

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

**HOUSE BILL 1473**  
**RATIFIED BILL**

**AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.**

The General Assembly of North Carolina enacts:

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

**INTRODUCTION**

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

**TITLE OF ACT**

**SECTION 1.2.** This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2007."

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

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 2009, according to the following schedule:

<b>Current Operations – General Fund</b>	<b>2007-2008</b>	<b>2008-2009</b>
<b>EDUCATION</b>		
Community Colleges System Office	\$ 938,106,160	\$ 899,643,003
Department of Public Instruction	7,714,429,569	7,708,315,285
University of North Carolina – Board of Governors		
Appalachian State University	121,866,775	123,484,299
East Carolina University		
Academic Affairs	200,929,741	207,798,168
Health Affairs	48,700,539	48,649,036
Elizabeth City State University	31,770,080	32,587,386
Fayetteville State University	53,131,616	54,059,698
North Carolina Agricultural and		
Technical State University	91,017,204	91,671,185

North Carolina Central University	76,599,430	78,129,122
North Carolina School of the Arts	24,650,862	24,042,061
North Carolina State University		
Academic Affairs	349,253,626	358,675,869
Agricultural Extension	42,241,968	42,126,187
Agricultural Research	53,406,637	52,144,009
University of North Carolina at Asheville	33,648,196	34,151,586
University of North Carolina at Chapel Hill		
Academic Affairs	269,229,699	275,856,577
Health Affairs	188,883,060	194,407,363
Area Health Education Centers	47,818,875	47,818,875
University of North Carolina at Charlotte	161,588,211	167,100,852
University of North Carolina at Greensboro	145,859,443	149,948,462
University of North Carolina at Pembroke	53,241,514	54,967,129
University of North Carolina at Wilmington	94,683,871	97,233,616
Western Carolina University	84,117,070	85,393,621
Winston-Salem State University	66,379,070	69,552,386
General Administration	42,489,469	42,647,024
University Institutional Programs	132,601,272	111,329,634
Related Educational Programs	149,629,645	149,933,562
North Carolina School of Science and Mathematics	16,859,174	17,065,422
UNC Hospitals at Chapel Hill	45,673,970	45,673,970
Total University of North Carolina – Board of Governors	\$ 2,626,271,017	\$ 2,656,447,099

## HEALTH AND HUMAN SERVICES

Department of Health and Human Services		
Office of the Secretary	70,883,013	62,592,178
Division of Aging	35,943,589	35,745,179
Division of Blind Services/Deaf/HH	11,287,540	11,434,643
Division of Child Development	306,744,018	310,984,207
Division of Education Services	38,794,264	38,855,457
Division of Health Service Regulation	20,148,484	20,656,228
Division of Medical Assistance	2,920,359,272	3,389,993,470
Division of Mental Health	713,081,821	721,639,723
NC Health Choice	59,391,155	59,391,155
Division of Public Health	192,495,942	182,162,710
Division of Social Services	216,917,502	221,227,038
Division of Vocation Rehabilitation	45,054,797	45,518,365
Total Health and Human Services	\$ 4,631,101,397	\$ 5,100,200,353

## NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ 74,381,701	\$ 60,699,001
Department of Commerce		
Commerce	63,299,155	40,289,341
Commerce State-Aid	35,345,235	21,361,485
NC Biotechnology Center	15,583,395	15,583,395
Rural Economic Development Center	143,802,607	24,302,607
Department of Environment and Natural Resources	205,154,162	192,815,663
DENR Clean Water Management Trust Fund	100,000,000	100,000,000

Department of Labor	16,594,758	16,594,951
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## **JUSTICE AND PUBLIC SAFETY**

Department of Correction	\$ 1,214,065,645	\$ 1,226,627,581
Department of Crime Control and Public Safety	51,501,337	41,489,037
Judicial Department	432,747,865	452,389,917
Judicial Department – Indigent Defense	106,540,251	115,991,348
Department of Justice	94,861,199	92,171,670
Department of Juvenile Justice and Delinquency Prevention	158,002,069	139,556,104

## **GENERAL GOVERNMENT**

Department of Administration	74,441,729	71,126,817
Office of Administrative Hearings	3,691,458	3,521,735
Department of State Auditor	12,853,026	12,746,479
Office of State Controller	20,710,191	20,727,698
Department of Cultural Resources		
Cultural Resources	74,370,782	71,881,424
Roanoke Island Commission	2,020,023	2,020,023
State Board of Elections	6,188,472	6,046,868
General Assembly	54,538,665	55,740,786
Office of the Governor		
Office of the Governor	6,262,319	6,300,587
Office of State Budget and Management	5,870,735	5,877,440
OSBM – Reserve for Special Appropriations	6,971,446	5,621,446
Housing Finance Agency	18,608,417	9,608,417
Department of Insurance		
Insurance	30,922,133	30,936,704
Insurance – Volunteer Safety		
Workers' Compensation	4,500,000	4,500,000
Office of Lieutenant Governor	914,122	915,109
Department of Revenue	83,949,579	85,163,328
Department of Secretary of State	11,476,990	10,743,041
Department of State Treasurer		
State Treasurer	9,329,130	9,326,190

State Treasurer – Retirement for Fire and Rescue Squad Workers	9,458,957	9,458,957
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## TRANSPORTATION

Department of Transportation	0	0
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## RESERVES, ADJUSTMENTS AND DEBT SERVICE

Reserve for Compensation Increases	490,324,192	488,655,673
Additional Salary Increase for Teacher Assistants	1,150,240	1,150,240
Additional Step to Teacher Schedule	9,862,065	9,862,065
Additional Step to Judicial Longevity	566,643	566,643
Transfer Public Defenders to Judicial Retirement	573,000	573,000
Salary Adjustment Fund: 2007-2009 Biennium	23,688,000	23,688,000
Reserve for Teachers' and State Employees' Retirement Contribution	35,705,000	35,705,000
Reserve for Retirement System Payback	45,000,000	0
Reserve for State Health Plan	110,184,490	122,890,207
Reserve for Eliminated Positions	(10,038,466)	(10,038,466)
Contingency and Emergency Fund	5,000,000	5,000,000
Information Technology Fund	9,140,000	7,840,000
BEACON HR/Payroll	20,000,000	0
Integrated Tax Administration System Replacement	5,000,000	0
Reserve for Job Development Investment Grants (JDIG)	12,400,000	12,400,000
Debt Service		
General Debt Service	608,559,372	659,016,907
Federal Reimbursement	1,616,380	1,616,380

<b>TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>\$ 20,427,596,612</b>	<b>\$ 20,685,666,538</b>
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## GENERAL FUND AVAILABILITY STATEMENT

**SECTION 2.2.(a)** The General Fund availability used in developing the 2007-2009 biennial budget is shown below:

	<b>FY 2007-2008</b>	<b>FY 2008-2009</b>
Unappropriated Balance Remaining from Previous Year	\$ 0	\$ 271,704,098
Projected Reversions FY 2006-2007	125,000,000	0
Projected Overcollections FY 2006-2007	1,368,100,000	0

Less Earmarkings of Year End Fund Balance		0
Savings Reserve Account	(175,000,000)	0
Repairs and Renovations	(145,000,000)	0
<b>Beginning Unreserved Fund Balance</b>	<b>\$ 1,173,100,000</b>	<b>\$ 271,704,098</b>
<b>Revenues Based on Existing Tax Structure</b>	<b>\$ 18,643,100,000</b>	<b>\$ 19,670,200,000</b>
<b>Nontax Revenues</b>		
Investment Income	212,000,000	222,200,000
Judicial Fees	172,500,000	176,600,000
Disproportionate Share	100,000,000	100,000,000
Insurance	60,200,000	62,800,000
Other Nontax Revenues	139,300,000	153,400,000
Highway Trust Fund/Use Tax		
Reimbursement Transfer	172,500,000	172,500,000
Highway Fund Transfer	18,190,000	17,610,000
<b>Subtotal Nontax Revenues</b>	<b>\$ 874,690,000</b>	<b>\$ 905,110,000</b>
<b>Total General Fund Availability</b>	<b>\$ 20,690,890,000</b>	<b>\$ 20,845,814,098</b>
<b>Adjustments to Availability: 2007 Session</b>		
Maintain State Sales & Use Tax Rate at 4.25%	258,400,000	285,900,000
State Takeback of Local Sales Tax	0	184,200,000
State Hold Harmless for Counties	(19,300,000)	(3,700,000)
Corporate Tax Earmarking Adjustments	44,700,000	0
Earned Income Tax Credit	0	(48,300,000)
IRC Conformity	(56,900,000)	(49,100,000)
Health & Human Services/		
Health Service Regulation Fees	1,705,501	1,642,407
Secretary of State Corporate Annual Report Fees	563,016	563,016
Long-term Care Insurance Tax Credit	(7,000,000)	(7,200,000)
Adoption Tax Credit	(3,000,000)	(3,000,000)
Enhance 529 Plan Deduction (House Bill 1016)	(200,000)	(200,000)
Privilege Tax on Software Publishers	(2,800,000)	(4,000,000)
Research & Development Credit Enhancement	(400,000)	(800,000)
Modify Tax on Property Coverage Contracts	(1,500,000)	(3,100,000)
Reserve for Manufacturers' and		
Farmers Energy Tax Provisions	(10,000,000)	(20,000,000)
Nonprofit Energy Tax Credit	(500,000)	(500,000)
Credit for Constructing Renewable Fuels Facilities	0	(2,300,000)
Reserve for Work Opportunity Tax Credit	(3,000,000)	(3,000,000)
Sales Tax Refund for Aircraft Part Mfgs.	(800,000)	(800,000)
Sales Tax Refund – Research Supplies	0	(2,600,000)
Adjust Sales Tax Holiday	0	(600,000)
Sales Tax Exemption for Bakery Thrift Store	(100,000)	(100,000)
Railroad Incentives	(200,000)	(300,000)
Firefighter/EMS Income Tax Deduction	(1,000,000)	(1,000,000)
Adjust Transfer from Insurance Regulatory Fund	80,274	56,274
Adjust Transfer from Treasurer's Office	110,758	98,758
Transfer from Closed Capital Account	3,506,143	0
Judicial Fees	35,586,118	38,821,220
<b>Subtotal Adjustments to Availability:</b>		
<b>2007 Session</b>	<b>\$ 237,951,810</b>	<b>\$ 360,681,675</b>

<b>Revised General Fund Availability</b>	<b>\$ 20,928,841,810</b>	<b>\$ 21,206,495,773</b>
<b>Less: General Fund Appropriations</b>	<b>20,658,337,712</b>	<b>20,685,666,538</b>
<b>Unappropriated Balance Remaining</b>	<b>\$ 270,504,098</b>	<b>\$ 520,829,235</b>

**SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer one hundred forty-five million dollars (\$145,000,000) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2007. This subsection becomes effective June 30, 2007.

**SECTION 2.2.(c)** Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2007-2008 fiscal year to be used in accordance with G.S. 143C-4-3.

**SECTION 2.2.(c1)** Notwithstanding G.S. 143-15.2, 143-15.3, and 143C-4-2, the State Controller shall transfer only one hundred seventy-five million dollars (\$175,000,000) from the unreserved fund balance to the Savings Reserve Account on June 30, 2007. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution. This subsection becomes effective June 30, 2007.

**SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is one hundred seventy million dollars (\$170,000,000) and for the 2008-2009 fiscal year is one hundred seventy million dollars (\$170,000,000).

**SECTION 2.2.(e)** Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred under that subdivision for the 2007-2008 fiscal year is two million five hundred thousand dollars (\$2,500,000) and for the 2008-2009 fiscal year is two million five hundred thousand dollars (\$2,500,000).

**SECTION 2.2.(f)** The appropriation made in this act to the Clean Water Management Trust Fund in the amount of one hundred million dollars (\$100,000,000) is made pursuant to G.S. 113A-253.1 and is not in addition to the statutory appropriation made in that section.

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

#### **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2009, according to the following schedule:

<b>Current Operations – Highway Fund</b>	<b>2007-2008</b>	<b>2008-2009</b>
Department of Transportation		
Administration	\$ 84,037,661	\$ 83,204,187
Division of Highways		
Administration	32,651,442	32,703,136
Construction	165,895,465	150,173,949
Maintenance	905,285,444	909,599,625
Planning and Research	4,700,000	4,700,000
OSHA Program	425,000	425,000
Ferry Operations	31,313,921	31,313,921
State Aid		

Municipalities	93,046,035	93,073,949
Public Transportation	73,466,447	73,144,229
Airports	21,860,122	19,407,815
Railroads	21,951,153	20,330,883
 Governor's Highway Safety	334,314	335,449
Division of Motor Vehicles	103,676,924	100,568,704
Transfers, Other State Agencies, And Reserves	293,466,072	292,009,153
 <b>TOTAL</b>	<b>\$1,832,110,000</b>	<b>\$1,810,990,000</b>

#### **HIGHWAY FUND AVAILABILITY STATEMENT**

**SECTION 3.2.** The Highway Fund availability used in developing the 2007-2009 biennial budget is shown below:

<b>Highway Fund Availability Statement</b>	<b>2007-2008</b>	<b>2008-2009</b>
Unappropriated Balance From Previous Year	\$ 0	\$ 0
Beginning Credit Balance	30,000,000	0
Estimated Revenue	1,802,110,000	1,810,990,000
 <b>Total Highway Fund Availability</b>	<b>\$ 1,832,110,000</b>	<b>\$ 1,810,990,000</b>
 <b>Unappropriated Balance</b>	<b>\$ 0</b>	<b>\$ 0</b>

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

#### **HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the biennium ending June 30, 2009, according to the following schedule:

<b>Current Operations – Highway Trust Fund</b>	<b>2007-2008</b>	<b>2008-2009</b>
Intrastate System	\$ 539,414,383	\$ 544,982,323
Urban Loops	218,116,712	220,368,154
Aid to Municipalities	56,597,151	57,181,357
Secondary Roads	94,266,888	95,790,568
Program Administration	47,341,560	47,782,560
Transfer to General Fund	172,543,306	172,675,038
 <b>GRAND TOTAL CURRENT OPERATIONS AND EXPANSION</b>	<b>\$ 1,128,280,000</b>	<b>\$ 1,138,780,000</b>

#### **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

**SECTION 4.2.** The Highway Trust Fund availability used in developing the 2007-2009 biennial budget is shown below:

<b>Total Highway Trust Fund Availability</b>	<b>\$ 1,128,280,000</b>	<b>\$ 1,138,780,000</b>
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#### **PART V. OTHER AVAILABILITY AND APPROPRIATIONS**

#### **CIVIL PENALTIES AND FORFEITURE FUND AVAILABILITY AND APPROPRIATION**

**SECTION 5.1.(a)** Availability. – The availability used to support appropriations made in this act from the Civil Penalty and Forfeiture Fund is based upon estimated collections of fines and forfeitures from the agencies and in the amounts listed below:

	FY 2007-2008	FY 2008-2009
Department of Revenue	\$63,000,000	\$63,000,000
Department of Transportation	\$15,000,000	\$15,000,000
Employment Security Commission	\$3,000,000	\$3,000,000
Department of Insurance	\$1,000,000	\$1,000,000
University of North Carolina	\$3,500,000	\$3,500,000
Other Agencies	\$10,000,000	\$10,000,000
Total Funds Available	\$95,500,000	\$95,500,000

**SECTION 5.1.(b)** Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2009, as follows:

	FY 2007-2008	FY 2008-2009
School Technology Fund	\$18,000,000	\$18,000,000
State Public School Fund	\$77,500,000	\$77,500,000
Total Appropriation	\$95,500,000	\$95,500,000

## EDUCATION LOTTERY

**SECTION 5.2.(a)** Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of three hundred fifty million dollars (\$350,000,000) for the 2007-2008 fiscal year.

**SECTION 5.2.(b)** The appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2007-2008 fiscal year are as follows:

(1)	Class Size Reduction	\$ 90,364,291
(2)	Prekindergarten Program	84,635,709
(3)	Public School Building Capital Fund	140,000,000
(4)	Scholarships for Needy Students	35,000,000

Total Appropriation \$ 350,000,000

**SECTION 5.2.(c)** G.S. 18C-162 reads as rewritten:

### "§ 18C-162. Allocation of revenues.

(a) ~~To the extent practicable, the~~ The Commission shall allocate revenues to the North Carolina State Lottery Fund in ~~the following manner: order to increase and maximize the available revenues for education purposes, and to the extent practicable, shall adhere to the following guidelines:~~

- (1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.
- (2) At least thirty-five percent (35%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.
- (3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed one percent (1%) of the total annual revenues.
- (4) No more than seven percent (7%) of the total annual revenues, as described in this Chapter, shall be allocated for compensation paid to lottery game retailers.

(b) To the extent that the expenses of the Commission are less than eight percent (8%) of total annual revenues, the Commission may allocate any surplus funds:

- (1) To increase prize payments; or
- (2) To the benefit of the public purposes as described in this Chapter.

(c) Unclaimed prize money shall be held separate and apart from the other revenues and allocated as follows:

- (1) Fifty percent (50%) to enhance prizes under subdivision (a)(1) of this section.
- (2) Fifty percent (50%) to the Education Lottery Fund to be allocated in accordance with G.S. 18C-164(c)."

**SECTION 5.2.(d)** This section becomes effective June 30, 2007.

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

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

	<b>FY 2007-2008</b>	<b>FY 2008-2009</b>
Receipts from Information Technology Enterprise Fee	\$9,800,000	\$9,800,000
BEACON/Data Integration Funds	\$5,000,000	\$5,000,000
Interest Income	\$100,000	\$100,000
IT Fund Balance June 30	\$600,000	\$690,000
Appropriation from General Fund	\$4,140,000	\$2,840,000
<b>Total Funds Available</b>	<b>\$19,640,000</b>	<b>\$18,430,000</b>

**SECTION 5.3.(b)** Appropriations are made from the Information Technology Fund for the 2007-2009 fiscal biennium as follows:

<b>Office of Information Technology Services</b>	<b>FY 2007-2008</b>	<b>FY 2008-2009</b>
Information Technology Operations	\$9,452,835	\$8,152,835
Information Technology Projects	\$4,497,165	\$4,497,165
BEACON/Data Integration Funds	\$5,000,000	\$5,000,000
<b>Total</b>	<b>\$18,950,000</b>	<b>\$17,650,000</b>

## **PART VI. GENERAL PROVISIONS**

### **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

**SECTION 6.1.(a)** Expenditures of cash balances, federal funds, departmental receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and authorized for the 2007-2009 fiscal biennium as follows:

- (1) For all budget codes listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2007-2008 fiscal year and the 2008-2009 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly.

- (2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2007-2009, Volumes 1 through 6," cash balances and receipts are appropriated for each year of the 2007-2009 fiscal biennium up to the level of actual expenditures for the 2006-2007 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the 2006-2007 fiscal year.
- (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2007-2008 fiscal year and the 2008-2009 fiscal year and shall be used only to pay debt service requirements.
- (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2007-2008 fiscal year and the 2008-2009 fiscal year.

All these cash balances, federal funds, departmental receipts, grants, and gifts shall be expended and reported in accordance with the provisions of the State Budget Act, except as otherwise provided by law and this section.

**SECTION 6.1.(b)** Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act.

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

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

**SECTION 6.1.(c)** Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year.

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

**SECTION 6.2.** All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

## **REVISE FREQUENCY OF FEE REPORT**

**SECTION 6.3.** G.S. 143C-9-4 reads as rewritten:

### **"§ 143C-9-4. Annual Fee Report.Biennial fee report.**

The Office of State Budget and Management shall prepare a report annually biennially on the fees charged by each State department, bureau, division, board, commission, institution, and agency during the previous two fiscal year.years. The report shall include the statutory or regulatory authority for each fee, the amount of the fee, when the amount of the fee was last changed, the number of times the fee was collected during the prior fiscal year, and the total receipts from the fee during the prior fiscal year."

## **BUDGET REALIGNMENT**

**SECTION 6.4.** Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the certified budget to reflect these adjustments only after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

## **CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES PURSUANT TO THE STATE BUDGET ACT**

**SECTION 6.5.** Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

## **STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS AND REDEPLOYMENT OF RESOURCES FROM HR/PAYROLL MANAGEMENT**

**SECTION 6.7.(a)** The Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall conduct annual follow-up analyses of the Human Resources/Payroll Function Mapping Analysis that was completed in fiscal year 2007 by the BEACON staff and the Office of State Budget and Management. This initial analysis was conducted to provide not only a pre-implementation assessment of State agency Human Resources/Payroll staffing prior to BEACON HR/Payroll implementation but also to provide a basis on which new HR/Payroll roles required by BEACON implementation can be mapped. These follow-up analyses of State agency HR/Payroll staffing shall be completed by January 1 of each year to assure the staffing levels remain appropriate. The annual staffing analyses shall be conducted throughout the implementation of the BEACON HR/Payroll System and shall continue for a reasonable time after the implementation to assure that the staffing levels are adjusted based on the increased efficiency provided by the implementation.

**SECTION 6.7.(b)** The Office of State Budget and Management, in consultation with the Office of State Controller, shall conduct a staffing analysis of the business functions of State government to include, but not be limited to, agency fiscal offices, budget offices, and procurement offices to be completed by April 30, 2008. This initial analysis will serve as a pre-implementation assessment of State agency business functions staffing prior to the proposed implementation of the remaining components of the BEACON ERP System. Follow-up analyses shall be conducted annually and completed by January 1 of each year to assure the staffing levels remain appropriate. The annual staffing analyses shall be conducted throughout the implementation of future BEACON components and shall continue for a reasonable time after the implementation to assure that the staffing levels are adjusted based on the increased efficiency provided by the implementation.

