project began or is expected to begin.

1           (4)    The date that work on each project was completed or is expected to be  
2                    completed.

3           (5)    The actual cost of each project.

4            The quarterly reports shall also show those projects advanced in schedule,  
5 those projects delayed in schedule, and an estimate of the amount of funds expected to  
6 revert to the General Fund.

7            **SECTION 19.3.** Notwithstanding G.S. 143-23, if additional federal funds  
8 that require a State match are received for water resources projects or for beach  
9 renourishment projects for the 2005-2006 fiscal year, the Director of the Budget may,  
10 after consultation with the Joint Legislative Commission on Governmental Operations,  
11 transfer funds from General Fund appropriations to match the federal funds.

### 12 13 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

14           **SECTION 19.4.** The appropriations made by the 2005 General Assembly  
15 for capital improvements shall be disbursed for the purposes provided by this act.  
16 Expenditure of funds shall not be made by any State department, institution, or agency  
17 until an allotment has been approved by the Governor as Director of the Budget. The  
18 allotment shall be approved only after full compliance with the Executive Budget Act,  
19 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction  
20 contracts for projects to be financed in whole or in part with self-liquidating  
21 appropriations, the Director of the Budget shall approve the elements of the method of  
22 financing of those projects, including the source of funds, interest rate, and liquidation  
23 period. Provided, however, that if the Director of the Budget approves the method of  
24 financing a project, the Director shall report that action to the Joint Legislative  
25 Commission on Governmental Operations at its next meeting.

26           Where direct capital improvement appropriations include the purpose of  
27 furnishing fixed and movable equipment for any project, those funds for equipment  
28 shall not be subject to transfer into construction accounts except as authorized by the  
29 Director of the Budget. The expenditure of funds for fixed and movable equipment and  
30 furnishings shall be reviewed and approved by the Director of the Budget prior to  
31 commitment of funds.

32           Capital improvement projects authorized by the 2005 General Assembly shall  
33 be completed, including fixed and movable equipment and furnishings, within the limits  
34 of the amounts of the direct or self-liquidating appropriations provided, except as  
35 otherwise provided in this act. Capital improvement projects authorized by the 2003  
36 General Assembly for the design phase only shall be designed within the scope of the  
37 project as defined by the approved cost estimate filed with the Director of the Budget,  
38 including costs associated with site preparation, demolition, and movable and fixed  
39 equipment.

### 40 41 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

42           **SECTION 19.5.** When each capital improvement project appropriated by the  
43 2005 General Assembly, other than those projects under the Board of Governors of The  
44 University of North Carolina, is placed under a construction contract, direct



1 appropriations shall be encumbered to include all costs for construction, design,  
2 investigation, administration, movable equipment, and a reasonable contingency.  
3 Unencumbered direct appropriations remaining in the project budget shall be placed in a  
4 project reserve fund credited to the Office of State Budget and Management. Funds in  
5 the project reserve may be used for emergency repair and renovation projects at State  
6 facilities with the approval of the Director of the Budget. The project reserve fund may  
7 be used, at the discretion of the Director of the Budget, to allow for award of contracts  
8 where bids exceed appropriated funds, if those projects supplemented were designed  
9 within the scope intended by the applicable appropriation or any authorized change in it,  
10 and if, in the opinion of the Director of the Budget, all means to award contracts within  
11 the appropriation were reasonably attempted. At the discretion of the Director of the  
12 Budget, any balances in the project reserve fund shall revert to the original source.

### 13 14 **CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING** 15 **APPROVAL/REPORTING REQUIREMENT**

16 **SECTION 19.6.** Each department receiving capital improvement  
17 appropriations from the Highway Fund under this act shall report quarterly to the  
18 Director of the Budget on the status of those capital projects. The reporting procedure  
19 to be followed shall be developed by the Director of the Budget.

20 Highway Fund capital improvement projects authorized in this act that have  
21 not been placed under contract for construction due to insufficient funds may be  
22 supplemented with funds identified by the Director of the Budget, provided:

- 23 (1) That the project was designed and bid within the scope as authorized  
24 by the General Assembly;
- 25 (2) That the funds to supplement the project are from the same source as  
26 authorized for the original project;
- 27 (3) That the department to which the project was authorized has  
28 unsuccessfully pursued all statutory authorizations to award the  
29 contract; and
- 30 (4) That the action be reported to the Fiscal Research Division of the  
31 Legislative Services Office.