**SECTION 6.7.(c)** By April 30, 2008, the Office of State Budget and Management, in consultation with the Office of State Controller, and then by January 1, 2009, and annually thereafter, the Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall report to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative

Oversight Committee on Information Technology, and to the Fiscal Research Division on the results of the annual staffing analyses of State government business functions conducted pursuant to subsection (a) of this section and on the implementation of the BEACON HR/Payroll System.

**SECTION 6.7.(d)** Prior to any staffing changes that result from the staffing analyses conducted pursuant to subsection (b) of this section, the Office of State Budget and Management, in consultation with the Office of State Controller and the Office of State Personnel, shall report to the Chairs of the House of Representatives Appropriations Committee, to the Chairs of the Senate Committee on Appropriations/Base Budget, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on the annual staffing analyses of State government business functions conducted pursuant to subsection (b) of this section and on the proposed implementation of the remaining components of the BEACON ERP System.

**SECTION 6.7.(e)** Notwithstanding any other provision of law, the Office of State Budget and Management may evaluate the impact of the BEACON Program on affected agencies and develop a plan for addressing resources affected by the Program. The State Redeployment Plan shall be implemented to the extent possible. When compliance with federal or State law requires, a new position may be created if a current or contracted position is eliminated. The Office of State Budget and Management, in consultation with the Office of the State Controller, shall report to the Joint Legislative Commission on Governmental Operations within 30 days for each employee change made under the State Redeployment Plan and shall include a five-year fiscal impact incurred by the State when converting any contracted position to a permanent position. This subsection expires June 30, 2008.

## **BEACON DATA INTEGRATION**

**SECTION 6.8.(a)** The Office of the State Controller, in cooperation with the State Chief Information Officer, shall develop a Strategic Implementation Plan for the integration of databases and the sharing of information among State agencies and programs. This plan shall be developed and implemented under the governance of the BEACON Project Steering Committee and in conjunction with leadership in State agencies and with the support and cooperation of the Office of State Budget and Management. This plan shall include the following:

- (1) Definition of requirements for achieving statewide data integration.
- (2) An implementation schedule to be reviewed and adjusted by the General Assembly annually based on funding availability.
- (3) Priorities for database integration, commencing with the integration of databases that the BEACON Project Steering Committee identifies as most beneficial in terms of maximizing fund availability and realizing early benefits.
- (4) Identification of current statewide and agency data integration efforts and a long-term strategy for integrating those projects into this effort.
- (5) Detailed cost information for development and implementation, as well as five years of operations and maintenance costs.

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

**SECTION 6.8.(b)** The State Controller shall serve as Chairman of the BEACON Project Steering Committee (Committee). The other members of the Committee shall include the State Chief Information Officer, the State Personnel Director, the Deputy State Budget Director, and the Department of Transportation's Chief Financial Officer.

**SECTION 6.8.(c)** Of the funds appropriated from the General Fund to the North Carolina Information Technology Fund, the sum of five million dollars (\$5,000,000) for the 2007-2008 fiscal year shall be used for BEACON data integration as provided by subsection (a) of this section. The Office of the State Controller, in coordination with State agencies and with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any federal matching funds or other resources to assist in funding this initiative.

Funds authorized in this section may be used for the following purposes:

- (1) To support the cost of a project manager to conduct the activities outlined herein reportable to the Office of the State Controller.
- (2) To support two business analysts to provide support to the program manager and agencies in identifying requirements under this program.
- (3) To engage a vendor to develop the Strategic Implementation Plan as required herein.
- (4) To conduct integration activities as approved by the BEACON Project Steering Committee. The State Chief Information Officer shall utilize current enterprise licensing to implement these integration activities.

**SECTION 6.8.(d)** The Office of the State Controller, with the assistance of the State Chief Information Officer, shall present the Strategic Implementation Plan outlined by this section to the 2007 Regular Session of the General Assembly when it convenes in 2008 for action as deemed appropriate. This plan shall be completed not later than April 30, 2008.

Prior to the reconvening of the 2007 Regular Session of the General Assembly in 2008, the Office of the State Controller shall provide semiannual reports to the Joint Legislative Oversight Committee for Information Technology. Written reports shall be submitted not later than October 1, 2007, and April 1, 2008, with presentations of the reports at the first session of the Joint Legislative Oversight Committee on Information Technology following the written report submission date. The Joint Legislative Oversight Committee on Information Technology shall then report to the Joint Legislative Commission on Governmental Operations.

**SECTION 6.8.(e)** Neither the development of the Strategic Information Plan nor the provisions of this section shall place any new or additional requirements upon The University of North Carolina or the North Carolina Community College System.

## USE OF COLLECTION ASSISTANCE FEE

**SECTION 6.9.(a)** G.S. 105-243.1(e)(4) reads as rewritten:

"(4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed ~~three hundred fifty three thousand dollars (\$353,000)~~ five hundred thousand dollars (\$500,000) a year."

**SECTION 6.9.(b)** The General Assembly finds that a computer system that records tax payments and determines when the payments are overdue directly and primarily relates to the collection of overdue tax debts and that the cost of the computer system is subject to the collection assistance fee set forth in G.S. 105-243.1. The Department of Revenue is authorized to use funds in the 20% Collection Assistance Fee Account, Budget Code 24704-2474, during the 2007-2008 fiscal year to replace the Department's current computer system, and these funds are appropriated to the Department for that purpose. The Department shall not use more than fifteen million dollars (\$15,000,000) from the Account to replace the Department's current computer system. Funds appropriated to the Department in this subsection remain in the Account until withdrawn for expenditures for a replacement computer system and shall remain in the Account if not expended during the 2007-2008 fiscal year for the purposes set forth in this subsection.

**SECTION 6.9.(c)** The Department of Revenue shall contract with private counsel with the pertinent information technology and computer law expertise to review

requests for proposals and to negotiate and review contracts associated with the Integrated Tax Administration System. G.S. 114-2.3 does not apply to this subsection.

## **OFFICE OF INFORMATION TECHNOLOGY SERVICES BUDGET REVIEW**

**SECTION 6.11.(a)** Notwithstanding G.S. 147-33.88, the Office of Information Technology Services (ITS) shall develop an annual budget for review and approval by the Office of State Budget and Management in accordance with the schedule prescribed by the Director. The approved ITS budget shall be included in the Governor's budget recommendations to the General Assembly.

**SECTION 6.11.(b)** The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services.

## **OFFICE OF INFORMATION TECHNOLOGY SERVICES REVIEW OF STATE IT BUDGET SUBMISSIONS**

**SECTION 6.12.(a)** The State Chief Information Officer (SCIO) shall review each information technology project budget request from the various State departments, agencies, and institutions prior to the formal submission of those requests to the Governor in order to facilitate a coherent and cost-effective State investment strategy for information technology projects and systems. The SCIO's review shall:

- (1) Identify the purpose of the information technology project or system.
- (2) Identify whether the project or system would result in any duplication of effort across governmental agencies, including State, local, and federal agencies.
- (3) Determine the completeness, timeliness, and accessibility of the data developed and used by the system.
- (4) Estimate the cost and actual staffing for the project or system.
- (5) Ascertain the organizational location of the system as well as the hardware and software inventories associated with the system or project.
- (6) Assess the current and potential benefits that the technology investment would provide to the State.
- (7) Identify any opportunities for the State to leverage federal and local support of the information technology system or project.
- (8) Consider any other information pertinent to the utility, functionality, and cost-effectiveness of the project or system.

The SCIO shall submit the detailed analysis of each information technology budget request to the Office of State Budget and Management (OSBM). Based on that analysis, the OSBM may require State departments, agencies, and institutions to coordinate information technology budget requests and projects to increase efficiency and eliminate duplication in the governance, organization, staffing, and functionality of information technology projects and systems across State government.

**SECTION 6.12.(b)** By February 1, 2008, the Office of State Budget and Management shall report to the General Assembly on its efforts and outcomes relative to increasing the efficiency and cost-effectiveness of the State's information technology projects and programs as prescribed by this section. This report shall include detailed information on initiatives to eliminate duplication.

**SECTION 6.12.(c)** This section does not apply to The University of North Carolina System or to the Judicial Branch.

## **GEOGRAPHIC INFORMATION SYSTEM (GIS) STUDY**

**SECTION 6.13.(a)** The Office of State Budget and Management (OSBM), in consultation with the Center for Geographic Information and Analysis (CGIA), the State Chief Information Officer, and the chair of the Geographic Information Coordinating Council (GICC), shall conduct a study to identify the development and

use of Geographical Information Systems (GIS) in North Carolina by State agencies. The study shall identify the purpose of each system; any duplication of effort across agencies, including local governments and federal agencies; the completeness, timeliness, and accessibility of the data developed and used by the systems; the cost and actual staffing for each system; the organizational location of each system; and the hardware and software inventories associated with each system. The study shall also assess the current and potential benefits that GIS investments provide to the State and identify opportunities for the State to leverage federal and local support for North Carolina GIS systems.

**SECTION 6.13.(b)** OSBM shall make recommendations on the governance, organization, and staffing of GIS in and across State agencies and on a coherent and cost-effective State investment strategy for GIS that appropriately leverages local and federal support and eliminates duplication of capabilities. The report shall include a recommended strategy for consolidating State GIS initiatives. The OSBM shall make a written report of these findings and recommendations to the General Assembly by April 30, 2008.

**SECTION 6.13.(c)** This section does not apply to The University of North Carolina or to the Judicial Branch.

## **E-COMMERCE LONG-RANGE STRATEGY REPORT**

**SECTION 6.14.** The Office of the State Controller shall evaluate the opportunities for efficiencies in State government through the use of electronic commerce as it relates to both disbursement and collection of funds, and shall report the results of that evaluation to the 2008 Regular Session of the 2007 General Assembly. The report shall include all of the following:

- (1) Input from the entire State government user base, including State agencies, universities, community colleges, local education agencies, and other units of government that may be disbursing or collecting State funds. Input is also to be obtained from the various central agencies involved in the financial affairs of State government and from the Office of Information Technology.
- (2) Specific proposals that would, if implemented, expand electronic commerce activity in the State government fiscal environment, and which shall include the establishment of an ongoing function within State government to execute the expansion. The recommendations should address activities that are suitable for statewide contractual arrangements, as well as those suitable for governmental entities to pursue individually. The recommendations should include expected costs and benefits of these implementations; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a business case to support the recommendations.
- (3) Proposed legislation that may be considered by the 2008 Regular Session of the 2007 General Assembly to ensure compliance with merchant card industry policies and standards for operations and security.
- (4) Proposed legislation that may be considered by the 2008 Regular Session of the 2007 General Assembly that addresses any inconsistencies or conflicts in existing statutes relating to electronic commerce activities.

Periodic updates on this activity may be requested by the Joint Legislative Commission on Governmental Operations. The final report is due no later than April 30, 2008.

**UNC DISTINGUISHED PROFESSOR CHALLENGE-GRANT  
INITIATIVE/REDUCE BACKLOG FOR DISTINGUISHED PROFESSOR  
ENDOWMENT TRUST FUND PROFESSORSHIPS**

**SECTION 6.15.(a)** The UNC Distinguished Professor Challenge-Grant Initiative is established as a reserve fund to be administered by the Board of Governors of The University of North Carolina. Funds in the UNC Distinguished Professor Challenge-Grant Initiative shall be used to provide State matching funds for a private challenge-grant initiative and shall be allocated consistent with G.S. 116-41.15. Funds from the UNC Distinguished Professor Challenge-Grant Initiative when matched with private funds shall provide the funding required to endow one distinguished professorship at each of the 16 constituent institutions of The University of North Carolina in the 2007-2008 fiscal year. All professorships endowed through this Initiative shall be in the fields of teacher education, engineering, nursing, or the traditional arts and sciences.

**SECTION 6.15.(b)** Funds are allocated in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for the purpose of addressing the existing backlog of professorships under the Distinguished Professors Endowment Trust Fund.

**ELIMINATION OF VACANT POSITIONS**

**SECTION 6.17.(a)** The Office of State Budget and Management shall eliminate vacant positions across State government that are funded through the General Fund in order to generate a recurring annual savings of ten million thirty-eight thousand four hundred sixty-six dollars (\$10,038,466) for each year of the 2007-2009 fiscal biennium, by transferring from the various State departments, agencies, and institutions the salary and benefits-related funding appropriated for State government positions. There is established in the Office of State Budget and Management a Reserve for Eliminated Positions.

Notwithstanding G.S. 143C-6-9, the sum of ten million thirty-eight thousand four hundred sixty-six dollars (\$10,038,466) shall be credited to the Reserve for Eliminated Positions from the savings associated with the elimination of vacant positions required by this section, effective July 1, 2007.

**SECTION 6.17.(b)** The provisions of this section do not apply to The University of North Carolina, to the Community Colleges System, or to local school administrative units.

**STUDY OF LAPSED SALARY USE**

**SECTION 6.18.(a)** The Office of State Budget and Management shall conduct an analysis of lapsed salary use by all State agencies. The analysis shall include a five-year history of lapsed salaries generated by State departments, institutions, and agencies and the uses of those lapsed salaries. The report should note instances where spending of lapsed salaries was specifically authorized by legislative action. The report shall include recommendations for methods to reduce the use of lapsed salary and the amount of funds generated as lapsed salary by use for each State department, institution, and agency.

**SECTION 6.18.(b)** The Office of State Budget and Management shall report its findings to the Joint Legislative Commission on Governmental Operations by April 30, 2008.

**SALARY RESERVE BALANCES**

**SECTION 6.19.** Notwithstanding G.S. 143C-6-4(b)(2), during the 2007-2009 fiscal biennium, a State agency may, with approval of the Director of the Budget, spend more than was authorized in the certified budget for a purpose or program if the overexpenditure is required to accommodate the redistribution of salary reserve balances within a State department.

## **CLARIFY THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE DIRECTOR OF A LOCAL MANAGEMENT ENTITY**

**SECTION 6.20.(a)** G.S. 122C-121 reads as rewritten:

### **"§ 122C-121. Area director.**

(a) The area director is an employee of the area ~~board~~ board, shall serve at the pleasure of the ~~board~~, and shall be appointed in accordance with G.S. 122C-117(7). The area director is the ~~administrative head of the area program~~. As used in this subsection, "employee" means an individual and does not include a corporation, a partnership, a limited liability corporation, or any other business association.

(a1) The area board shall establish the area director's salary under Article 3 of Chapter 126 of the General Statutes. An area board may request an adjustment to the salary ranges under G.S. 126-9(b). The request shall include specific information supporting the need for the adjustment, including comparative salary and patient caseload data for other LMEs, and shall also include the specific amount the area board proposes to pay the director. The area board shall not request a salary adjustment that is more than ten percent (10%) above the normal allowable salary range as determined by the State Personnel Commission.

(a2) The area board shall not provide the director with any benefits that are not also provided by the area board to all permanent employees of the area program. The director shall be reimbursed only for allowable employment-related expenses at the same rate and in the same manner as other employees of the area program.

(b) The area board shall evaluate annually the area director for performance based on criteria established by the Secretary and the area board. In conducting the evaluation, the area board shall consider comments from the board of county commissioners.

(c) The area director is the administrative head of the area program. In addition to the duties under G.S. 122C-111, the area director shall:

- (1) Appoint and supervise Appoint, supervise, and terminate area program staff.
- (2) Administer area authority services.
- (3) Develop the budget of the area authority for review by the area board.
- (4) Provide information and advice to the board of county commissioners through the county manager.
- (5) Act as liaison between the area authority and the Department.

(d) Except when specifically waived by the Secretary, the area director shall meet all the following minimum qualifications:

- (1) Masters degree.
- (2) Related experience.
- (3) Management experience.
- (4) Any other qualifications required under G.S. 122C-120.1."

**SECTION 6.20.(b)** This section is effective when this act becomes law, and G.S. 122C-121(a1) and (a2), as enacted in subsection (a) of this section, applies to salary plans submitted and contracts entered into, extended, modified, or renewed on or after that date.

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

**SECTION 6.21.(a)** No later than February 1, 2008, the Administrative Office of the Courts shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

- (1) Association of Clerks of Superior Court.
- (2) The Conference of District Attorneys.

The report shall include all of the information listed in subsection (g) of this section.

**SECTION 6.21.(b)** No later than February 1, 2008, the Department of Correction shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Criminal Justice Partnership Program. The report shall include all of the information listed in subsection (g) of this section.

**SECTION 6.21.(c)** No later than February 1, 2008, the Department of Juvenile Justice and Delinquency Prevention shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Juvenile Crime Prevention Councils. The report shall include all of the information listed in subsection (g) of this section.

**SECTION 6.21.(d)** No later than February 1, 2008, the Department of Environment and Natural Resources shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Environmental Stewardship Initiative. The report shall include all of the information listed in subsection (g) of this section.

**SECTION 6.21.(e)** No later than February 1, 2008, the Board of Governors of The University of North Carolina shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the Center for Nursing. The report shall include all of the information listed in subsection (g) of this section.

**SECTION 6.21.(f)** No later than February 1, 2008, the Department of Health and Human Services shall provide a written report to the Appropriations Committees of the Senate and House of Representatives on the following funds, programs, or divisions:

- (1) Office of Policy and Planning.
- (2) Dental Supplies/Division of Public Health.

The report shall include all of the information listed in subsection (g) of this section.

**SECTION 6.21.(g)** The reports required in this section shall include the following information for each program:

- (1) A description of the program, including information on services provided, the recipients of the services, and the resource requirements.
- (2) Meaningful measures of program performance and whether the program is meeting these measures.
- (3) The rationale for continuing, reducing, or eliminating funding.
- (4) The consequences of discontinuing program funding.
- (5) Recommendations for improving services.
- (6) Recommendations for reducing costs.
- (7) The identification of policy issues that should be brought to the attention of the General Assembly.

**SECTION 6.21.(h)** The Appropriations Committees of the Senate and House of Representatives may review the funds, programs, and divisions listed in this section and shall determine whether to continue, reduce, or eliminate funding for the funds, programs, and divisions, subject to the continuation review program. The Fiscal Research Division may issue instructions to the State departments and agencies affected by this section regarding the expected content and format of the reports required by this section.

## **LIMIT IMPERVIOUS SURFACES FOR VEHICLE PARKING**

**SECTION 6.22.(a)** G.S. 143-214.7 is amended by adding a new subsection to read:

"(d2) Any area designed for use as a vehicle parking area, except for covered vehicle parking areas or multilevel vehicle parking areas, shall not exceed eighty percent (80%) built-upon area, as defined in S.L. 2006-246. The remaining area designed for use as a vehicle parking area shall meet:

- (1) The design requirements for a permeable pavement system, as determined in guidance documents prepared by the Department or

(2) Other design requirements for stormwater management approved by the Department, including, but not limited to, the use of (i) grass and other pervious surfaces and (ii) bioretention ponds, cisterns, and other water retention devices."

**SECTION 6.22.(b)** The Environmental Review Commission may study issues related to the use of pervious surfaces for vehicle parking areas, including the costs associated with the use of pervious surfaces, the impact to the environment of stormwater runoff, and the practices of other states with regard to stormwater best management practices. The Commission may report its findings and recommendations, including any legislative proposals, to the 2007 Regular Session of the General Assembly when it reconvenes in 2008.

Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate twenty-five thousand dollars (\$25,000) to conduct this study.

**SECTION 6.22.(c)** Subsection (a) of this section becomes effective October 1, 2008, and applies to any area designed to be used for vehicular parking for which an application for a building permit, a request for a zoning reclassification, or a subdivision plat is filed in the county or city in which the area is located on or after that date. The remainder of this section is effective when this act becomes law.

## UNIVERSITY CANCER RESEARCH FUND

**SECTION 6.23.(a)** G.S. 105-113.35 reads as rewritten:  
**"§ 105-113.35. Tax on tobacco products other than cigarettes.cigarettes; use of proceeds.**

(a) **Tax.** – An excise tax is levied on tobacco products other than cigarettes at the rate of three percent (3%)~~ten percent (10%)~~ of the cost price of the products. This tax does not apply to the following:

- (1) A tobacco product sold outside the State.
- (2) A tobacco product sold to the federal government.
- (3) A sample tobacco product distributed without charge.

(b) **Primary Liability.** – The wholesale dealer or retail dealer who first acquires or otherwise handles tobacco products subject to the tax imposed by this section is liable for the tax imposed by this section. A wholesale dealer or retail dealer who brings into this State a tobacco product made outside the State is the first person to handle the tobacco product in this State. A wholesale dealer or retail dealer who is the original consignee of a tobacco product that is made outside the State and is shipped into the State is the first person to handle the tobacco product in this State.

(c) **Secondary Liability.** – A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.

(d) **Manufacturer's Option.** – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

(e) Use. – Of the funds collected pursuant to this section, the Secretary shall deposit an amount equal to three percent (3%) of the cost price of the products to the General Fund, and the Secretary shall remit the remainder of the funds to the University Cancer Research Fund established pursuant to G.S. 116-29.1."

**SECTION 6.23.(b)** Chapter 116 of the General Statutes is amended by adding a new section to read:

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

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

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

- (1) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust Account, the sum of eight million dollars (\$8,000,000) is transferred from the Tobacco Trust Account to the University Cancer Research Fund and appropriated for this purpose.
- (2) The funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to G.S. 105-113.41 is appropriated for this purpose.
- (3) An amount equal to the difference between (i) fifty million dollars (\$50,000,000) and (ii) the amounts appropriated pursuant to subdivisions (1) and (2) of this subsection is appropriated from the General Fund for this purpose.

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

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

(d) Chair. – The chair shall be the President of The University of North Carolina.  
(e) Quorum. – A majority of the members shall constitute a quorum for the transaction of business.

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

**SECTION 6.23.(c)** Notwithstanding G.S. 116-29.1(b)(3), the amount appropriated from the General Fund to the University Cancer Research Fund for the 2007-2008 fiscal year is five million six hundred thousand dollars (\$5,600,000), and the amount appropriated from the General Fund to the University Cancer Research Fund for the 2008-2009 fiscal year is fifteen million five hundred thousand dollars (\$15,500,000).

**SECTION 6.23.(d)** Subsection (a) of this section becomes effective October 1, 2007, and applies to products acquired on or after the effective date, and taxes paid on or after the effective date.

A wholesale dealer or retail dealer of tobacco products other than cigarettes who has an inventory of these products on hand on the effective date of the tax increase made by subsection (a) of this section must file a report of the inventory with the Secretary and pay an additional tax on the inventory. The report must be filed within 20 days after the effective date of the tax increase. The amount of the additional tax is the difference between the amount of tax payable at the former tax rate and the increased tax rate.

## **STATE SUPPORT OF OUR MILITARY PERSONNEL**

**SECTION 6.24.** The General Assembly finds that North Carolina has a rich military heritage and is the site of some of the nation's major military installations, including Camp Lejeune, Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, New River Marine Corps Air Station, United States Coast Guard Air Station, Elizabeth City, and Cherry Point Marine Corps Air Station. The General Assembly further finds that North Carolina is the home to more than 770,000 veterans of our nation's armed forces and about 120,000 active-duty military personnel, one of the largest active-duty military populations in our entire country. In appreciation of and gratitude to those North Carolinians, both living and deceased, who have served in our armed forces in service to our country, the General Assembly provides funding for and support of the following initiatives:

- (1) Defense and Security Technology Accelerator.
- (2) Mental Health Services for Returning Veterans.
- (3) The Soldier Institute for Regenerative Medicine.
- (4) Military Morale, Welfare, and Recreation Fund.
- (5) National Guard Family Assistance Centers.
- (6) National Guard Pension Fund.
- (7) "More at Four" for children of deployed military personnel.

## **MODIFY HOURS OF SALE FOR PERMITTEES AUTHORIZED TO ENGAGE IN IN-STAND SALES PURSUANT TO G.S. 18B-1009**

**SECTION 6.25.** G.S. 18B-1006 is amended by adding a new subsection to read:

"(q) The hours for sales and consumption of alcoholic beverages on the premises of a permittee who meets the requirements of G.S. 18B-1009 shall be one hour earlier than permitted by G.S. 18B-1004(c)."

## **PART VII. PUBLIC SCHOOLS**

### **TEACHER SALARY SCHEDULES**

**SECTION 7.1.(a)** Effective for the 2007-2008 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

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

**SECTION 7.1.(b)** The following monthly salary schedules shall apply for the 2007-2008 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 32 steps with each step corresponding to one year of teaching experience.

### **2007-2008 Monthly Salary Schedule**

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,975	N/A
1	\$3,017	N/A
2	\$3,061	N/A
3	\$3,217	\$3,603
4	\$3,357	\$3,760
5	\$3,491	\$3,910
6	\$3,620	\$4,054
7	\$3,724	\$4,171

8	\$3,772	\$4,225
9	\$3,821	\$4,280
10	\$3,871	\$4,336
11	\$3,920	\$4,390
12	\$3,971	\$4,448
13	\$4,022	\$4,505
14	\$4,075	\$4,564
15	\$4,129	\$4,624
16	\$4,184	\$4,686
17	\$4,239	\$4,748
18	\$4,298	\$4,814
19	\$4,356	\$4,879
20	\$4,414	\$4,944
21	\$4,476	\$5,013
22	\$4,537	\$5,081
23	\$4,603	\$5,155
24	\$4,667	\$5,227
25	\$4,732	\$5,300
26	\$4,798	\$5,374
27	\$4,866	\$5,450
28	\$4,937	\$5,529
29	\$5,008	\$5,609
30	\$5,106	\$5,719
31+	\$5,208	\$5,833

#### 2007-2008 Monthly Salary Schedule

##### "M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,273	N/A
1	\$3,319	N/A
2	\$3,367	N/A
3	\$3,539	\$3,964
4	\$3,693	\$4,136
5	\$3,840	\$4,301
6	\$3,982	\$4,460
7	\$4,096	\$4,588
8	\$4,149	\$4,647
9	\$4,203	\$4,707
10	\$4,258	\$4,769
11	\$4,312	\$4,829
12	\$4,368	\$4,892
13	\$4,424	\$4,955
14	\$4,483	\$5,021
15	\$4,542	\$5,087
16	\$4,602	\$5,154
17	\$4,663	\$5,223
18	\$4,728	\$5,295
19	\$4,792	\$5,367
20	\$4,855	\$5,438
21	\$4,924	\$5,515
22	\$4,991	\$5,590
23	\$5,063	\$5,671
24	\$5,134	\$5,750
25	\$5,205	\$5,830
26	\$5,278	\$5,911

27	\$5,353	\$5,995
28	\$5,431	\$6,083
29	\$5,509	\$6,170
30	\$5,617	\$6,291
31+	\$5,729	\$6,416

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

**SECTION 7.1.(d)** Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

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

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

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

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

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

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

**SECTION 7.1.(i)** Teachers paid on Step 0 of the salary schedule for the 2007-2008 school year shall receive a one-time, lump sum sign-on bonus of two hundred fifty dollars (\$250.00), payable at the end of the school year.

## SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

**SECTION 7.2.(a)** Effective for the 2007-2008 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the salary schedules for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

**SECTION 7.2.(b)** The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2007-2008 fiscal year, commencing July 1, 2007, is as follows:

### 2007-2008 Principal and Assistant Principal Salary Schedules Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,730	-	-	-	-
5	\$3,878	-	-	-	-
6	\$4,022	-	-	-	-
7	\$4,137	-	-	-	-
8	\$4,190	\$4,190	-	-	-
9	\$4,245	\$4,245	-	-	-
10	\$4,301	\$4,301	\$4,355	-	-
11	\$4,355	\$4,355	\$4,412	-	-
12	\$4,412	\$4,412	\$4,468	\$4,528	-
13	\$4,468	\$4,468	\$4,528	\$4,587	\$4,648
14	\$4,528	\$4,528	\$4,587	\$4,648	\$4,710
15	\$4,587	\$4,587	\$4,648	\$4,710	\$4,775
16	\$4,648	\$4,648	\$4,710	\$4,775	\$4,840
17	\$4,710	\$4,710	\$4,775	\$4,840	\$4,904
18	\$4,775	\$4,775	\$4,840	\$4,904	\$4,973
19	\$4,840	\$4,840	\$4,904	\$4,973	\$5,041
20	\$4,904	\$4,904	\$4,973	\$5,041	\$5,114
21	\$4,973	\$4,973	\$5,041	\$5,114	\$5,185
22	\$5,041	\$5,041	\$5,114	\$5,185	\$5,257
23	\$5,114	\$5,114	\$5,185	\$5,257	\$5,331
24	\$5,185	\$5,185	\$5,257	\$5,331	\$5,407
25	\$5,257	\$5,257	\$5,331	\$5,407	\$5,485
26	\$5,331	\$5,331	\$5,407	\$5,485	\$5,564
27	\$5,407	\$5,407	\$5,485	\$5,564	\$5,675
28	\$5,485	\$5,485	\$5,564	\$5,675	\$5,789
29	\$5,564	\$5,564	\$5,675	\$5,789	\$5,905
30	\$5,675	\$5,675	\$5,789	\$5,905	\$6,023
31	\$5,789	\$5,789	\$5,905	\$6,023	\$6,143
32	-	\$5,905	\$6,023	\$6,143	\$6,266
33	-	-	\$6,143	\$6,266	\$6,391
34	-	-	\$6,266	\$6,391	\$6,519
35	-	-	-	\$6,519	\$6,649
36	-	-	-	\$6,649	\$6,782
37	-	-	-	-	\$6,918

### 2007-2008 Principal and Assistant Principal Salary Schedules Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-14	\$4,775	-	-	-
15	\$4,840	-	-	-

16	\$4,904	\$4,973	-	-
17	\$4,973	\$5,041	\$5,185	-
18	\$5,041	\$5,114	\$5,257	\$5,331
19	\$5,114	\$5,185	\$5,331	\$5,407
20	\$5,185	\$5,257	\$5,407	\$5,485
21	\$5,257	\$5,331	\$5,485	\$5,564
22	\$5,331	\$5,407	\$5,564	\$5,675
23	\$5,407	\$5,485	\$5,675	\$5,789
24	\$5,485	\$5,564	\$5,789	\$5,905
25	\$5,564	\$5,675	\$5,905	\$6,023
26	\$5,675	\$5,789	\$6,023	\$6,143
27	\$5,789	\$5,905	\$6,143	\$6,266
28	\$5,905	\$6,023	\$6,266	\$6,391
29	\$6,023	\$6,143	\$6,391	\$6,519
30	\$6,143	\$6,266	\$6,519	\$6,649
31	\$6,266	\$6,391	\$6,649	\$6,782
32	\$6,391	\$6,519	\$6,782	\$6,918
33	\$6,519	\$6,649	\$6,918	\$7,056
34	\$6,649	\$6,782	\$7,056	\$7,197
35	\$6,782	\$6,918	\$7,197	\$7,341
36	\$6,918	\$7,056	\$7,341	\$7,488
37	\$7,056	\$7,197	\$7,488	\$7,638
38	\$7,197	\$7,341	\$7,638	\$7,791
39	-	\$7,488	\$7,791	\$7,947
40	-	\$7,638	\$7,947	\$8,106
41	-	-	\$8,106	\$8,268

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

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

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

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

**SECTION 7.2.(d)** A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional

State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

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

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

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

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

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

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

**SECTION 7.2.(i)** During the 2007-2008 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

## **CENTRAL OFFICE SALARIES**

**SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinates, supervisors, and finance officers for the 2007-2008 fiscal year, beginning July 1, 2007.

School Administrator I	\$3,217	\$6,041
School Administrator II	\$3,414	\$6,407
School Administrator III	\$3,624	\$6,797
School Administrator IV	\$3,770	\$7,068
School Administrator V	\$3,922	\$7,354
School Administrator VI	\$4,161	\$7,799
School Administrator VII	\$4,328	\$8,113

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinate, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and

superintendents. The category in which an employee is placed shall be included in the contract of any employee.

**SECTION 7.3.(b)** The monthly salary ranges that follow apply to public school superintendents for the 2007-2008 fiscal year, beginning July 1, 2007.

Superintendent I	\$4,594	\$8,606
Superintendent II	\$4,877	\$9,126
Superintendent III	\$5,174	\$9,682
Superintendent IV	\$5,491	\$10,270
Superintendent V	\$5,828	\$10,896

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

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

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

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

**SECTION 7.3.(f)** The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be four percent (4%), commencing July 1, 2007. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing salary increases to these personnel.

## **NONCERTIFIED PERSONNEL SALARIES**

**SECTION 7.4.(a)** The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be four percent (4%) commencing July 1, 2007.

**SECTION 7.4.(b)** Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2006-2007 and who continue their employment for fiscal year 2007-2008 by providing an annual salary increase for employees of four percent (4%).

For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

**SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for noncertified personnel to support increases of four percent (4%) for the 2007-2008 fiscal year.

## **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY SCHEDULES**

**SECTION 7.5.** Effective July 1, 2007, any permanent personnel employed on July 1, 2007, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

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

### **SECTION 7.6.(a) Funds for Supplemental Funding. –**

The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement. Therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2007-2008 fiscal year and the 2008-2009 fiscal year to be used for supplemental funds for the schools.

### **SECTION 7.6.(b) Use of Funds for Supplemental Funding. –**

All funds received pursuant to this section shall be used only: (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks; (ii) for salary supplements for instructional personnel and instructional support personnel; and (iii) to pay an amount not to exceed ten thousand dollars (\$10,000) of the plant operation contract cost charged by the Department of Public Instruction for services.

Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools, such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

### **SECTION 7.6.(c) Definitions. –** As used in this section:

- (1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.
- (2) "Anticipated total county revenue availability" means the sum of the:
  - a. Anticipated county property tax revenue availability,
  - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
  - c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521, and
  - d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.
- (3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.
- (4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.
- (5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.
- (6) "County-adjusted property tax base" shall be computed as follows:

- a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
- b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
- c. Add to the resulting amount the:
  1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
  2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
  3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:

- a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
- b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
- c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
- d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

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

- (14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

**SECTION 7.6.(d)** Eligibility for Funds. – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

**SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

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

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

**SECTION 7.6.(f)** Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

**SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

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

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education

shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

**SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

**SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines that counties have supplanting funds.

**SECTION 7.6.(j)** Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

## **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

**SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in subsections (b) and (g) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least seven hundred eighty-eight thousand seven hundred eighty-nine dollars

(\$788,789), excluding textbooks for the 2007-2008 fiscal year and a base of at least seven hundred eighty-eight thousand seven hundred eighty-nine dollars (\$788,789) for the 2008-2009 fiscal year.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

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

**SECTION 7.7.(b) Nonsupplant Requirement.** – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

**SECTION 7.7.(c) Phase-Out Provisions.** – If a local school administrative unit becomes ineligible for funding under this formula because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for seven years after the unit becomes ineligible.

**SECTION 7.7.(d) Definitions.** – As used in this section:

- (1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.
- (2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.
- (2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (4) "State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

- (4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

**SECTION 7.7.(e) Reports.** – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines that counties have supplanted funds.

**SECTION 7.7.(f) Use of Funds.** – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

**SECTION 7.7.(g)** Of the expansion funds appropriated for small school system supplemental funding in this act, the sum of seven hundred eighty-four thousand seven hundred three dollars (\$784,703) shall be distributed to county school administrative units that have less than 1,300 students and have experienced a decline in average daily membership since the 2001-2002 school year. These funds shall be used to reduce the ratio of students to teachers in grades K-5 by one, in grades 6-8 by two, and in grades 9-12 by three.

## **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

**SECTION 7.8.(a)** Funds are appropriated in this act to address the capacity needs of local school administrative units to meet the needs of disadvantaged students. Each local school administrative unit shall use funds allocated to it for disadvantaged student supplemental funding to implement a plan jointly developed by the unit and the LEA Assistance Program team. The plan shall be based upon the needs of students in the unit not achieving grade-level proficiency. The plan shall detail how these funds shall be used in conjunction with all other supplemental funding allotments such as Low-Wealth, Small County, At-Risk Student Services/Alternative Schools, and Improving Student Accountability to provide instructional and other services that meet the educational needs of these students. Prior to the allotment of disadvantaged student supplemental funds, the plan shall be approved by the State Board of Education.

Funds received for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

- (1) Provide instructional positions or instructional support positions and/or professional development;
- (2) Provide intensive in-school and/or after-school remediation;
- (3) Purchase diagnostic software and progress-monitoring tools; and

(4) Provide funds for teacher bonuses and supplements. The State Board of Education shall set a maximum percentage of the funds that may be used for this purpose.

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. This data shall be used exclusively for instructional and curriculum decisions made in the best interest of children and for professional development for their teachers and administrators.

**SECTION 7.8.(b)** Funds are appropriated in this act to evaluate the Disadvantaged Student Supplemental Funding Initiatives and Low-Wealth Initiatives. The State Board of Education shall use these funds to:

- (1) Evaluate the strategies implemented by local school administrative units with Disadvantaged Student Supplemental Funds and Low-Wealth Funds and assess their impact on student performance; and
- (2) Evaluate the efficiency and effectiveness of the technical assistance and support provided to local school administrative units by the Department of Public Instruction.

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 January 15 of each year.

**SECTION 7.8.(c)** Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding shall be allotted based on: (i) the local school administrative unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

- (1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:20.0;
- (2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:19.5;
- (3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.3; and
- (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs shall receive no less than the DSSF amount allotted in 2006-2007.

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

**SECTION 7.8.(d)** If a local school administrative unit's wealth increases to a level that adversely affects the unit's DSSF allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

## **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

**SECTION 7.9.(a)** The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom

a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

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

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

**SECTION 7.9.(b)** The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

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

## **CHILDREN WITH DISABILITIES**

**SECTION 7.10.** The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand one hundred ninety-nine dollars and fifty-seven cents (\$3,199.57) per child for a maximum of 171,617 children for the 2007-2008 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2007-2008 allocated average daily membership in the local school administrative unit.

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

## **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

**SECTION 7.11.** The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand forty-two dollars and fifty-three cents (\$1,042.53) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2007-2008 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 58,470 children for the 2007-2008 school year.

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

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

**SECTION 7.12.(a)** Funds appropriated for the 2007-2008 and 2008-2009 fiscal years for Student Accountability Standards shall be used to assist students to perform at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The State Board of Education shall allocate these funds to local school administrative units based on the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be used to improve the academic performance of (i) students who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4 and 7. These funds may also be used to improve the academic performance of students who are performing at Level I or II on the high

school end-of-course tests. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law, local boards of education may transfer other funds available to them into this allocation category.

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

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

These funds shall be allocated to local school administrative units for the 2007-2008 fiscal year within 30 days of the date this act becomes law.

**SECTION 7.12.(b)** Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year.

## **LITIGATION RESERVE FUNDS**

**SECTION 7.13.** The State Board of Education may expend up to two hundred thousand dollars (\$200,000) each year for the 2007-2008 and 2008-2009 fiscal years from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

## **REPLACEMENT SCHOOL BUSES FUNDS**

**SECTION 7.14.(a)** The State Board of Education may impose any of the following conditions on allotments to local boards of education for replacement school buses:

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

**SECTION 7.14.(b)** Any term contract for the purchase or lease-purchase of school buses or school activity buses shall not require vendor payment of the electronic procurement transaction fee of the North Carolina E-Procurement Service.

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

**SECTION 7.15.(a)** If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in accordance with the Allotment Adjustments for ADM Growth provisions of the North

Carolina Public Schools Allotment Policy Manual, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

**SECTION 7.15.(b)** If the higher of the first or second month average daily membership in a local school administrative unit is at least two percent (2%) or 100 students lower than the anticipated average daily membership used for allotments for the unit, the State Board of Education shall reduce allotments for the unit. The reduced allotments shall be based on the higher of the first or second month average daily membership plus one-half of the number of students overestimated in the anticipated average daily membership.

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

## **CHARTER SCHOOL EVALUATION**

**SECTION 7.16.(a)** The State Board of Education may spend up to fifty thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units for the 2007-2008 and 2008-2009 fiscal years to evaluate charter schools. In particular, the State Board of Education shall consider the extent to which charter schools have accomplished the following six objectives, which are set out in G.S. 115C-238.29A:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;
- (5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this Part accountable for meeting measurable student achievement results and provide the schools with a method to change from rule-based to performance-based accountability systems.

**SECTION 7.16.(b)** The State Board of Education shall report the results of its evaluation to the Joint Legislative Education Oversight Committee and the Fiscal Research Division.

## **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

**SECTION 7.17.(a)** The State Board of Education shall grant flexibility to a local board of education regarding the use of mentor funds to provide mentoring support, provided the local board submits a detailed plan on the use of the funds to the State Board and the State Board approves that plan. The plan shall include information on how all mentors in the local school administrative unit have been or will be adequately trained to provide mentoring support.

Local boards of education shall use funds allocated for mentor teachers to provide mentoring support to all State-paid newly certified teachers, second-year teachers who were assigned mentors during the prior school year, and entry-level instructional support personnel who have not previously been teachers.

**SECTION 7.17.(b)** The State Board, after consultation with the Professional Teaching Standards Commission, shall adopt standards for mentor training.

**SECTION 7.17.(c)** Each local board of education with a plan approved pursuant to subsection (a) of this section shall report to the State Board on the impact of its mentor program on teacher retention. The State Board shall analyze these reports to determine the characteristics of mentor programs that are most effective in retaining

teachers and shall report its findings to the Joint Legislative Education Oversight Committee by October 15 of each year of the biennium.

**SECTION 7.17.(d)** In addition to the report required in subsection (c) of this section, the State shall also evaluate the effectiveness of a representative sample of local mentor programs and report on its findings to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by December 15 of each year of the biennium. The evaluation shall focus on quantitative evidence, quality of service delivery, and satisfaction of those involved. The report shall include the results of the evaluation and recommendations both for improving mentor programs generally and for an appropriate level of State support for mentor programs.

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

**SECTION 7.18.(a)** The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2006-2007 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

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

**SECTION 7.18.(b)** The State Board of Education may use funds appropriated to the State Public School Fund to implement the consolidated assistance program, as directed in Section 7.6(b) of S.L. 2006-66. The Board shall report to the Joint Legislative Education Oversight Committee by January 15, 2008, on any restructuring of the program pursuant to this section.

## **LEARN AND EARN HIGH SCHOOLS**

**SECTION 7.19.(a)** Funds are appropriated in this act for the Learn and Earn high school workforce development program. The purpose of the program is to create rigorous and relevant high school options that provide students with the opportunity and assistance 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 7.19.(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 postsecondary 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 7.19.(c)** During the first year of its operation, a high school established under G.S. 115C-238.50 shall be allotted a principal regardless of the number of State-paid teachers assigned to the school or the number of students enrolled in the school. The budget flexibility authorized by G.S. 115C-105.25 does not apply to these positions.