### 32 33 **PROJECT COST INCREASE**

34 **SECTION 19.7.** Upon the request of the administration of a State agency,  
35 department, or institution, the Director of the Budget may, when in the Director's  
36 opinion it is in the best interest of the State to do so, increase the cost of a capital  
37 improvement project. Provided, however, that if the Director of the Budget increases  
38 the cost of a project, the Director shall report that action to the Joint Legislative  
39 Commission on Governmental Operations at its next meeting. The increase may be  
40 funded from gifts, federal or private grants, special fund receipts, excess patient receipts  
41 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or  
42 direct capital improvement appropriations to that department or institution.

### 43 44 **NEW PROJECT AUTHORIZATION**

1           **SECTION 19.8.** Upon the request of the administration of any State agency,  
2 department, or institution, the Director of the Budget may authorize the construction of  
3 a capital improvement project not specifically authorized by the General Assembly if  
4 such project is to be funded by gifts, federal or private grants, special fund receipts,  
5 excess patient receipts above those budgeted at the University of North Carolina  
6 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the  
7 construction of a capital improvement project pursuant to this section, the Director shall  
8 consult with the Joint Legislative Commission on Governmental Operations.

9  
10 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

11           **SECTION 19.9.** Funds that become available by gifts, excess patient  
12 receipts above those budgeted at the University of North Carolina Hospitals at Chapel  
13 Hill, federal or private grants, receipts becoming a part of special funds by act of the  
14 General Assembly, or any other funds available to a State department or institution may  
15 be utilized for advance planning through the working drawing phase of capital  
16 improvement projects, upon approval of the Director of the Budget. The Director of the  
17 Budget may make allocations from the Advance Planning Fund for advance planning  
18 through the working drawing phase of capital improvement projects, except that this  
19 revolving fund shall not be utilized by the Board of Governors of The University of  
20 North Carolina or the State Board of Community Colleges.

21  
22 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

23           **SECTION 19.10.** Except as permitted in previous sections of this act, the  
24 appropriations for capital improvements made by the 2005 General Assembly may be  
25 expended only for specific projects set out by the 2005 General Assembly and for no  
26 other purpose. Construction of all capital improvement projects enumerated by the  
27 2005 General Assembly shall be commenced, or self-liquidating indebtedness with  
28 respect to them shall be incurred, within 12 months following the first day of the fiscal  
29 year in which the funds are available. If construction contracts on those projects have  
30 not been awarded or self-liquidating indebtedness has not been incurred within that  
31 period, the direct appropriation for those projects shall revert to the original source, and  
32 the self-liquidating appropriation shall lapse; except that direct appropriations may be  
33 placed in a reserve fund as authorized in this act. This deadline with respect to both  
34 direct and self-liquidating appropriations may be extended with the approval of the  
35 Director of the Budget up to an additional 12 months if circumstances and conditions  
36 warrant such extension.

37  
38 **PART XX. MISCELLANEOUS PROVISIONS**

39  
40 **EXECUTIVE BUDGET ACT APPLIES**

41           **SECTION 20.1.** The provisions of the Executive Budget Act, Chapter 143,  
42 Article 1 of the General Statutes are reenacted and shall remain in full force and effect  
43 and are incorporated in this act by reference.

1 **MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM**

2 **SECTION 20.2.** Except for statutory changes or other provisions that clearly  
3 indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual  
4 provisions of this act apply only to funds appropriated for, and activities occurring  
5 during, the 2005-2007 fiscal biennium.  
6

7 **EFFECT OF HEADINGS**

8 **SECTION 20.3.** The headings to the parts and sections of this act are a  
9 convenience to the reader and are for reference only. The headings do not expand,  
10 limit, or define the text of this act, except for effective dates referring to a Part.  
11

12 **SEVERABILITY CLAUSE**

13 **SECTION 20.4.** If any section or provision of this act is declared  
14 unconstitutional or invalid by the courts, it does not affect the validity of this act as a  
15 whole or any part other than the part so declared to be unconstitutional or invalid.  
16

17 **EFFECTIVE DATE**

18 **SECTION 20.5.** Except as otherwise provided, this act becomes effective  
19 July 1, 2005.