**SECTION 7.19.(d)** The State Board of Education, in consultation with the State Board of Community Colleges and The University of North Carolina 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 January 15 of each fiscal year.

**SECTION 7.19.(e)** Enrollment fees and tuition for The University of North Carolina courses in which Learn and Earn students are enrolled are allowable uses of these funds. Tuition costs may include laboratory fees assessed to all students enrolled in the course or a similar course.

**SECTION 7.19.(f)** Textbooks required for college courses in which Learn and Earn students are enrolled may be purchased with these funds.

**SECTION 7.19.(g)** Payment of fees from these funds by local school administrative units to partnering community colleges and universities are restricted to technology or course fees. Funds appropriated in this act shall not be used to support the cost of athletic or other student activity or campus fees not required by enrollment in a specific course.

**SECTION 7.19.(h)** The State Board of Education shall allot funds for university enrollment, tuition and fees, and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in university courses. The State Board of Education shall allot funds for community college fees and textbooks on the basis of and after verification of the credit hour enrollment of Learn and Earn students in community college courses.

**SECTION 7.19.(i)** Of the funds appropriated to the State Public School Fund for the 2007-2008 fiscal year, the State Board of Education may use up to eight hundred fifty thousand dollars (\$850,000) to establish additional Learn and Earn high schools that become certified as operational.

## **NORTH CAROLINA VIRTUAL PUBLIC SCHOOL**

**SECTION 7.20.(a)** The North Carolina Virtual Public School (NCVPS) program shall report to the State Board of Education and shall maintain an administrative office at the Department of Public Instruction.

**SECTION 7.20.(b)** The Director of NCVPS shall continue to ensure that course quality standards are established and met and that all e-learning opportunities offered by State-funded entities to public school students are consolidated under the North Carolina Virtual Public School program, eliminating course duplication.

**SECTION 7.20.(c)** Subsequent to course consolidation, the Director shall prioritize e-learning course offerings for students residing in rural and low-wealth county LEAs, in order to expand available instructional opportunities. First-available e-learning instructional opportunities should include courses required as part of the standard course of study for high school graduation and AP offerings not otherwise available.

**SECTION 7.20.(d)** The State Board of Education shall implement an allotment formula developed pursuant to Section 7.16(d) of S.L. 2006-66, for funding e-learning, effective in the 2008-2009 fiscal year. NCVPS shall be available at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs. The Department of Public Instruction shall communicate to local school administrative units all applicable guidelines regarding the enrollment of nonpublic school students in these courses.

**SECTION 7.20.(f)** The State Board of Education may convert the 22 three-month positions that were authorized for NCVPS in S.L. 2006-66 to five full-time positions if the Board determines that it is appropriate to do so.

## **SMALL RESTRUCTURED HIGH SCHOOLS**

**SECTION 7.21.** The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee no later than January 15 of each year on the results of its evaluation of the small, restructured high school 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.

## **NC WISE POSITIONS**

**SECTION 7.22.** Notwithstanding G.S. 143C-6-4, the State Board of Education may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for NC WISE to create a maximum of 10 positions and incur expenditures necessary to maintain and administer the NC WISE system within the Department of Public Instruction.

## **21ST CENTURY LITERACY COACHES**

**SECTION 7.23.(a)** Funds are appropriated in this act to support the selection and hiring of new literacy coaches for middle schools or other public schools with an eighth grade class. No more than one literacy coach shall be placed in each such school. The State Board of Education, in consultation with the North Carolina Teacher Academy, shall develop a site selection process including formal criteria. The site must receive formal approval by the State Board of Education to receive funds for this purpose. To be selected schools must:

- (1) Contain an eighth grade class, and
- (2) Ensure that literacy coaches will have no administrative responsibilities in the schools in which they are placed.

**SECTION 7.23.(b)** National Board for Professional Teaching Standards (NBPTS) certified teachers serving in these positions shall be exempt from the requirements in G.S. 115C-296.2(b)(2)d. and shall remain on the NBPTS teacher salary schedule.

## **MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS**

**SECTION 7.24.(a)** The Department of Public Instruction shall continue the implementation of the "More at Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services and the Department of Public Instruction. The program shall include:

- (1) A process and system for identifying children at risk of academic failure.
- (2) A process and system for identifying children who are not being served in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.

- (3) A curriculum or several curricula that are research-based and/or built on sound instructional theory. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.
- (4) An emphasis on ongoing family involvement with the prekindergarten program.
- (5) Evaluation of child progress through a statewide evaluation, as well as ongoing assessment of the children by teachers.
- (6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.
- (7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.
- (8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services and the Department of Public Instruction. The Department may use the child care rating system to assist in determining program participation.
- (9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth-to-kindergarten education.
- (10) A local contribution. Programs must demonstrate that they are accessing resources other than "More at Four."
- (11) A system of accountability.
- (12) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services and the Department of Public Instruction shall consider the reallocation of existing funds from State and local programs that provide prekindergarten-related care and services.

**SECTION 7.24.(b)** The Department of Public Instruction shall implement a plan to expand "More at Four" program standards within existing resources to include four- and five-star-rated centers and schools serving four-year-olds and develop guidelines for these programs. The "NC Prekindergarten Program Standards" initiative shall recognize four- and five-star-rated centers that choose to apply and meet equivalent "More at Four" program standards as high quality pre-k classrooms. Classrooms meeting these standards shall have access to training and workshops for "More at Four" programs. Whenever expansion slots are available, these classrooms shall have first priority to receive them.

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

**SECTION 7.24.(c)** The Department of Public Instruction shall submit a report by February 1, 2008, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division. This final report shall include the following:

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

**SECTION 7.24.(d)** For the 2007-2008 and the 2008-2009 fiscal years, the "More at Four" program shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who is ordered to active duty by the proper authority within the last 18 months or expected to be ordered within the next 18 months, or (ii) a member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who was injured or killed while serving on active duty, shall be eligible for the program.

**SECTION 7.24.(e)** The "More at Four" program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of existing four-year-old classrooms with "More at Four" program funding shall be permitted when current funding is eliminated, reduced, or redirected as required to meet other specified federal or State educational mandates.

**SECTION 7.24.(f)** If a county is unable to increase "More at Four" slots because of a documented lack of available resources necessary to provide the required local contribution for the additional slots allocated to the county for the 2007-2008 fiscal year, the contract agency for that county may appeal to the Office of School Readiness for an exception to the required local amount for those additional slots. The Office of School Readiness may grant an exception and allot funds to pay up to ninety percent (90%) of the full cost of the additional slots for that county if it finds that (i) there is in fact a documented lack of available resources in the county and (ii) granting the exception will not reduce access statewide to "More at Four" slots.

## **ADMINISTRATIVE FUNDING FOR TEACHING FELLOWS PROGRAM**

**SECTION 7.25.(a)** G.S. 115C-363.23A(f) reads as rewritten:

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

~~With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used by the The Public School Forum, as administrator for the Teaching Fellows Program, for Program, may use up to eight hundred ten thousand dollars (\$810,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program."~~

**SECTION 7.25.(b)** The funding provided for in this section shall be used to meet current administrative expenses of the Program and continue minority recruitment initiatives.

**SECTION 7.25.(c)** The Teaching Fellows Program shall report to the Joint Legislative Education Oversight Committee by March 15, 2008, on:

- (1) Actual expenditures for the 2006-2007 fiscal year and budgeted expenditures for the 2007-2008 fiscal year for administration of the Program and
- (2) Initiatives to recruit minorities to the Program.

**SECTION 7.25.(d)** The General Assembly urges the North Carolina Teaching Fellows Commission to use funds available in the revolving fund to establish additional teaching fellows scholarships.

## **NO COST SUMMER SCHOOL OR OTHER REMEDIATION ACTIVITIES**

**SECTION 7.26.(a)** G.S. 115C-105.41 prohibits charging tuition or fees to Students at Risk for Academic Failure. Effective July 1, 2007, local school administrative units shall formally communicate to at-risk students and their parents or guardians that there will be no charge for participation in intervention activities/practices offered by the local school administrative units to at-risk students, or for transportation necessary for participation in the intervention activities.

**SECTION 7.26.(b)** Effective July 1, 2007, local school administrative units shall formally communicate to students and their parents or guardians that tuition and fees will not be charged for summer school courses that are required for remediation or courses that are necessary for the student to meet graduation requirements.

## **LEARN AND EARN ONLINE**

**SECTION 7.27.(a)** Funds are appropriated in this act for the Learn and Earn Online program. This program will allow high school students to enroll in college courses to qualify for college credit. Online courses will be made available to students through The University of North Carolina and the North Carolina Community College System.

**SECTION 7.27.(b)** Funds shall be used for course tuition and only those technology and course fees and textbooks required for course participation. Funds shall also support a liaison position to be housed at the Department of Public Instruction to coordinate with The University of North Carolina and the North Carolina Community College System, and to communicate course availability and related information to high school administrators, teachers, and counselors.

**SECTION 7.27.(c)** The State Board of Education shall determine the allocation of Learn and Earn Online course offerings across the State.

**SECTION 7.27.(d)** The State Board of Education shall allot funds for tuition, fees, and textbooks on the basis of, and after verification of, the credit hour enrollment of high school students in Learn and Earn Online courses. Community college student enrollments in Learn and Earn Online shall not be considered as a regular budget full-time equivalent (FTE) in the curriculum enrollment formula, but shall be accounted for separately and funds shall be allotted as a special allotment.

**SECTION 7.27.(e)** The University of North Carolina program shall report to The University of North Carolina Board of Governors, and the North Carolina Community College program shall report to the North Carolina Community College Board of Trustees. The Department of Public Instruction shall report to the State Board of Education.

**SECTION 7.27.(f)** Both The University of North Carolina and the North Carolina Community College System shall provide oversight and coordination, including coordination with the Department of Public Instruction and with the North Carolina Virtual Public School (NCVPS) to avoid course duplication.

**SECTION 7.27.(g)** Course quality and rigor standards shall be established, and each program shall conduct course evaluations to ensure that the online courses made available to students meet the established standards.

**SECTION 7.27.(h)** The State Board of Education, The University of North Carolina, and the North Carolina Community College System shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than April 15, 2008, on the implementation of the program for the 2007-2008 school year and the proposed operating plan for the 2008-2009 school year. The report shall include the number of students enrolled in courses under the Learn and Earn Online program and the number of students who completed courses during the fall semester of the 2007-2008 school year.

**SECTION 7.27.(i)** Local school administrative units may purchase textbooks for Learn and Earn Online courses through the Department of Public Instruction's textbook warehouse in the same manner as textbooks that have been adopted for public school students by the State Board of Education.

**SECTION 7.27.(j)** Chapter 115D of the General Statutes is amended by adding a new section to read:

**"§ 115D-1.2. Learn and Earn Online program.**

(a) Notwithstanding 115D-1, a public school student enrolled in grades 9, 10, 11, or 12 and participating in the Learn and Earn Online program shall be permitted to enroll in online courses through a community college for college credit. Students participating in the Learn and Earn Online program may enroll in Learn and Earn Online courses regardless of the college service areas in which they reside.

(b) The State Board of Community Colleges, in consultation with the Department of Public Instruction, shall adopt rules to implement this section beginning with the 2007-2008 school year."

## **SCHOOL CONNECTIVITY INITIATIVE**

**SECTION 7.28.(a)** Funds are appropriated in this act to support the enhancement of the technology infrastructure for public schools. These funds shall be used for broadband access, equipment, and support services that create, improve, and sustain equity of access for instructional opportunities for public school students and educators.

**SECTION 7.28.(b)** As recommended in the Joint Report on Information Technology, February 2007, the State Board of Education shall contract with an entity that has the capacity of serving as the administrator of the School Connectivity Initiative and has demonstrated success in providing network services to education institutions within the State. The funds appropriated in this act shall be used to implement a plan approved by the State Board of Education to enhance the technology infrastructure for public schools that supports teaching and learning in the classrooms. The plan shall include the following components:

- (1) A business plan with time lines, clearly defined outcomes, and an operational model including a governance structure, personnel, e-Rate reimbursement, support services to local school administrative units and schools, and a budget;
- (2) Assurances for a fair and open bidding and contracting process;
- (3) Technology assessment site survey template;
- (4) Documentation of technology assessments;
- (5) Documentation of how the technology will be used to enhance teaching and learning;
- (6) Documentation of how existing State-invested funds for technology are maximized to implement the School Connectivity Initiative; and
- (7) The number, location, and schedule of sites to be served in 2007-2008 and in 2008-2009.

(8) Assurances that local school administrative units will upgrade internal networks in schools, provide technology tools, and support for teachers and students to use technology to improve teaching and learning.

**SECTION 7.28.(c)** Funds currently used for the services covered by these new funds shall not be supplanted by this additional funding and shall be used to support instructional technologies and local infrastructure in schools in support of acquisition and delivery of instructional technology resources to the classroom. Any refunds received for services paid with these technology funds shall return to the originating technology fund.

**SECTION 7.28.(d)** The State Board of Education shall report January 15, 2008, on its progress towards achieving the connectivity initiative and annually thereafter to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

**SECTION 7.28.(e)** As recommended in the E-Learning Report, February 2006, the Education Cabinet shall develop a plan to:

- (1) Coordinate E-learning activities across the public and private universities and colleges, the community colleges, and the public schools;
- (2) Establish a clear purpose and goals for the NCVirtual based on stakeholder needs and requirements;
- (3) Develop a strategic plan with measurable goals with reports provided to the Education Cabinet;
- (4) Develop, track, and report regularly to the Education Cabinet on appropriate accountability measures for those goals;
- (5) Develop and manage an E-learning portal for the NCVirtual; and
- (6) Use State-invested funds for E-learning to eliminate duplication of service.

**SECTION 7.28.(f)** Up to three hundred thousand dollars (\$300,000) may be transferred to the Office of the Governor to establish NCVirtual (NCV) within the Education Cabinet. These funds may be used for services to coordinate E-learning activities across all State educational agencies.

**SECTION 7.28.(g)** The Education Cabinet shall report on its progress towards developing the plan on January 1, 2008, and annually thereafter to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

**SECTION 7.28.(h)** The State Board of Education may use up to one million dollars (\$1,000,000) to establish up to eight regional positions or contract for services regionally to assist local school administrative units in implementing the Initiative. Specifically, these positions and/or contractors will assist with assessment of needs, upgrading, and planning for management of resources and ongoing maintenance. The report required under subsection (d) of this section shall include a description of each position, its salary or contract amount, and its duties.

## **REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION**

**SECTION 7.29.(a)** Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may reorganize in accordance with the plan adopted by the State Board of Education. The Department shall report to the Joint Legislative Commission on Governmental Operations on the reorganization.

**SECTION 7.29.(b)** This section expires June 30, 2008.

## **STUDY OF PUBLIC SCHOOL FUNDING FORMULAS**

**SECTION 7.31.(a)** There is created the Joint Legislative Study Committee on Public School Funding Formulas. The Committee shall consist of six members of the House of Representatives appointed by the Speaker of the House of Representatives and six members of the Senate appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Committee.

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

Subject to the approval of the Legislative Services Commission, the Committee may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee.

**SECTION 7.31.(b)** The Committee shall perform an extensive study of the following public school funding formulas:

- (1) Children with Disabilities;
- (2) Limited English Proficiency;
- (3) At-Risk Student Services/Alternative Schools;
- (4) Improving Student Accountability;
- (5) Disadvantaged Students Supplemental;
- (6) Low-Wealth Counties Supplemental Funding;
- (7) Small County Supplemental Funding;
- (8) Transportation of Pupils; and
- (9) Academically or Intellectually Gifted.

**SECTION 7.31.(c)** The Committee shall also study the State Board of Education's model for projecting average daily membership and focus particularly on how well the model projects average daily membership in rapidly growing local school administrative units with a highly mobile population.

**SECTION 7.31.(d)** The Committee shall submit a report of its findings and recommendations, including any legislative recommendations, to the 2008 Regular Session of the 2007 General Assembly. The Committee shall terminate upon filing its report.

## **DROPOUT PREVENTION GRANTS**

**SECTION 7.32.(a)** Findings. – The General Assembly finds that:

- (1) North Carolina's schools recorded 22,180 dropout events in grades 9-12 for 2005-2006, a nine and nine-tenths percent (9.9%) increase from the count reported in 2004-2005. It is the highest count of dropouts since 1999-2000.
- (2) A disproportionate share of the increase in dropout rates occurred in large local school administrative units.
- (3) Black males accounted for a disproportionate amount of the increase in dropout count, and the dropout rate for black males increased to seven and one-hundredths percent (7.01%), an eight and four-tenths percent (8.4%) increase over the 2004-2005 rate.
- (4) Students drop out of school for a variety of reasons, including academic issues, family and other personal reasons, discipline issues, drug abuse, the need to work, school size, and school climate.
- (5) Students who drop out of school without graduating are more likely to be unemployed, receive public assistance, and have a higher incarceration rate than those who graduate.

- (6) In order for our citizens and State to thrive in a global, knowledge-based economy, it is imperative that more of our students graduate from high school with the knowledge and skills needed for postsecondary education or high-skilled employment.
- (7) Differing local needs and local resources necessitate the development of locally generated programs and initiatives that target dropouts and high school retention.

**SECTION 7.32.(b)** Purpose. – Recognizing that having an unacceptable dropout rate is not a new development in North Carolina, or in the rest of the country, and that over the years there have been, and continue to be, many programs and initiatives that have strived to address this issue, the purpose of this section is to focus attention and resources on innovative programs and initiatives that succeed in keeping students in school when other conflicting factors are pushing them to drop out before they are prepared to further their postsecondary education or enter the workforce.

**SECTION 7.32.(c)** Committee. – There is established the Committee on Dropout Prevention. The Committee shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee and shall provide staff to the Committee.

The Committee shall determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under subsection (d) of this section, the amount of each grant, and eligible uses of the grant funding. The Committee shall consist of the following 15 members:

- (1) The Governor shall appoint five members, of whom one is a superintendent of schools, one is a representative of a nonprofit, and one is a school social worker;
- (2) The President Pro Tempore of the Senate shall appoint five members, of whom one is a principal, one is a representative of a school of education, and one is a school counselor; and
- (3) The Speaker of the House of Representatives shall appoint five members, of whom one is a teacher, one is a member of the business community, and one is a representative of the juvenile justice system.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest.

**SECTION 7.32.(d)** Dropout Prevention Grants. – The following criteria apply to dropout prevention grants approved by the Committee established under subsection (c) of this section.

- (1) Grants shall be issued in varying amounts up to a maximum of one hundred fifty thousand dollars (\$150,000).
- (2) These grants shall be provided to innovative programs and initiatives that target students at risk of dropping out of school and that demonstrate the potential to (i) be developed into effective, sustainable, and coordinated dropout prevention and reentry programs in middle schools and high schools and (ii) serve as effective models for other programs.
- (3) Priority shall be given to new programs and initiatives or to those that have begun within the last five school years.
- (4) Grants shall be distributed geographically throughout the State.
- (5) Grants may be made to local school administrative units, schools, local agencies, or nonprofit organizations.
- (6) Grants shall be to programs and initiatives that hold all students to high academic and personal standards.

- (7) Grant applications shall state (i) how grant funds will be used, (ii) what, if any, other resources will be used in conjunction with the grant funds, (iii) how the program or initiative will be coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community, and (iv) a process for evaluating the success of the program or initiative.
- (8) Programs and initiatives that receive grants under this subsection shall be based on best practices for preventing students from dropping out of school or for increasing the high school completion rate for those students who already have dropped out of school.
- (9) Priority for grants shall be given to proposals that demonstrate input from the local community and coordination with other available programs or resources.
- (10) Grantees shall assure their compliance with applicable laws and rules regulating conflicts of interest.
- (12) Grants shall be made no later than November 1, 2007.

**SECTION 7.32.(e)** Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section, after which time the Committee shall terminate.

**SECTION 7.32.(f)** Joint Legislative Commission on Dropout Prevention and High School Graduation. –

- (1) There is created the Joint Legislative Commission on Dropout Prevention and High School Graduation (Commission) to be composed of 16 members, eight appointed by the President Pro Tempore of the Senate and eight appointed by the Speaker of the House of Representatives. The President Pro Tempore and the Speaker shall each designate a cochair from their appointees. Vacancies shall be filled in the same manner as the original appointments were made.
- (2) The cochairs shall jointly call the first meeting of the Commission. A quorum of the Commission is a majority of its members.
- (3) The Commission shall:
  - a. Evaluate initiatives and programs designed to reduce the dropout rate and increase the number of students who graduate from high school prepared to further their postsecondary education or enter the workforce.
  - b. Review the research on factors related to students' success in school.
  - c. Evaluate the grants awarded under subsection (d) of this section and recommend whether any of the programs and initiatives that received one of these grants has potential for success and should be expanded or replicated.
  - d. Study the emergence of major middle school and high school reform efforts, including Learn and Earn Programs, the New Schools Initiative, and 21st Century Schools, and the impact they may have on the dropout rate.
  - e. Examine strategies, programs, and support services that should be provided if the compulsory school attendance age is raised to enable students to graduate from high school and time lines for implementing those strategies, programs, and support services.
  - f. Following a review of the courses required for graduation and the current system of awarding credit for those courses, determine whether changes should be made that better recognize the different learning rates and other needs of students.

- g. Determine which interventions and other strategies, such as accelerated learning, tutoring, mentoring, or small class sizes, when employed as a substitute to grade retention or as a subsequent measure to grade retention, are the most effective at enabling these students to remain in school and graduate.
- h. Study any other issue that the Commission considers relevant and appropriate.

(4) The Legislative Services Commission, through the Legislative Services Officer, shall assign professional and clerical staff to assist in the work of the Joint Legislative Commission on Dropout Prevention and High School Graduation. The expenses of employment of the clerical staff shall be borne by the Joint Legislative Commission on Dropout Prevention and High School Graduation.

(5) The Commission may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission, through the Legislative Services Officer, shall grant to the Joint Legislative Commission on Dropout Prevention and High School Graduation adequate meeting space in the State Legislative Building or the Legislative Office Building.

(6) Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

- a. Members who are also members of the General Assembly, at the rate established in G.S. 120-3.1;
- b. Members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6; and
- c. All other members, at the rate established in G.S. 138-5.

(7) The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

(8) The Commission may submit an interim report, including any recommendations and proposed legislation, to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2008, and shall submit a final written report of its findings and recommendations on or before the convening of the 2009 Session of the General Assembly. All reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.

## **HIGH PRIORITY SCHOOLS**

**SECTION 7.34.(a)** The State Board of Education may develop a policy for a two-year phaseout of the special supplementary funding currently provided to the two remaining high priority elementary schools and may use funds in the ADM Contingency Reserve to support any additional cost of the two-year phaseout.

**SECTION 7.34.(b)** The State Board of Education shall not use funds appropriated for State Aid to Local Administrative Units to contract with an outside organization to evaluate the high priority schools initiative begun in the 2001-2002 fiscal year. The Board may, however, use up to five hundred thousand dollars (\$500,000) previously identified for this purpose to support the ongoing evaluation of the Disadvantaged Student Supplemental Funding Initiative.

## **DISTANCE EDUCATION**

**SECTION 7.35.** Notwithstanding G.S. 143C-6-4, the State Board of Education may use monies from the State Public School Fund in the 2007-2008 fiscal year only to pay for the additional costs associated with an increased number of registration fees for students enrolling in Distance Education courses.

## **CHILD NUTRITION**

**SECTION 7.36A.(a)** G.S. 115C-264.3 reads as rewritten:  
**"§ 115C-264.3. Child Nutrition Program standards.**

The State Board of Education, in direct consultation with a cross section of local directors of child nutrition services, shall establish statewide nutrition standards for school meals, a la carte foods and beverages, and items served in the After School Snack Program administered by the Department of Public Instruction and child nutrition programs of local school administrative units. The nutrition standards will promote gradual changes to increase fruits and vegetables, increase whole grain products, and decrease foods high in total fat, trans fat, saturated fat, and sugar. The nutrition standards adopted by the State Board of Education shall be implemented initially in elementary schools. All elementary schools shall achieve a basic level by the end of the ~~2007-2008~~ 2008-2009 school year, followed by middle schools and then high schools."

**SECTION 7.36A.(b)** Local education agencies are encouraged to take steps to implement within existing funds and to the extent possible the nutrition program standards under G.S. 115C-264.3 by the end of the 2007-2008 school year.

**SECTION 7.36A.(c)** The Child Nutrition Services Section of the Department of Public Instruction, in direct consultation with a cross section of local directors of child nutrition services, shall study how State funds allocated to support the implementation of nutrition standards in elementary schools should be distributed to ensure fair and equitable distribution of available resources. The Child Nutrition Services Section shall report its findings and recommendations to the Joint Legislative Education Oversight Committee during the 2008 Regular Session of the General Assembly.

**SECTION 7.36A.(d)** The General Assembly urges the Director of the State Budget to include in the proposed Continuation Budget the amount required to ensure that all kindergarten students in schools that meet the eligibility percentage authorized by the State Board of Education receive a free breakfast.

The State Board shall not adjust that eligibility percentage below thirty-nine and four one-hundredths of one percent (39.04%) unless the General Assembly funds an expansion of the program.

## **FUNDS FOR SCHOOL TECHNOLOGY PILOT**

**SECTION 7.39.(a)** Funds are appropriated in this act to the State Board of Education to be used with a grant of three million dollars (\$3,000,000) from the Golden LEAF Foundation and other private sector funds to establish a school technology pilot program. Eight pilot high schools selected by the Golden LEAF Foundation and the Department of Public Instruction shall receive funds to incorporate technology in the classroom. Non-State monies shall fund student and teacher portable computers. The State Board of Education shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division on the results of this pilot program by March 15, 2009. Up to one hundred thousand dollars (\$100,000) may be used to contract with an independent research organization to study the effectiveness of this pilot program on student achievement, to complete a cost-benefit analysis, to make recommendations for improvements in the program, and to make recommendations regarding the possible continuance or expansion of the program. The remaining State funds shall be used to:

- (1) Assess the network capabilities and connectivity needs at each of the eight pilot sites;

- (2) Purchase the additional software, hardware, and other equipment necessary to support this program;
- (3) Allow each pilot site to use a maximum of one hundred thirty thousand dollars (\$130,000) to establish up to two positions to provide on-site instructional and technical support on a contract basis; and
- (4) Provide ongoing professional development to teachers and principals in the pilot schools.

**SECTION 7.39.(b)** Unused funds at the end of the 2007-2008 fiscal year for this program shall not revert.

## **ADM CONFORMITY**

**SECTION 7.40.** Section 8 of S.L. 2007-145 is repealed

## **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 2006-2007 fiscal year but shall remain available until expended.

**SECTION 8.1.(b)** Notwithstanding G.S. 143C-6-4, the Community Colleges System Office may, subject to the approval of the Office of State Budget and Management, in consultation with the Office of Information Technology Services, and after consultation with the Joint Legislative Commission on Governmental Operations, use funds appropriated in this act for the College Information System Project to create a maximum of 10 positions or incur expenditures necessary to transfer the maintenance and administration of the College Information System Project from the vendor to the System Office. Personnel positions created pursuant to this subsection shall be located in community colleges across the State.

**SECTION 8.1.(c)** The Community Colleges System Office shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the College Information System Project.

**SECTION 8.1.(d)** Subsection (a) of this section becomes effective June 30, 2007.

### **CARRYFORWARD OF EQUIPMENT FUNDS FOR COMMUNITY COLLEGES**

**SECTION 8.2.(a)** Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System Office may carry forward an amount not to exceed ten million dollars (\$10,000,000) of the operating funds that were not reverted in fiscal year 2006-2007 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, 2007.

### **INSTRUCTIONAL RESOURCE ALLOCATION FORMULA**

**SECTION 8.3.** The State Board of Community Colleges shall develop a new funding formula for library books and related instructional resources before distributing funds appropriated for this purpose for the 2007-2009 fiscal biennium. The revised instructional resource allocation formula shall reflect the availability of online subscription resources and electronic media and should include a base amount per college.

### **REPORT ON NCCCS DISTANCE LEARNING AND ONLINE CAPABILITIES**

**SECTION 8.4.** The Community Colleges System Office shall report by March 1, 2008, to the Joint Legislative Education Oversight Committee, the Fiscal

Research Division, and the Office of State Budget and Management on its efforts regarding distance learning opportunities. This report shall complement the report authorized by the General Assembly in Part 6 of S.L. 2004-179 and shall address the following:

- (1) The expenditure of funds appropriated in this act for bandwidth at community colleges, including a description of each community college's current bandwidth capacity;
- (2) A five-year history of the number of courses offered and number of FTE students served through distance learning;
- (3) Results from student and instructor evaluations of distance learning courses;
- (4) Current and anticipated future joint efforts between the North Carolina Community College System and The University of North Carolina and North Carolina private colleges, regarding distance learning; and
- (5) Analysis of necessary changes or enhancements to improve the sharing of distance learning and online opportunities with The University of North Carolina and the Department of Public Instruction.

## **COMMUNITY COLLEGE FACULTY SALARY PLAN**

**SECTION 8.5.(a)** It is the intent of the General Assembly to establish a community college faculty salary plan that (i) provides accountability to the General Assembly, (ii) maintains local flexibility and autonomy for the community colleges, and (iii) ensures that community college faculty members have a uniform minimum salary based on level of education, equivalent applicable experience, or both.

**SECTION 8.5.(b)** The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.
- (3) Bachelor's Degree.
- (4) Master's Degree or Education Specialist.
- (5) Doctoral Degree.

**SECTION 8.5.(c)** For the 2007-2008 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$33,314
Associate Degree or Equivalent	\$33,805
Bachelor's Degree	\$35,931
Master's Degree or Education Specialist	\$37,817
Doctoral Degree	\$40,537.

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

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

**SECTION 8.5.(d)**

- (1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:
  - a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up

to eight percent (8%) of the State funds allocated to it for faculty salaries.

- b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.
- c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.
- d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.
- e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

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

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

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

- (3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

**SECTION 8.5.(e)** As used in this section:

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

**SECTION 8.5.(f)** The State Board of Community Colleges shall adopt guidelines to implement the provisions of this section.

**SECTION 8.5.(g)** The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2007, and every year thereafter through December 1, 2009, on the implementation of this section.

## **STUDY COMMUNITY COLLEGE ACCESS**

**SECTION 8.6.** The Joint Legislative Education Oversight Committee shall conduct a study to determine whether the North Carolina Community College System is appropriately organized to provide adequate geographic access, while minimizing overhead costs. Specifically, the Committee shall review the organization and structure of the Community College System, the number of colleges and satellite campuses within the System, and the location and size of the colleges. The Committee shall also study the State Board of Community Colleges' policy and procedure for approving new programs and whether the State could realize any savings from consolidating high-cost programs at regional locations.

This study shall determine the appropriateness of the current process and criteria outlined in State Board policy for approving multicampus center designations. The Joint Legislative Education Oversight Committee shall specifically consider whether the establishment of additional multicampuses should be subject to General Assembly approval.

The Joint Legislative Education Oversight Committee shall report the results of the study to the General Assembly prior to April 30, 2008.

## **COMMUNITY COLLEGE CONNECTIVITY FUNDS**

**SECTION 8.7.** In expending funds appropriated for increasing the bandwidth capacity among the colleges of the North Carolina Community College System, the Community Colleges System Office shall seek the best value among information technology providers in order to maximize online instruction, provide accurate data transmission, and utilize video services.

## **STUDY OF FTE FUNDING FORMULA**

**SECTION 8.8.** The Fiscal Research Division, in consultation with the North Carolina Community College System, shall consider modifications to community college funding formulas to ensure that colleges have sufficient funds to adequately serve students when enrollment increases. In the course of the study, the Fiscal Research Division shall:

- (1) Make findings and recommendations for a new formula budget computation for the Basic Skills Block Grant, which has not been reviewed for at least two decades and may be impacted by potential changes in the allocation of federal funds for literacy education through the Workforce Investment Act, Title II;
- (2) Consider whether funding for equipment and instructional resources should be incorporated into the FTE funding formula;
- (3) Make findings and recommendations regarding the appropriateness of adjusting the "Other Costs" factors in the Instructional and Institutional Support formulas; and
- (4) Review the Institutional Support formula to determine whether funding is appropriately allocated between the Base Allotment and Enrollment Allotment.

The Fiscal Research Division shall report the results of its study to the Joint Legislative Education Oversight Committee and to the chairs of the Senate Committee on Appropriations/Base Budget and the House of Representatives Appropriations Committee by April 15, 2008.

## **REALIGNMENT OF STATE AID ALLOCATIONS**

**SECTION 8.9.** The State Board of Community Colleges shall examine new State Aid allocation options that more closely align the allocation and expenditure of State-appropriated resources. The State Board shall realign the 2007-2008 formula budget computation to incorporate the Academic Support Supplement into the Institutional Support Formula.

## **COMMUNITY COLLEGE FACILITIES AND EQUIPMENT FUNDS**

**SECTION 8.10.(a)** Funds in the amount of fifteen million dollars (\$15,000,000) are appropriated in section 2 of this act for the 2007-2008 fiscal year to the Community College Facilities and Equipment Fund. These funds shall be used to award grants to community colleges for facility and equipment needs. The Community Colleges System Office, in consultation with the State Board of Community Colleges, shall develop a competitive grant application process and guidelines for facility or equipment needs. The State Board of Community Colleges shall award grants on the merit of the applications received. Priority shall be given to projects that (i) are consistent with the college's strategic plan, (ii) have a high potential for promoting economic growth, and (iii) did not receive a grant during the 2006-2007 fiscal year. Also, projects shall be distributed geographically throughout the State. No individual grant may exceed the sum of one million dollars (\$1,000,000).

These grants shall be awarded on a matching basis of one State dollar (\$1.00) for every one non-State dollar (\$1.00).

**SECTION 8.10.(b)** Beginning September 1, 2007, the Community Colleges System Office shall submit a report to the Office of State Budget and Management and the Fiscal Research Division containing the following information about each grant that was awarded: (i) the name of the community college; (ii) a description of the project; (iii) the project location; (iv) the cost-benefit analysis conducted by the Community Colleges System Office and the rationale for awarding the grant; and (v) the amount of the grant.

## **USE OF FUNDS FOR CENTRAL CAROLINA COMMUNITY COLLEGE**

**SECTION 8.13** Funds appropriated by the 2005 General Assembly for equipment and capital improvements for the library at the Harnett County Campus of Central Carolina Community College have not been used for that purpose. Central Carolina Community College may use these funds for a maintenance building on the Harnett County Campus.

## **PART IX. UNIVERSITIES**

### **NC SCHOOL OF SCIENCE AND MATHEMATICS ENROLLMENT GROWTH FORMULA**

**SECTION 9.1.** The Office of State Budget and Management jointly with The University of North Carolina and the Fiscal Research Division of the General Assembly shall conduct a study to create a formula for enrollment growth at the North Carolina School of Science and Mathematics. This formula shall be used to calculate the amount of funds needed for enrollment growth for the North Carolina School of Science and Mathematics. The formula shall also be used for calculating the enrollment growth funding request to be submitted to the 2008 Session of the North Carolina General Assembly.

### **REPORTING ON UNC FACULTY WORKLOAD**

**SECTION 9.2.(a)** The Board of Governors of The University of North Carolina shall conduct a study on faculty workload at The University of North Carolina. The study shall be done using the Delaware Study Method of collecting data. Information in the report shall include all of the following:

- (1) The faculty workload data for each constituent institution of The University of North Carolina compared to The University of North Carolina enrollment model.
- (2) The University of North Carolina faculty workload average as compared to The University of North Carolina enrollment model student credit hours per instructional position.

(3) The faculty workload of regional and peer institutions as compared to each constituent institution faculty average and to The University of North Carolina faculty workload average.

**SECTION 9.2.(b)** The Board of Governors of The University of North Carolina shall submit the study report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than March 1, 2008.

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

**SECTION 9.3.(a)** There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of one hundred three million two hundred forty-three thousand two hundred twenty-six dollars (\$103,243,226) for the 2007-2008 fiscal year and the sum of one hundred twenty-four million eight hundred thirty-one thousand two hundred sixteen dollars (\$124,831,216) for the 2008-2009 fiscal year. There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars (\$13,981,202) for the 2007-2008 fiscal year and the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars (\$13,981,202) for the 2008-2009 fiscal year. There is appropriated from the Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of six million two hundred twenty-eight thousand six hundred thirty-three dollars (\$6,228,633) for the 2007-2008 fiscal year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for the 2008-2009 fiscal year. The funds appropriated by this subsection shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this subsection, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this subsection; however, under no circumstances shall the Escheat Fund principal be reduced below the sum of four hundred million dollars (\$400,000,000).

**SECTION 9.3.(b)** The North Carolina State Education Assistance Authority (SEAA) shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the Scholarship Programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the Community College System regarding the respective scholarship programs, and then may authorize redistribution of unutilized funds for a particular fiscal year.

**SECTION 9.3.(c)** There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of one million one hundred fifty-seven thousand dollars (\$1,157,000) for the 2007-2008 fiscal year and the sum of one million one hundred fifty-seven thousand dollars (\$1,157,000) for the 2008-2009 fiscal year to be allocated to the SEAA for need-based student financial aid to be used in accordance with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to North Carolina high school seniors interested in preparing to teach in the State's public schools who also enroll at any of the Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred dollars (\$6,500) each shall be given to Elizabeth City State University, Fayetteville State University, and Winston-Salem State University, the three universities without any Teaching Fellows, for the purposes specified in this subsection. The SEAA shall administer these funds and shall establish any additional criteria

needed to award these scholarship loans, the conditions for forgiving the loans, and the collection of the loan repayments when necessary.

**SECTION 9.3.(d)** All obligations to students for uses of the funds set out in this section that were made prior to the effective date of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

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

**SECTION 9.4.(a)** Chapter 116 of the General Statutes is amended by adding a new section to read:

### **"§ 116-40.9. Board of Governors' Medical Scholarship Loan Program.**

(a) Administration of Medical Scholarship Loan Program. – The Board of Governors' Medical Scholarship Loan Program was established by the Board of Governors of The University of North Carolina. The Board of Governors' Medical Scholarship Loan Program operates under the purview of the Board of Governors and is administered by the Board of Governors.

(b) Medical Scholarship Loan Program. – Pursuant to this section, the Board of Governors' Medical Scholarship Loan Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers, and an annual stipend of five thousand dollars (\$5,000) per year to any student who has been accepted for admission to the Duke University School of Medicine, the Brody School of Medicine at East Carolina University, the University of North Carolina at Chapel Hill School of Medicine, or the Wake Forest University School of Medicine.

(c) Criteria for Awarding Scholarship Loans. – The Board of Governors may adopt standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board of Governors shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

(d) Terms of Scholarship Loans. – All awards made under this section shall be made as scholarship loans and shall be evidenced by notes made payable to the Board of Governors that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board of Governors. The Board of Governors shall forgive the loan if, within seven years after graduation, the recipient practices medicine in North Carolina for four years. The Board of Governors shall also forgive the loan if it finds that it is impossible for the recipient to practice medicine in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

(e) Reversions. – All unused funds appropriated to or otherwise received by the Board of Governors for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

**SECTION 9.4.(b)** This section becomes effective July 1, 2007, and applies to all awards from the Board of Governors' Medical Scholarship Program made to students admitted into medical school on or after July 1, 2007.

## **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

**SECTION 9.5.(a)** Chapter 116 of the General Statutes is amended by adding a new section to read:

### **"§ 116-40.10. Board of Governors' Dental Scholarship Loan Program.**

(a) Administration of Dental Scholarship Program. – The Board of Governors' Dental Scholarship Loan Program was established by the Board of Governors of The University of North Carolina. The Board of Governors' Dental Scholarship Loan

Program operates under the purview of the Board of Governors and is administered by the Board of Governors.

(b) Dental Scholarship Loan Program. – Pursuant to this section, the Board of Governors' Dental Scholarship Loan Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers to any first-year students, required dental equipment, and an annual stipend of five thousand dollars (\$5,000) per year to any student who has been accepted for admission to the School of Dentistry at the University of North Carolina at Chapel Hill.

(c) Criteria for Awarding Scholarship Loans. – The Board of Governors may adopt standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the most qualified students receive them. The Board of Governors shall make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

(d) Terms of Scholarship Loans. – All awards made under this section shall be made as scholarship loans and shall be evidenced by notes made payable to the Board that shall bear interest at the rate of ten percent (10%) per year beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school or by the recipient not meeting the standards set by the Board of Governors. The Board of Governors shall forgive the loan if, within seven years after graduation, the recipient practices dentistry in North Carolina for four years. The Board of Governors shall also forgive the loan if it finds that it is impossible for the recipient to practice dentistry in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

(e) Reversions. – All unused funds appropriated to or otherwise received by the Board for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds shall revert to the General Fund at the end of each fiscal year."

**SECTION 9.5.(b)** This section becomes effective July 1, 2007, and applies to all awards from the Board of Governors' Dental Scholarship Program made to students admitted to the School of Dentistry at the University of North Carolina at Chapel Hill on or after July 1, 2007.

## **GRADUATE NURSE SCHOLARSHIP LOANS FOR FULL-TIME NURSING FACULTY IN THE NC COMMUNITY COLLEGE SYSTEM**

**SECTION 9.6.(a)** G.S. 90-171.100 reads as rewritten:

### **"§ 90-171.100. Graduate Nurse Scholarship Program for Faculty Production established; administration.**

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

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

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

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

(3) A scholarship loan for up to two years in the amount of fifteen thousand dollars (\$15,000) per year, per recipient, to nursing faculty in the North Carolina Community College System enrolled in a master's degree program in nursing education.

(b1) The State Education Assistance Authority shall adopt specific rules to regulate these scholarship loans.

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

(d) The Commission shall adopt stringent standards, which may include minimum grade point average, scholastic aptitude test scores, and other standards deemed appropriate by the Commission, to ensure that only the best potential students receive loans under the Graduate Nurse Scholarship Program for Faculty Production. Standards adopted by the Commission shall include provisions for ensuring that the qualifications of applicants who are or would be nontraditional students are considered fairly in providing them with opportunities to compete for the loans. Standards adopted by the Commission shall also provide that community college nursing faculty receive preference in awarding scholarship loans under this section. Loans under the Graduate Nurse Scholarship Program for Faculty Production shall be awarded only to applicants who meet the standards set by the Commission and who agree to teach in a North Carolina public or private nursing program upon completion of the nursing education program supported by the loan. If a recipient under this section is a nursing faculty member at a community college, then as a condition of a scholarship loan received under G.S. 90-171.100(b)(3), the recipient shall agree to continue to work for the community college system in North Carolina as provided in G.S. 90-171.101(b).

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

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

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

**SECTION 9.6.(b) G.S. 90-171.101(b) reads as rewritten:**

"(b) The State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the recipient teaches in a public or private nursing education program in a public or private educational institution in North Carolina for one year for every year a scholarship loan was provided. provided; unless the recipient was a nursing faculty member of a community college. In those circumstances, the State Education Assistance Authority shall forgive the loan if, within seven years after graduation from a nursing education program, the

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

## **ESTABLISH THE EDUCATION ACCESS REWARDS NORTH CAROLINA SCHOLARS FUND (EARN)**

**SECTION 9.7.(a)** Article 23 of Chapter 116 of the General Statutes is amended by adding the following new section to read:

### **"§ 116-209.26. Education Access Rewards North Carolina Scholars Fund.**

**(a)** The following definitions apply to this section:

- (1)** Academic year. – A period of time in which a student in matriculated status is expected to complete the equivalent of at least two semesters' or three quarters' academic work.
- (2)** Eligible postsecondary institution. – A school that is:
  - a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4); or
  - b. A community college as defined in G.S. 115D-2(2).
- (3)** Matriculated status. – Being recognized as a first-time candidate for a degree or certificate, exclusive of any course credits earned while in high school, in a defined program of study at an eligible postsecondary institution.
- (4)** Title IV. – Title IV of the Higher Education Act of 1965, as amended.

**(b)** There is established the Education Access Rewards North Carolina Scholars Fund. The purpose of the Fund is to provide grants to certain eligible students to enable them to obtain an education beyond the high school level at certain postsecondary institutions in North Carolina without incurring student loans to meet their financial need during the first two years of their postsecondary education. The State Education Assistance Authority (SEAA) shall administer the Fund.

**(c)** Criteria for awarding the grants shall be developed by the SEAA and include all of the following:

- (1)** The student must qualify as a legal resident of North Carolina, a legal resident of the United States, and as a resident for tuition purposes in accordance with G.S. 116-143.1.
- (2)** Within seven months of the fiscal year in which the grant is to be disbursed, the student must have:
  - a. Graduated from a North Carolina high school;
  - b. Received a General Education Development (GED) certificate from a North Carolina institution; or
  - c. Completed a high school education in a home school setting meeting the qualifications and requirements under G.S. 115C-564.

- (3) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status on a full-time basis at an eligible postsecondary institution in North Carolina.
- (4) The student must be an eligible dependent student. For purposes of this subdivision, an "eligible dependent student" is a student who:
  - a. Either is classified as dependent for the Title IV programs or is a ward or dependent of the court; and
  - b. Demonstrates total family income not exceeding two hundred percent (200%) of the applicable federal poverty guideline, according to standards set by the SEAA and measured using data elements available to the SEAA from the Free Application for Federal Student Aid (FAFSA) or such other source as the SEAA may deem appropriate.
- (5) The student must meet all other eligibility requirements for the federal Pell Grant.
- (6) In order to retain eligibility for a grant for the student's second academic year, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for Title IV programs by the eligible postsecondary institution in which the student is enrolled.
- (7) The student may not receive a grant in an amount that, when combined with the federal Pell Grant, exceeds the student's cost of attendance as defined under Title IV.
- (8) The student may not receive a grant under this section for more than the equivalent of two academic years.

(d) The maximum grant for which a student is eligible under this section shall be four thousand dollars (\$4,000) per academic year. In the event there are not sufficient funds to provide each eligible student with the maximum grant, it is the intent of the General Assembly that eligible students who have matriculated into an eligible postsecondary institution in North Carolina with at least one academic year of college credit receive the maximum grant amount and all other eligible students shall receive a reduced grant amount.

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

(f) The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by December 1, 2009, and by each December 1 thereafter, regarding the Fund and grants awarded from the Fund.

(g) Grant funds unexpended shall remain available to the SEAA for future grants to be awarded under this section."

**SECTION 9.7.(b)** There is appropriated from the General Fund to the State Education Assistance Authority the sum of twenty-seven million six hundred five thousand two hundred ten dollars (\$27,605,210) for the 2007-2008 fiscal year and the sum of sixty million dollars (\$60,000,000) for the 2008-2009 fiscal year.

**SECTION 9.7.(c)** There is appropriated from the Escheat Fund to the State Education Assistance Authority the sum of forty million dollars (\$40,000,000) for the 2008-2009 fiscal year. Notwithstanding any other provision of law, no funds shall be used from the Escheat Fund until all monies from the General Fund appropriated under Section 9.7(c) have been exhausted.

**SECTION 9.7.(d)** The Director of the Budget shall include the amount necessary to fully fund the EARN grants for all eligible students in the 2009-2011 continuation budget.

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

**SECTION 9.8.(a)** Notwithstanding G.S. 143C-6-4, for the 2007-2008 fiscal year, the General Administration of The University of North Carolina and the State Educational Assistance Authority shall, with the approval of the Office of State Budget and Management, reorganize budget code 16012, UNC Board of Governors Related Educational Programs, so that the budget reflects and segregates each specific program individually. The Office of State Budget and Management shall work with the University of North Carolina General Administration and the State Educational Assistance Authority to ensure that each program represented in code 16012 is identified and budgeted separately.

**SECTION 9.8.(b)** The University of North Carolina General Administration shall report the new budget structure for budget code 16012, as approved by the Office of State Budget and Management, to the Fiscal Research Division of the General Assembly no later than March 31, 2008.

**FUTURE TEACHERS OF NC SCHOLARSHIP LOAN PROGRAM**

**SECTION 9.9.** G.S. 116-209.38(a) reads as rewritten:

"(a) There is established the Future Teachers of North Carolina Scholarship Loan Fund. The purpose of the Fund is to provide a two-year scholarship loan of six thousand five hundred dollars (\$6,500) per year for any North Carolina student pursuing a college degree to teach in the public schools of the State. The scholarship loan shall be paid only for the student's junior and senior years. The scholarship loan is available if the student is enrolled in a State institution of higher education or a private institution of higher education located in this State that has an accredited teacher preparation program for students planning to become certified teachers in North Carolina. The State Education Assistance Authority shall administer the Fund and shall award ~~400-150~~ scholarship loans annually."

**PRINCIPALS' EXECUTIVE PROGRAM**

**SECTION 9.10.(a)** The operating budget of the Principals' Executive Program (PEP) is appropriated on a nonrecurring basis for the 2007-2009 fiscal biennium until the General Assembly receives data showing the program has a positive, measurable impact on conditions for teaching and learning in schools.

**SECTION 9.10.(b)** The Principals' Executive Program shall develop a formalized admissions policy that does all of the following:

- (1) Gives priority to school administrators working in high-need schools so that State resources are targeted to those who most need support.
- (2) Takes into account geographic diversity to ensure that school administrators statewide are served. If more school administrators seek admission than slots are available, the Principals' Executive Program shall retain those names and offer priority admission to those on the waiting list for the next class. The Principals' Executive Program shall also use these waiting lists to assess demand and determine how best to allocate resources among the various executive training courses.

**SECTION 9.10.(c)** The State Board of Education and the Board of Governors of The University of North Carolina shall recommend to the Joint Legislative Education Oversight Committee a plan to provide input on the Principals' Executive Program's priorities and feedback on its performance. This plan shall be presented no later than April 1, 2008.

**REPEAL NORTH CAROLINA PROGRESS BOARD**

**SECTION 9.11.** Part 2A of Article 9 of Chapter 143B of the General Statutes is repealed.

## **REVERT MOTORSPORTS CAPITAL ACCOUNT**

**SECTION 9.12.** Effective June 30, 2007, the unencumbered balance of the funds appropriated to the NC Motor Sports Testing and Research Complex in Section 32.1 of S.L. 2004-124, as amended by Section 3 of S.L. 2004-184, shall revert to the General Fund.

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

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

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

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

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

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

(c) Student or Licensure Student Change of Status; Audits. – Except as provided in subsection (a1) of this section, in In the event a full-time student on whose behalf a grant has been paid in accordance with subsection (a) of this section or a full-time licensure student on whose behalf a grant has been paid in accordance with subsection (a1) of this section is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If a part-time student on whose behalf a prorated grant has been paid in accordance with subsection (a) of this section or a part-time licensure student on whose behalf a prorated grant has been paid in accordance with subsection (a1) of this section is not enrolled and carrying a minimum academic load of nine credit hours per semester in the undergraduate class as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. If the matriculated status of a full-time student or a full-time licensure student changes to a matriculated status of

part-time student or part-time licensure student by the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund only the difference between the amount of the full-time grant awarded and the amount of the part-time grant that is awarded pursuant to this section. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and licensure students and credited grants paid on behalf of them.

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

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

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

**SECTION 9.13.(b)** G.S. 116-43.5 reads as rewritten:

**"§ 116-43.5. State grants to aid eligible students attending certain private institutions of higher education; administrative procedure.**

(a) Definitions. – The following definitions apply in this section:

- (1) "Institution" means a nonprofit educational institution with a main permanent campus located in this State that satisfies all of the following:
  - a. Is not owned or operated by the State of North Carolina or by an agency or political subdivision of the State or by any combination thereof.
  - b. Is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association.
  - c. Awards a postsecondary degree as defined in G.S. 116-15.
  - d. Its students are not eligible for a similar State grant under another State program.
- (1a) "Licensure student" means a person who:
  - a. Has a bachelor's degree;
  - b. Is enrolled either full-time or less than full-time in a program intended to result in licensure in teaching or nursing;
  - c. Attends an institution located in the State; and
  - d. Qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board.
- (2) "Main permanent campus" means a campus that is owned by the institution that provides permanent on-premises housing, food services, and classrooms with full-time faculty members and administration that engage in postsecondary degree activity as defined in G.S. 116-15.
- (3) "Student" means a person enrolled in and attending an institution located in the State (i) who qualifies as a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board, and (ii) who has not received a bachelors degree, or qualified therefore, and who is otherwise classified as an undergraduate under such regulations

as the Board of Governors of The University of North Carolina may promulgate. Qualification for in-State tuition under G.S. 116-143.3 makes a person a "student" as defined in this subdivision.

(b) Eligibility.Eligibility of Students. – A student is eligible for a State grant under this section for an academic year if the student is a full time North Carolina undergraduate student attending an institution as defined by this section and is not eligible for a similar State grant under another State program for the same academic year. A full-time North Carolina undergraduate student shall be eligible for the full amount of the State grant provided by this section. A part-time North Carolina undergraduate student who is enrolled to take at least nine hours of academic credit per semester shall be eligible for a State grant under this section calculated on a pro rata basis.

(b1) Eligibility of Licensure Students. – Each full-time licensure student who is enrolled in a program intended to result in a license in teaching or nursing shall also be eligible for the State grant provided by this section. The State grant provided by this section shall be paid on a pro rata basis to any part-time licensure student who is enrolled to take at least nine hours of undergraduate academic credit per semester in a program intended to result in a license in teaching or nursing at an approved institution. The State grant and prorated State grant authorized under this subsection shall be paid for undergraduate courses only. If a course is required for licensure, but is designated as both an undergraduate and graduate course, for purposes of this subsection, the course shall be considered an undergraduate course.

(c) Administration. – The State grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall pay the State grant to each student eligible under this section. The amount of the grant shall be determined by the General Assembly. The State grant shall be paid to a student only after the student completes the academic year. The grant shall be paid directly to the student on or after July 1 following the completion of the academic year. The State Education Assistance Authority shall not remit any grant until it receives proper certification from an institution that the student applying for the grant is an eligible student.

(d) Shortfall. – In the event there are not sufficient funds to provide each eligible student with a full grant:grant or prorated grant:

- (1) Each eligible full-time student or full-time licensure student eligible for a full grant under this section shall receive a pro rata share of funds for the full grant then available for the appropriate academic year within the fiscal period covered by the current appropriation.
- (2) Each part-time student or part-time licensure student eligible for a prorated grant under this section shall receive a pro rata share of the funds for the prorated grant then available for the appropriate academic year within the fiscal period covered by the current appropriation.

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

(f) Reduction of Grant Amount for Certain Students. – A State grant authorized by this act shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours.

(f1) Student and Licensure Student Enrollment Documented. – The State Education Assistance Authority shall document the number of full-time equivalent and part-time North Carolina undergraduate students and the number of licensure students that are enrolled in private institutions and the State funds collected by students and licensure students at each institution under this section. The State Education Assistance Authority shall report those findings to the Secretary of Administration, the House and Senate Appropriations Subcommittees on Education, and the Joint Legislative Education Oversight Committee.

(g) Limitation on Expenditures. — The State grant shall not be used for any student who:

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

## **UNC ITEMIZED BUDGET REQUEST FOR 2009-2011 FISCAL BIENNIIUM**

**SECTION 9.16.(a)** For the 2009-2010 fiscal year and for the 2010-2011 fiscal year, the Board of Governors of The University of North Carolina shall submit an itemized budget request to the Director of the Budget for each of the constituent institutions, affiliated entities, and General Administration. The request shall contain the following information:

- (1) A description of State-funded activities and a justification for the existence of each activity as aligned with the mission of The University of North Carolina.
- (2) An itemized account of expenditures by personnel and nonpersonnel costs required to maintain the activity at the current level of service.
- (3) An itemized account of progress made toward implementation of recommendations of the President's Advisory Committee on Efficiency and Effectiveness (PACE) and additional recommendations proposed and implemented by the chancellors of the constituent institutions.
- (4) An itemized account of actual PACE cost savings and cost avoidance and the uses of the repurposed funds.
- (5) A request for total required expenditures for the 2009-2010 fiscal year and for the 2010-2011 fiscal year showing increases and decreases that are properly and correctly aligned to reflect how the funds are to be expended for each activity.

**SECTION 9.16.(b)** The requirements of this section are in addition to those imposed by Chapter 143C of the General Statutes and G.S. 116-11.

## **ESTABLISH THE JOHN B. MCLENDON LEADERSHIP AWARDS**

**SECTION 9.18.(a)** Chapter 116 of the General Statutes is amended by adding a new section to read:

### **§ 116-209.40. John B. McLendon Scholarship Fund.**

(a) Fund Established. — The John B. McLendon Scholarship Fund is established as a special fund. The Fund shall be administered by the State Education Assistance Authority.

(b) Fund Earnings, Assets, and Balances. — Interest on the Fund shall be credited to the assets of the Fund and shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year.

(c) Fund Purpose. — The interest from the Fund shall be used to provide two leadership scholarships, one for a male athlete student and one for a female athlete student, at each of North Carolina's Historically Black Colleges and Universities that are accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association, except that Bennett College shall receive funding for two leadership scholarships for two female athlete students. The scholarships shall be awarded on an annual basis pursuant to this section. The amount of each scholarship shall be one thousand two hundred fifty dollars (\$1,250) per academic year.

(d) Eligibility Requirements for a Scholarship. — To be eligible to receive a scholarship under this section, a student must meet all of the following requirements:

- (1) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an Historically Black College or University that is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association.
- (2) The student must be an athlete participating on a varsity team at the college or university.
- (3) The student must demonstrate outstanding leadership qualities, be involved in the college or university community, and maintain high academic standards.
- (4) The student must be designated as a recipient for the scholarship by the college or university at which the student has matriculated status.

(e) College or University Recommendations for Scholarship Recipients. – The Chancellor or President, as appropriate, and the Board of Trustees of each Historically Black College or University may designate students as recipients of the John B. McLendon Scholarships under this section.

(f) Rule-Making Authority. – The State Education Assistance Authority may adopt rules to administer this Fund.

(g) Reporting Requirement. – The State Education Assistance Authority shall report no later than June 1, 2008, and annually thereafter to the Joint Legislative Education Oversight Committee regarding the scholarships awarded pursuant to this section."

**SECTION 9.18.(b)** Of the funds appropriated by this act to the State Education Assistance Authority for the 2007-2008 fiscal year the sum of five hundred thousand dollars (\$500,000) shall be allocated to the John B. McLendon Scholarship Fund established by G.S. 116-209.40, as enacted by subsection (a) of this section.

**SECTION 9.18.(c)** This section becomes effective July 1, 2007; however, no scholarship shall be awarded under this section prior to the academic year of 2008-2009.

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

### **PHYSICIAN SERVICES**

**SECTION 10.1.** With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

### **LIABILITY INSURANCE**

**SECTION 10.2.(a)** The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall

cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

**SECTION 10.2.(b)** The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

**SECTION 10.2.(c)** The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

#### **FUNDS FOR JIM "CATFISH" HUNTER CHAPTER OF THE ALS ASSOCIATION**

**SECTION 10.3.** Funds appropriated in this act for the Jim "Catfish" Hunter Chapter of the ALS Association shall be expended only for services provided within North Carolina.

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

**SECTION 10.4.** Subject to rules adopted by the State Controller, an employee of the Department of Health and Human Services may authorize, in writing, the periodic deduction from the employee's salary or wages for employment by the State, a designated lump sum to be paid to satisfy the cost of services received for child care provided by the Department.

#### **NON-MEDICAID REIMBURSEMENT CHANGES**

**SECTION 10.5.** Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

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

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

DSB Medical Eye Care	125% FPL
DSB Independent Living <55	125% FPL
DSB Independent Living 55>	200% FPL
DSB Vocational Rehabilitation	125% FPL

DVR Independent Living	125% FPL
DVR Vocational Rehabilitation	125% FPL

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> (% of poverty)	<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.

## COMMUNITY HEALTH CENTER CHANGES

**SECTION 10.6.(a)** Of the funds appropriated in this act for Community Health Grants, the sum of two million dollars (\$2,000,000) in recurring funds and the sum of five million dollars (\$5,000,000) in nonrecurring funds for the 2007-2008 fiscal year, and the sum of two million dollars (\$2,000,000) for the 2008-2009 fiscal year shall be allocated to federally qualified health centers and those health centers that meet the criteria for federally qualified health centers, State-designated rural health centers, free clinics, public health departments, school-based health centers, and other nonprofit organizations that provide primary and preventative medical services to uninsured or medically indigent patients to:

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

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

**SECTION 10.6.(a1)** Notwithstanding subsection (a) of this section, of the funds allocated in this section for the 2007-2008 fiscal year, the sum of three hundred

seventy-five thousand dollars (\$375,000) shall be used to provide a cost of operations increase to eligible school-based and school-linked adolescent health centers.

**SECTION 10.6.(b)** The Office shall work with the North Carolina Community Health Center Association (hereafter "NCCHCA") and the North Carolina Public Health Association (hereafter "NCPHA") to establish an advisory committee to develop an objective and equitable process for awarding grant funds. The Office shall also develop auditing and accountability procedures. Not more than one percent (1%) of the funds appropriated in this section may be used to reimburse the Office for administering the grant program in collaboration with the NCCHCA and the NCPHA.

**SECTION 10.6.(c)** Recipients of grant funds shall provide to the Office annually a written report detailing the number of additional uninsured and medically indigent patients that are cared for, the types of services that were provided, and any other information requested by the Office as necessary for evaluating the success of the grant program.

**SECTION 10.6.(d)** The Office shall work with the NCCHCA and NCPHA to study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to serve more of the State's uninsured and indigent population. The Office shall submit the report to the 2008 Regular Session of the 2007 General Assembly upon its convening.

## **FUNDS TO ASSIST RURAL HOSPITALS**

**SECTION 10.7.** Of the funds appropriated in this act to the Department of Health and Human Services, Office of Rural Health and Community Care, the sum of two million dollars (\$2,000,000) for the 2007-2008 fiscal year shall be allocated to small rural hospitals in need of assistance with the operations and infrastructure maintenance of the hospital. These funds may be used for:

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

The Office of Rural Health and Community Care shall report on the allocation of funds appropriated under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2008.

## **TRANSFER SHIIP FUNDS TO DEPARTMENT OF INSURANCE**

**SECTION 10.8.** Of the funds appropriated in this act to the Department of Health and Human Services, Office of Rural Health and Community Care, the sum of two hundred fifty thousand dollars (\$250,000) for the 2007-2008 fiscal year shall be transferred to the Department of Insurance. These funds shall be allocated by the Department of Insurance to the Seniors Health Insurance Information Program (SHIIP) to provide additional resources for community-based outreach and enrollment efforts to assist seniors in enrollment in the NCRx Program and Medicare Part D.

**COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION, HEALTH AND HUMAN SERVICES, JUVENILE JUSTICE AND DELINQUENCY PREVENTION, AND PUBLIC INSTRUCTION ON SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

**SECTION 10.9.(a) School-Based Child and Family Team Initiative established. –**

(1) Purpose and duties. – There is established the School-Based Child and Family Team Initiative. The purpose of the Initiative is to identify and coordinate appropriate community services and supports for children at risk of school failure or out-of-home placement in order to address the physical, social, legal, emotional, and developmental factors that affect academic performance. The Department of Health and Human Services, the Department of Public Instruction, the State Board of Education, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and other State agencies that provide services for children shall share responsibility and accountability to improve outcomes for these children and their families. The Initiative shall be based on the following principles:

- a. The development of a strong infrastructure of interagency collaboration;
- b. One child, one team, one plan;
- c. Individualized strengths-based care;
- d. Accountability;
- e. Cultural competence;
- f. Children at risk of school failure or out-of-home placement may enter the system through any participating agency;
- g. Services shall be specified, delivered, and monitored through a unified Child and Family Plan that is outcome-oriented and evaluation-based;
- h. Services shall be the most efficient in terms of cost and effectiveness and shall be delivered in the most natural settings possible;
- i. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community; and
- j. Families and consumers shall be involved in decision making throughout service planning, delivery, and monitoring.

(2) Program goals and services. – In order to ensure that children receiving services are appropriately served, the affected State and local agencies shall:

- a. Increase capacity in the school setting to address the academic, health, mental health, social, and legal needs of children.
- b. Ensure that children receiving services are screened initially to identify needs and assessed periodically to determine progress and sustained improvement in educational, health, safety, behavioral, and social outcomes.
- c. Develop uniform screening mechanisms and a set of outcomes that are shared across affected agencies to measure children's progress in home, school, and community settings.
- d. Promote practices that are known to be effective based upon research or national best practice standards.
- e. Review services provided across affected State agencies to ensure that children's needs are met.

- f. Eliminate cost shifting and facilitate cost-sharing among governmental agencies with respect to service development, service delivery, and monitoring for participating children and their families.
- g. Participate in a local memorandum of agreement signed annually by the participating superintendent of the local LEA, directors of the county departments of social services and health, director of the local management entity, the chief district court judge, and the chief district court counselor.

(3) Local level responsibilities. – In coordination with the North Carolina Child and Family Leadership Council (Council), the local board of education shall establish the School-Based Child and Family Team Initiative (Initiative) at designated schools and shall appoint the Child and Family Team Leaders who shall be a school nurse and a school social worker. Each local management entity that has any selected schools in its catchment area shall appoint a Care Coordinator, and any department of social services that has a selected school in its catchment area shall appoint a Child and Family Teams Facilitator. The Care Coordinators and Child and Family Team Facilitators shall have as their sole responsibility working with the selected schools in their catchment areas and shall provide training to school-based personnel, as required. The Child and Family Team Leaders shall identify and screen children who are potentially at risk of academic failure or out-of-home placement due to physical, social, legal, emotional, or developmental factors. Based on the screening results, responsibility for developing, convening, and implementing the Child and Family Team Initiative is as follows:

- a. School personnel shall take the lead role for those children and their families whose primary unmet needs are related to academic achievement.
- b. The local management entity shall take the lead role for those children and their families whose primary unmet needs are related to mental health, substance abuse, or developmental disabilities and who meet the criteria for the target population established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- c. The local department of public health shall take the lead role for those children and their families whose primary unmet needs are health-related.
- d. Local departments of social services shall take the lead for those children and their families whose primary unmet needs are related to child welfare, abuse, or neglect.
- e. The chief district court counselor shall take the lead for those children and their families whose primary unmet needs are related to juvenile justice issues.

A representative from each named or otherwise identified publicly supported children's agency shall participate as a member of the Team as needed. Team members shall coordinate, monitor, and assure the successful implementation of a unified Child and Family Plan.

(4) Reporting requirements. – School-Based Child and Family Team Leaders shall provide data to the Council for inclusion in their report to the North Carolina General Assembly. The report shall include the following:

- a. The number of and other demographic information on children screened and assigned to a team and a description of the services needed by and provided to these children;
- b. The number of and information about children assigned to a team who are placed in programs or facilities outside the child's home or outside the child's county and the average length of stay in residential treatment;
- c. The amount and source of funds expended to implement the Initiative;
- d. Information on how families and consumers are involved in decision making throughout service planning, delivery, and monitoring;
- e. Other information as required by the Council to evaluate success in local programs and ensure appropriate outcomes; and
- f. Recommendations on needed improvements.

(5) Local advisory committee. – In each county with a participating school, the superintendent of the local LEA shall either identify an existing cross agency collaborative or council, or shall form a new group, to serve as a local advisory committee to work with the Initiative. Newly formed committees shall be chaired by the superintendent and one other member of the committee to be elected by the committee. The local advisory committee shall include the directors of the county departments of social services and health, the directors of the local management entity, the chief district court judge, the chief district court counselor, the director of a school-based or school-linked health center if a center is located within the catchment area of the School-Based Child and Family Team Initiative, and representatives of other agencies providing services to children, as designated by the Committee. The members of the Committee shall meet as needed to monitor and support the successful implementation of the School-Based Child and Family Team Initiative.

The Local Child and Family Team Advisory Committee may designate existing cross agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

**SECTION 10.9.(b) North Carolina Child and Family Leadership Council.** –

- (1) Leadership Council established; location. – There is established the North Carolina Child and Family Leadership Council (Council). The Council shall be located within the Department of Administration for organizational and budgetary purposes.
- (2) Purpose. – The purpose of the Council is to review and advise the Governor in the development of the School-Based Child and Family Team Initiative and to ensure the active participation and collaboration in the Initiative by all State agencies and their local counterparts providing services to children in participating counties in order to increase the academic success and reduce out-of-home and out-of-county placements of children at risk of academic failure.
- (3) Membership. – The Superintendent of Public Instruction and the Secretary of Health and Human Services shall serve as cochairs of the Council. Council membership shall include the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Chairman of the State Board of Education, the Director of the Administrative Office of the Courts, and other members as appointed by the Governor.
- (4) The Council shall:

- a. Sign an annual memorandum of agreement (MOA) among the named State agencies to define the purposes of the program and to ensure that program goals are accomplished.
- b. Resolve State policy issues, as identified at the local level, which interfere with effective implementation of the School-Based Child and Family Team Initiative.
- c. Direct the integration of resources, as needed, to meet goals and ensure that the Initiative promotes the most effective and efficient use of resources and eliminates duplication of effort.
- d. Establish criteria for defining success in local programs and ensure appropriate outcomes.
- e. Develop an evaluation process, based on expected outcomes, to ensure the goals and objectives of this Initiative are achieved.
- f. Review progress made on integrating policies and resources across State agencies, reaching expected outcomes, and accomplishing other goals.
- g. Report semiannually, on January 1 and July 1, on progress made and goals achieved to the Office of the Governor, the Joint Appropriations Committees and Subcommittees on Education, Justice and Public Safety, and Health and Human Services, and the Fiscal Research Division of the Legislative Services Office.

The Council may designate existing cross agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

**SECTION 10.9.(c)** Department of Health and Human Services. – The Secretary of the Department of Health and Human Services shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

**SECTION 10.9.(d)** Department of Juvenile Justice and Delinquency Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency Prevention shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

**SECTION 10.9.(e)** Administrative Office of the Courts. – The Director of the Administrative Office of the Courts shall ensure that the Office collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

**SECTION 10.9.(f)** Department of Public Instruction. – The Superintendent of Public Instruction shall ensure that the Department collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

## **COMPREHENSIVE TREATMENT SERVICES PROGRAM/ESTABLISHMENT OF TASK FORCE ON THE COORDINATION OF CHILDREN'S SERVICES**

**SECTION 10.10.(a)** The Department of Health and Human Services shall continue the Comprehensive Treatment Services Program for children at risk for institutionalization or other out-of-home placement. The Program shall be implemented by the Department in consultation with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected State agencies. The purpose of the Program is to provide appropriate and medically necessary nonresidential and residential treatment alternatives for children at risk of institutionalization or other out-of-home placement. Program funds shall be targeted for non-Medicaid eligible children. Program funds may also be used to expand a

system-of-care approach for services to children and their families statewide. The program shall include the following:

- (1) Behavioral health screening for all children at risk of institutionalization or other out-of-home placement.
- (2) Appropriate and medically necessary nonresidential and residential services for children within the child mental health deaf and hard of hearing target population.
- (3) Appropriate and medically necessary nonresidential and residential treatment services, including placements for sexually aggressive youth.
- (4) Appropriate and medically necessary nonresidential and residential treatment services, including placements for youth needing substance abuse treatment services and children with serious emotional disturbances.
- (5) Multidisciplinary case management services, as needed.
- (6) A system of utilization review specific to the nature and design of the Program.
- (7) Mechanisms to ensure that children are not placed in department of social services custody for the purpose of obtaining mental health residential treatment services.
- (8) Mechanisms to maximize current State and local funds and to expand use of Medicaid funds to accomplish the intent of this Program.
- (9) Other appropriate components to accomplish the Program's purpose.
- (10) The Secretary of the Department of Health and Human Services may enter into contracts with residential service providers.
- (11) A system of identifying and tracking children placed outside of the family unit in group homes, therapeutic foster care home settings, and other out-of-home placements.
- (12) The development of a strong infrastructure of interagency collaboration.
- (13) Individualized strengths-based care.

**SECTION 10.10.(b)** In order to ensure that children at risk for institutionalization or other out-of-home placement are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these children:

- (1) Provide only those treatment services that are medically necessary.
- (2) Implement utilization review of services provided.
- (3) Adopt the following guiding principles for the provision of services:
  - a. Service delivery system must be outcome-oriented and evaluation-based.
  - b. Services should be delivered as close as possible to the child's home.
  - c. Services selected should be those that are most efficient in terms of cost and effectiveness.
  - d. Services should not be provided solely for the convenience of the provider or the client.
  - e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
  - f. Services shall be specified, delivered, and monitored through a unified Child and Family Plan incorporating the principles of one-child-one-team-one-plan.
  - g. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable, permanent home, their schools, and their community.

- (4) Implement all of the following cost-reduction strategies:
  - a. Preauthorization for all services except emergency services.
  - b. Levels of care to assist in the development of treatment plans.
  - c. Clinically appropriate services.

**SECTION 10.10.(c)** The Department shall collaborate with other affected State agencies such as the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, the Administrative Office of the Courts, and with local departments of social services, area mental health programs, and local education agencies to eliminate cost shifting and facilitate cost-sharing among these governmental agencies with respect to the treatment and placement services.

**SECTION 10.10.(d)** The Department shall not allocate funds appropriated for Program services until a Memorandum of Agreement has been executed between the Department of Health and Human Services, the Department of Public Instruction, and other affected State agencies. The Memorandum of Agreement shall address specifically the roles and responsibilities of the various departmental divisions and affected State agencies involved in the administration, financing, care, and placement of children at risk of institutionalization or other out-of-home placement. The Department shall not allocate funds appropriated in this act for the Program until the Memoranda of Agreement between local departments of social services, area mental health programs, local education agencies, the Administrative Office of the Courts, and the Department of Juvenile Justice and Delinquency Prevention, as appropriate, are executed to effectuate the purpose of the Program. The Memoranda of Agreement shall address issues pertinent to local implementation of the Program, including provision for the immediate availability of student records to a local school administrative unit receiving a child placed in a residential setting outside the child's home county.

**SECTION 10.10.(e)** Notwithstanding any other provision of law to the contrary, services under the Comprehensive Treatment Services Program are not an entitlement for non-Medicaid eligible children served by the Program.

**SECTION 10.10.(f)** Of the funds appropriated in this act for the Comprehensive Treatment Services Program, the Department of Health and Human Services shall establish a reserve of three percent (3%) to ensure availability of these funds to address specialized needs for children with unique or highly complex problems.

**SECTION 10.10.(g)** The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected agencies, shall report on the following Program information:

- (1) The number and other demographic information of children served.
- (2) The amount and source of funds expended to implement the Program.
- (3) Information regarding the number of children screened, specific placement of children, including the placement of children in programs or facilities outside of the child's home county, and treatment needs of children served.
- (4) The average length of stay in residential treatment, transition, and return to home.
- (5) The number of children diverted from institutions or other out-of-home placements such as training schools and State psychiatric hospitals and a description of the services provided.
- (6) Recommendations on other areas of the Program that need to be improved.
- (7) Other information relevant to successful implementation of the Program.

**SECTION 10.10.(h)** The Department shall report on the following Program funding information:

- (1) The amount of Program funding allocated and expended by each LME.

- (2) The amount of Program funds each LME transferred out of the Program to serve purposes other than those outlined by this Program and an explanation of why LMEs transferred the funding.
- (3) Recommendations to improve the penetration rate of Program funds to serve the intended populations across the State.

**SECTION 10.10.(i)** Article 24 of Chapter 120 of the General Statutes reads as rewritten:

"Article 24.

"The Legislative Study Commission on Children and Youth.

**"§ 120-215. Commission created; purpose.**

There is created the Legislative Study Commission on Children and Youth. The purpose of the Commission is to study and evaluate the system of delivery of services to children and youth and to make recommendations to improve service delivery to meet present and future needs of the children and youth of this State. This study shall be a continuing one and the evaluation ongoing.

**"§ 120-216. Commission duties.**

The Commission shall have the following duties:

- (1) Study the needs of children and youth. This study shall include, but is not limited to:
  - a. Determining the adequacy and appropriateness of services:
    - 1. To children and youth receiving child welfare services;
    - 2. To children and youth in the juvenile court system; ~~and~~
    - 3. Provided by the Division of Social Services and the Department of Juvenile Justice and Delinquency Prevention.
    - 4. To children and youth served by the Mental Health, Developmental Disabilities, and Substance Abuse Services system.
  - b. Developing methods for identifying and providing services to children and youth not receiving but in need of child welfare services, children and youth at risk of entering the juvenile court system, and children and youth exposed to domestic violence situations.
  - c. Developing strategies for addressing the issues of school dropout, teen suicide, and adolescent pregnancy.
  - d. Identifying and evaluating the impact on children and youth of other economic and environmental issues.
  - e. Identifying obstacles to ensuring that children who are in secure or nonsecure custody are placed in safe and permanent homes within a reasonable period of time and recommending strategies for overcoming those obstacles. The Commission shall consider what, if anything, can be done to expedite the adjudication and appeal of abuse and neglect charges against parents so that decisions may be made about the safe and permanent placement of their children as quickly as possible.
- (2) Evaluate problems associated with juveniles who are beyond the disciplinary control of their parents, including juveniles who are runaways, and develop solutions for addressing the problems of those juveniles.
- (3) Identify strategies for the development and funding of a comprehensive statewide database relating to children and youth to facilitate State agency planning for delivery of services to children and youth.
- (4) Conduct any other studies, evaluations, or assessments necessary for the Commission to carry out its purpose.

**"§ 120-217. Commission membership; terms; compensation.**

(a) The Commission shall consist of 25-26 members, as follows:

(1) Eleven members appointed by the Speaker of the House of Representatives, among them:

- a. ~~Four-Five~~ shall be members of the House of Representatives at the time of their appointment, of whom at least one shall also serve on the House of Representatives Appropriations Subcommittee on Health and Human Services, one of whom also serves on the Joint Legislative Education Oversight Committee, one of whom also serves on the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and one of whom also serves on the House of Representatives Appropriations Subcommittee on Justice and Public Safety,
- b. One shall be the director of a local health department,
- c. One shall be the director of a county department of social services,
- d. ~~One shall be a representative of the general public who has knowledge of issues relating to children and youth, the parent of a child who is at risk for behavioral, social, health, or safety problems or academic failure,~~
- e. One shall be a licensed physician who is knowledgeable about the health needs of children and youth, and
- f. One shall be a chief district court judge recommended by the Council of Chief District ~~Judges~~Judges, and
- g. One shall be a representative from the Covenant with North Carolina Children.

(2) Eleven members appointed by the President Pro Tempore of the Senate, as follows:

- a. ~~Four-Five~~ shall be members of the Senate at the time of their appointment, of whom at least one shall also serve on the Senate Appropriations Committee on Health and Human Services, at least one of whom shall also serve on the Joint Legislative Education Oversight Committee, at least one of whom shall also serve on the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and at least one of whom also serves on the Senate Appropriations Committee on Justice and Public Safety,
- b. One shall be the director of a mental health area authority,
- c. One shall be a representative of the Association of County Commissioners,
- d. ~~One shall be a representative of the general public who has knowledge of issues relating to children and youth, a local board of education,~~
- e. One shall be a licensed attorney whose practice includes the representation of parents accused of criminal or civil abuse or neglect, and
- f. One shall be a chief district court judge recommended by the Council of Chief District ~~Judges~~Judges,
- g. ~~One shall be a representative from the North Carolina Child Advocacy Institute, Action for Children of North Carolina, and~~
- h. One shall be a representative from the North Carolina Child Fatality Task Force.

(3) The following shall serve ex officio as nonvoting members of the Commission:

- a. The Secretary of Health and Human Services, or the Secretary's designee,
- b. The State Superintendent of Public Instruction, or the Superintendent's designee,
- c. The Secretary of Administration, or the Secretary's designee, and
- d. The Director of the Administrative Office of the Courts, or the Director's designee.

(b) Any vacancy shall be filled by the appointing authority who made the initial appointment and by a person having the same qualification. Members' terms shall last for two years. Members may be reappointed for two consecutive terms and may be appointed again after having been off the Commission for two years.

(c) Commission members shall receive no salary as a result of serving on the Commission and the Task Force on the Coordination of Children's Services but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

**"§ 120-218. Commission meetings; public hearings; staff.**

(a) The Commission shall hold its initial meeting at the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Subsequent meetings shall be held upon the call of the Commission cochairs. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint a cochair each from the membership of the Commission.

(b) The Commission may hold public hearings across the State to solicit public input with respect to issues relating to children and youth.

(c) The Commission may contract for clerical or professional staff or for any other services it may require in the course of its ongoing study. At the request of the Commission, the Legislative Services Commission may supply members of the staff of the Legislative Services Office and clerical assistance to the Commission as the Legislative Services Commission considers appropriate. The Commission and the Task Force on the Coordination of Children's Services may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

**"§ 120-219. Commission reports.**

The Commission shall report to the General Assembly and to the Governor the results of its study and recommendations. A written report shall be submitted to each biennial session of the General Assembly at its convening.

**"§ 120-220. Commission authority.**

The Commission and the Task Force on the Coordination of Children's Services has the authority to obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties, pursuant to G.S. 120-19, as if it were a committee of the General Assembly.

**"§ 120-221. Task Force on the Coordination of Children's Services.**

(a) There is created the Task Force on the Coordination of Children's Services, which shall be a Task Force of the Commission. The following members of the Commission shall serve on the Task Force:

(1) Five of the Commission members appointed by the Speaker of the House of Representatives, as follows:

- a. The Commission member who serves on the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Commission member who is a member of the House of Representatives and who also serves on the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

b. The Commission member who is a local health director,  
c. The Commission member who is the parent of a child at risk for behavioral, social, health, or safety problems or academic failure, and  
d. The Commission member who is the director of a county department of social services.

(2) Five of the Commission members appointed by the President Pro Tempore of the Senate, as follows:

a. The Commission member who is a member of the Senate and serves on the Joint Legislative Education Oversight Committee, and the Commission member who serves on the Senate Appropriations Committee on Justice and Public Safety.  
b. The Commission member who represents a local board of education.  
c. The Commission member who is a representative of Action for Children of North Carolina, and  
d. The Commission member who is the director of an area authority or county program.

(3) One designee of each of the following ex officio Commission members:

a. The Secretary of Health and Human Services,  
b. The Superintendent of Public Instruction, and  
c. The Secretary of Administration.

(4) Each cochair of the Commission shall appoint one of the Task Force members as cochair of the Task Force.

(b) The purpose of the Task Force is to study and recommend changes to the Commission, the Governor, and the General Assembly to improve collaboration and coordination among agencies that provide services to children, youth, and families with multiple service needs. Task Force recommendations shall include mechanisms for establishing clear State leadership, consistent policy direction, and increased accountability at the State and local levels. As part of its work, the Task Force shall:

(1) Identify existing State, regional, and local collaborative bodies (including their charges, scopes of authority, and accountability requirements) that have been created by legislation, administrative rule, or agency policy and that are charged with serving, protecting, or improving the well-being of North Carolina's children, youth, and families. Once it has identified the collaborative bodies, the Task Force shall consider how they could be consolidated, reorganized, or eliminated in order to improve their effectiveness and accountability, increase the likelihood that key players will actively participate, and reduce unnecessary duplication of effort. The Task Force shall also consider the creation of a mechanism for coordination and communication among the State and local collaborative bodies, incentives for collaboration, clarification of roles among agencies, and ways to monitor the extent to which groups are collaborating.

(2) Study the practices of agencies currently implementing a system of care platform of practices and make recommendations regarding whether to adopt those practices statewide and across child-serving agencies as the preferred mechanism for providing services to children, youth, and families. In examining this issue, the Task Force shall identify those State and local agencies that are currently implementing practices that are consistent with a system of care, those states that have implemented a system of care as a statewide policy initiative, and the extent to which a system of care is cost-effective.

(3) The Task Force shall also examine the following principles that are associated with a system of care and determine whether to recommend the adoption of a State policy that reflects these principles:

- a. Services for children should promote success, safety, and permanence.
- b. Services should be child- and family-centered, giving priority to keeping children with their families, in their home, school, and community.
- c. Services should actively promote early identification and intervention.
- d. Services should be designed to protect the rights of children.
- e. Services shall be integrated and comprehensive, addressing the child's physical, educational, social, and emotional needs through a single child and family team.
- f. Services shall be outcomes-accountable and tied to a unified child and family plan.
- g. Agency resources and services shall be shared and coordinated.
- h. Services shall be provided as close to home as appropriate in the least restrictive setting consistent with what is known to be effective.
- i. Services shall be culturally competent.
- j. Services shall address the unique strengths, needs, and potential of each child and family, and shall be sufficiently flexible to meet highly individualized child and family needs.
- k. Management of the child-serving system is a responsibility shared among all public and private child-serving agencies that should be held collectively accountable for outcomes.

(4) In reviewing principles relating to a system of care, the Task Force shall determine whether they articulate goals that are measurable and if not, determine whether they could be modified to reflect measurable goals.

(5) Study any other issues the Task Force determines would improve coordination and collaboration among child-serving agencies.

(c) The Task Force shall report at least annually to the Commission or more frequently at the request of the cochairs of the Commission, and shall also report on April 1 of each year to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division."

**SECTION 10.10.(j)** Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. Professional staff shall be those assigned to subject areas or agencies involving child-serving programs administered by the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and the Department of Public Instruction. Clerical staff shall be furnished to the Task Force through the offices of the House of Representatives and Senate Directors of Legislative Assistants.

**SECTION 10.10.(k)** The Department shall report on April 1, 2008, and April 1, 2009, on the implementation of subsections (a) through (h) of this section. The reports required under this subsection shall be made to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

## **SENIOR CENTER OUTREACH**

**SECTION 10.11.(a)** Funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services, for the 2007-2009 fiscal biennium, shall be used by the Division of Aging and Adult Services to enhance senior center programs as follows:

- (1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

**SECTION 10.11.(b)** Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

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

**SECTION 10.11.(c)** State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

## **QUALITY IMPROVEMENT CONSULTATION PROGRAM FOR ADULT CARE HOMES**

**SECTION 10.12.** The Department's Division of Aging and Adult Services shall develop a Quality Improvement Consultation Program for Adult Care Homes. The purpose of the Program is to promote better care and improve quality of life in a safe environment for residents in adult care homes through consultation and assistance with adult care home providers. The county departments of social services shall be responsible for implementation of the Program with all adult care homes located in the respective county, based on a timetable for statewide implementation.

The Division of Aging and Adult Services shall consult with adult care home providers, county departments of social services, consumer advocates, and other interested stakeholders and parties in the development of the Quality Improvement Consultation Program for Adult Care Homes.

The Program will address the following topics:

- (1) Principles and philosophies that are resident-centered and promote independence, dignity, and choice for residents;
- (2) Approaches to develop continuous quality improvement with a focus on resident satisfaction and optimal outcomes;
- (3) Dissemination of best practice models that have been used successfully elsewhere;
- (4) A determination of the availability of standardized instruments, and their use to the extent possible, to assess and measure adult care home performance according to quality of life indicators;
- (5) Utilization of quality improvement plans for adult care homes that identify and resolve issues that adversely affect quality of care and services to residents. The plans include agreed upon time frames for completion of improvements and identification of needed resources;
- (6) Training required to equip county departments of social services' staff to implement the Program;
- (7) A distinction of roles between the regulatory role of the Department's Division of Health Service Regulation and the quality improvement consultation and monitoring responsibilities of the county departments of social services; and
- (8) Identification of staffing and other resources needed to implement the Program.

The Division of Aging and Adult Services shall conduct a pilot of the Quality Improvement Consultation Program for Adult Care Homes. No more than four county departments of social services shall participate in the pilot. The Division of Aging and Adult Services shall consider geographic balance and size in carrying out the pilot. At the conclusion of the pilot, the Division of Aging and Adult Services shall make recommendations regarding the effectiveness of the Quality Improvement Consultation Program for Adult Care Homes. If the Division recommends expansion of the pilot to other counties or statewide implementation of the Program, its report shall include the cost and a proposed timetable for implementing these recommendations, including the identification of any necessary statutory and administrative rule changes. The recommendations shall be made to the Secretary of the Department of Health and Human Services, the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Subcommittee on Health and Human Services.

#### **STATE-COUNTY SPECIAL ASSISTANCE**

**SECTION 10.13.(a)** The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

**SECTION 10.13.(b)** Effective January 1, 2007, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred forty-eight dollars (\$1,148) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section.

**SECTION 10.13.(c)** Effective October 1, 2007, the maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred seventy-three dollars (\$1,173) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section.

**SECTION 10.13.(d)** The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars (\$1,515) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section.

**SECTION 10.13.(e)** Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State-County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State-County Special Assistance set forth in subsections (b) and (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance and related transfer costs and responsibilities from State-County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS) and prior to implementing this section, the Department may disregard a limited amount of income for individuals whose countable income exceeds the adjusted State-County Special Assistance rate. The amount of the disregard shall not exceed the difference between the Special Assistance

rate prior to the adjustment and the Special Assistance rate after the adjustment and shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid payment for the individual's personal care services provided in an adult care home. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of the services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.13.(f)** Effective July 1, 2007, the Department of Health and Human Services shall recommend rates for State-County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive State-County Special Assistance funds and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

## **SPECIAL ASSISTANCE IN-HOME**

**SECTION 10.14.(a)** Part 3 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

### **"§ 108A-47.1. Special Assistance in-home payments.**

The Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special Assistance for Adults. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be seventy-five percent (75%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State."

**SECTION 10.14.(b)** For State fiscal year 2007-2008, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2006-2007.

## **CHILD CARE SUBSIDY RATES**

**SECTION 10.15.(a)** The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

**SECTION 10.15.(b)** Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

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

**SECTION 10.15.(c)** Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

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

**SECTION 10.15.(d)** Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

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

**SECTION 10.15.(e)** A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

**SECTION 10.15.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

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

**SECTION 10.15.(g)** Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.15.(h)** Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

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

## **CHILD CARE ALLOCATION FORMULA**

**SECTION 10.16.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

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

**SECTION 10.16.(b)** The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

**SECTION 10.16.(c)** Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twelve million dollars (\$12,000,000) in federal block grant funds and State funds appropriated for fiscal years 2007-2008 and 2008-2009 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes, including market rate adjustments, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section.

## **CHILD CARE FUNDS MATCHING REQUIREMENT**

**SECTION 10.17.(a)** No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a fifteen percent (15%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

**SECTION 10.17.(b)** If funds are reallocated to local purchasing agencies in accordance with subsection (a) of this section, the Department of Health and Human Services shall evaluate the fifteen percent (15%) local matching requirement to determine its effect on local purchasing agencies and whether the matching requirement should be adjusted. The Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2008.

## **CHILD CARE REVOLVING LOAN**

**SECTION 10.18.** Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the

Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

## **CHILD CARE MARKET RATE ADJUSTMENTS**

**SECTION 10.18A.** Not later than October 1, 2007, the Department shall implement an adjustment to child care market rates, by region, based upon the 2007 Child Care Market Rate Study. Rate adjustments shall be implemented as follows:

- (1) For three- to five-star child care center-based rates, counties in Region 1 shall receive twenty percent (20%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.
- (2) For three- to five-star child care center-based rates, counties in Regions 2-5 shall receive thirty percent (30%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.
- (3) For three- to five-star child care home-based rates, all counties shall receive ten percent (10%) of the recommended rate adjustment as defined in the 2007 Child Care Market Rate Study.

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

**SECTION 10.19.(a)** Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

**SECTION 10.19.(b)** The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
- (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen thousand dollars (\$15,000), three written quotes.
- (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than forty thousand dollars (\$40,000), a request for proposal process.
- (4) For amounts of forty thousand dollars (\$40,000) or more, a request for proposal process and advertising in a major newspaper.

**SECTION 10.19.(c)** The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina

Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

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

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

**SECTION 10.19.(d)** The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

**SECTION 10.19.(e)** The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2007-2008 and 2008-2009 shall be administered and distributed in the following manner:

- (1) Capital expenditures are prohibited for fiscal years 2007-2008 and 2008-2009. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
- (2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2007-2008 and 2008-2009.

**SECTION 10.19.(f)** A county may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes.

**SECTION 10.19.(g)** For fiscal years 2007-2008 and 2008-2009, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

## **NCPC PERSONNEL RECORD PROTECTION**

**SECTION 10.19B.(a)** G.S. 143B-168.12(a)(2) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

..."

(2) The North Carolina Partnership and the local partnerships shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

...."

**SECTION 10.19B.(b)** G.S. 143B-168.14(a)(2) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

..."

(2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

...."

**EVALUATION OF EDUCATIONAL SERVICES TO STUDENTS WITH HEARING AND VISUAL IMPAIRMENTS**

**SECTION 10.20.(a)** To ensure students with hearing and visual impairments are appropriately educated in this State, the Department of Health and Human Services and the Department of Public Instruction shall:

(1)

Collaborate in an evaluation of the State's entire service delivery model for deaf and blind students, including special needs of the students resulting from additional disabilities other than hearing and visual impairments, the training needs of professional staff, access to assistive technology, and curriculum content.

(2)

Determine whether the State's schools for the deaf and blind should remain under the purview of the Department of Health and Human Services or if management of the schools should be transferred to the Department of Public Instruction.

(3)

Develop a plan to reduce institutional capacity to an appropriate level for meeting the needs of hearing and visually impaired students in North Carolina.

**SECTION 10.20.(b)** The Department of Health and Human Services and the Department of Public Instruction shall report their findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Education/Public Instruction, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division by April 1, 2008.

**EARLY INTERVENTION SERVICES REPORT**

**SECTION 10.21.(a)** The Department of Health and Human Services, Division of Public Health, shall report on Early Intervention services. The report shall include the following information for all children, ages birth to three years, entering the Early Intervention system as of July 1, 2007, through December 31, 2007:

(1)

Children served: the number of children referred and the source of referral, the number of children receiving initial evaluations, the

number of children determined eligible, the number of children enrolled, and the number of IFS Plans developed.

(2) Services provided: the number and types of evaluation services, treatment services, and other services provided and whether the service was provided by an employee of a children's developmental services agency or a private provider.

(3) Sliding scale participation: the percentage of enrolled children whose family income falls into each of the following categories: at or below two hundred percent (200%) of the federal poverty level, between two hundred fifty percent (250%) and three hundred percent (300%) of the federal poverty level, between three hundred fifty percent (350%) and four hundred percent (400%) of the federal poverty level, and over four hundred percent (400%) of the federal poverty level. These percentages shall be reported based on gross income and net income after allowable deductions.

The Division of Public Health shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than February 1, 2008.

**SECTION 10.21.(b)** In order to reduce the amount of State funds appropriated for the Child Development Service Agency program and to increase the amount of receipts collected for the services provided by this program, a portion of the funding for the Child Development Service Agency is designated as a nonrecurring appropriation for the 2007-2008 and the 2008-2009 fiscal years. To achieve the purposes of this action by the General Assembly, the Department of Health and Human Services, Division of Public Health, shall engage in vigorous efforts to collect additional Medicaid and other third-party reimbursements from clients and their families. These efforts are necessary to offset any potential shortfall and may yield additional revenue that could be used to provide increased services to additional children. The Department of Health and Human Services, Division of Public Health, shall report on these efforts and the results to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2008.

#### **COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE**

**SECTION 10.22.(a)** Of funds appropriated in this act from the General Fund to the Department of Health and Human Services, the sum of two million five hundred thousand dollars (\$2,500,000) for the 2007-2008 fiscal year and the sum of two million dollars (\$2,000,000) for the 2008-2009 fiscal year shall be allocated for the Community-Focused Eliminating Health Disparities Initiative (CFEHD) to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants shall focus on the use of preventive measures to support healthy lifestyles. The areas of focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and homicides and motor vehicle deaths.

The five hundred thousand dollars (\$500,000) in nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Health Disparities Initiative in the 2007-2008 fiscal year shall be awarded as a grant-in-aid to honor the memory of the following recently deceased members of the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and William Martin. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who

are African-American, as well as disparities among other minority populations in North Carolina. These efforts shall include:

- (1) Providing enhanced education and outreach to minority populations on the prevention, diagnosis, and treatment of heart disease, breast cancer, diabetes, obesity, hypertension, sickle cell anemia, and HIV infection.
- (2) Addressing cultural and communication barriers to quality care by improving interpersonal processes between clinicians and patients.

The Secretary shall send to each grantee organization a letter stating that the award is made in honor of the memory of and in recognition of the recent deaths of Senators Robert Holloman, Jeanne Lucas, and William Martin and Representatives Bernard Allen, John Hall, and Howard Hunter.

**SECTION 10.22.(b)** The Department of Health and Human Services shall report on the following with respect to funds appropriated to the CFEHDI program in fiscal years 2005-2006, 2006-2007, and 2007-2008. The report shall address for each fiscal year:

- (1) Which community programs and local health departments received CFEHDI grants.
- (2) What amount of funding did each program or local health department receive.
- (3) Which of the minority populations were served by the programs or local health departments.
- (4) Which counties were served by the programs or local health departments.
- (5) What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.

The report shall also contain a comprehensive evaluation of all grantees with regard to fulfilling the goals of the program, assessing the difference the funded activities have made in the community, and addressing and mitigating the health disparities identified in the Racial and Ethnic Health Disparities in North Carolina, Report Card 2006. In addition, the Department shall solicit from the grantees their observations and recommendations on ways the CFEHDI program can best accomplish its goals. The report shall also include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State. The Department shall submit the report not later than March 1, 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

## **FUNDS FROM HEALTH AND WELLNESS TRUST FUND FOR NORTH CAROLINA TOBACCO QUITLINE**

**SECTION 10.22A.** The Health and Wellness Trust Fund Commission may allocate from available Health and Wellness Trust Fund funds in the 2007-2008 fiscal year the sum of up to three hundred thousand dollars (\$300,000) for the North Carolina Tobacco Quitline. These funds shall supplement and not supplant other funds allocated from the Health and Wellness Trust Fund for the 2007-2008 fiscal year for operation of the North Carolina Tobacco Quitline. These funds shall be used by the Department of Health and Human Services, Division of Public Health, to maximize funding from the State alliance project being underwritten by the American Legacy Foundation to promote tobacco-use cessation for adults.

## **FUNDS FOR SCHOOL NURSES**

**SECTION 10.23.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million seven hundred thousand dollars

(\$2,700,000) for the 2007-2008 fiscal year and the sum of three million three hundred thousand dollars (\$3,300,000) for the 2008-2009 fiscal year shall be used for the school nurse initiative. All funds appropriated or allocated for school nurses shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used for funding nurses for State agencies. All funds shall be used for direct services.

**SECTION 10.23.(b)** All school nurses funded with State funds shall participate, as needed, in child and family teams.

### **PUBLIC HEALTH FUNDS TO AID COUNTIES**

**SECTION 10.24.** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of two million dollars (\$2,000,000) for the 2007-2008 fiscal year and the sum of two million dollars (\$2,000,000) for the 2008-2009 fiscal year shall be allocated as noncategorical General Aid to County funds to improve the delivery of the 10 essential public health services, including prevention activities that focus on the prevention of suicide among adolescents and young adults, in all counties. These funds shall not be used to supplant existing State, federal, county, or other funds allocated for this purpose.

### **HEALTH PROMOTION AND DISEASE PREVENTION INVENTORY AND PLAN**

**SECTION 10.25.(a)** In order to reduce costs and eliminate duplication of effort, the Department of Health and Human Services shall create an inventory of all of the health promotion and disease prevention activities, including funding, staffing, and other resources for these activities and also including funding and resources for related task forces and committees. The inventory shall include at a minimum State and local health department activities that address tobacco-use prevention and cessation, obesity, improved nutrition and diet, physical exercise, public awareness and education concerning asthma, cancer, diabetes, heart disease, stroke, and accomplishment of the goals of the federal government's Healthy People 2010 Report.

**SECTION 10.25.(b)** The Department shall adopt a plan to combine the resources for the activities listed in subsection (a) of this section into a single funding stream allocation to be distributed to local health departments to utilize in accomplishing the 10 essential services of public health, which shall encompass all of the activities listed in subsection (a) of this section. The Department shall develop a formula that will distribute these funds on an equitable basis and that takes into consideration the following factors for areas served by each local health department:

- (1) Rate of infant mortality.
- (2) Rate of adolescent pregnancy.
- (3) Rates of cancer, heart disease, and diabetes.
- (4) Number of persons without health insurance.
- (5) Median income.
- (6) Percent of county population enrolled in Medicaid.
- (7) Percent of the population that is minority.

**SECTION 10.25.(c)** The Department shall report on the inventory and the plan not later than February 1, 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

### **FUNDS FOR HEALTH CARE IN HONOR OF THE MEMORY OF SENATOR JEANNE H. LUCAS**

**SECTION 10.25A.** Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the Breast and Cervical Cancer Control Program and the Purchase of Medical Care for Cancer Treatment shall

be allocated from a new fund code established for each of these purposes and allocated as provided in this act and are appropriated to honor the memory of Senator Jeanne H. Lucas.

### **AIDS DRUG ASSISTANCE PROGRAM**

**SECTION 10.26.** For the 2007-2008 fiscal year and the 2008-2009 fiscal year, the Department may adjust the financial eligibility criterion of the ADAP up to an amount not exceeding two hundred fifty percent (250%) of the federal poverty level in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources. If the Department raises the eligibility limit above one hundred twenty-five percent (125%) of the federal poverty level and a waiting list develops as a result, the Department shall give priority on the waiting list to those individuals at or below one hundred twenty-five percent (125%) of the federal poverty level.

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

**SECTION 10.28.(a)** The Department of Health and Human Services shall implement and maintain performance standards for each of the State and county child support enforcement offices across the State. These performance standards shall include the following:

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

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

**SECTION 10.28.(b)** The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1 of each even-numbered year beginning in 2008.

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

**SECTION 10.29.(a)** The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

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

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

**SECTION 10.29.(b)** The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

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

**SECTION 10.29.(c)** In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter

324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

**SECTION 10.29.(d)** The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

- (1) \$800.00 per child per month with indeterminate HIV status;
- (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- (4) \$1,600 per child per month terminally ill with complex care needs.

## **CHILD CARING INSTITUTIONS**

**SECTION 10.30.** Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

## **SPECIAL CHILDREN ADOPTION FUND**

**SECTION 10.31.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one hundred thousand dollars (\$100,000) shall be used to support the Special Children Adoption Fund for the 2007-2008 and 2008-2009 fiscal years. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose income exceeds two hundred percent (200%) of the federal poverty level.

**SECTION 10.31.(b)** Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2008, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

**SECTION 10.31.(c)** The Division of Social Services shall monitor the total expenditures in the Special Children Adoption Fund and redistribute unspent funds to ensure that the funds are used according to the guidelines established in subsection (a) of this section. The Division shall implement strategies to ensure that funds that have historically reverted for this program are used for the intended purpose.

## **LIMITATION ON STATE ABORTION FUND**

**SECTION 10.32.** The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2007-2008 and 2008-2009 fiscal years.

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

**SECTION 10.33.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a

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

**SECTION 10.33.(b)** The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

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

**SECTION 10.33.(c)** The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

**SECTION 10.33.(d)** The Department shall report on the Intensive Family Preservation Services Program, including the information and data under subdivisions (b)(2) through (b)(6) of this section, each even-numbered year beginning in 2008, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

## **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT FUND**

**SECTION 10.34.(a)** There is appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of one million five hundred fifty-three thousand six hundred dollars (\$1,553,600) for the 2007-2008 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2008-2009 fiscal year. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million five hundred fifty-three thousand six hundred dollars (\$1,553,600) for the 2007-2008 fiscal year and the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2008-2009 fiscal year. These funds shall be used to implement a child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087ll. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this subsection, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this subsection; however, under no circumstances shall the Escheat Fund principal be reduced below the sum of four hundred million dollars (\$400,000,000).

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

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

**SECTION 10.34.(b)** There is appropriated from the General Fund to the Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the 2007-2008 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2008-2009 fiscal year to be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

**SECTION 10.34.(c)** There is appropriated from the General Fund to the Department of Health and Human Services the sum of four hundred thousand dollars (\$400,000) for the 2007-2008 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal year to contract with an entity to develop and administer the child welfare postsecondary support program described under subsection (a) of this section, which development and administration shall include the performance of case management services.

**SECTION 10.34.(d)** Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State.

## **TANF BENEFIT IMPLEMENTATION**

**SECTION 10.35.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2007-2009", prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2007, through September 30, 2009. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2007 General Assembly.

**SECTION 10.35.(b)** The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2007-2009 as approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, and Wilson.

**SECTION 10.35.(c)** Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2007 through 2009, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2007. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2007.

## **CLARIFY REVIEW AND SUBMISSION PROCESS FOR TANF STATE PLAN**

**SECTION 10.35A.(a)** G.S. 108A-27.9(a) reads as rewritten:

"(a) The Department shall prepare and submit to the Director of the Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them.shall:

- (1) Consult with local government and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from those organizations; and
- (2) Upon complying with subdivision (1) of this subsection, submit the State Plan to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for review."

**SECTION 10.35A.(b)** G.S. 108A-27.10(a) reads as rewritten:

"(a) The Director of the Budget shall, by May 15 of each ~~even numbered calendar~~<sup>odd</sup>-numbered year, approve and recommend adoption by the General Assembly of the State Plan."

**MEDICAID**

**SECTION 10.36.(a)** Use of Funds, Allocation of Costs, Other Authorizations.

- (1) Use of Funds. – Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy.
- (2) Allocation of Nonfederal Cost of Medicaid. – Effective until October 1, 2007, 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. Effective October 1, 2007, the State shall pay eighty-eight and three-quarters percent (88.75%); the county shall pay eleven and one-quarter percent (11.25%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay eighty-eight and three quarters percent (88.75%); the county shall pay eleven and one-quarter percent (11.25%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004. Effective July 1, 2008, the State shall pay ninety-two and one-half percent (92.5%); the county shall pay seven and one-half percent (7.5%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay ninety-two and one-half percent (92.5%); the county shall pay seven and one-half percent (7.5%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004. Effective July 1, 2009, the State shall pay one hundred percent (100%); the county shall pay zero percent (0%) of the nonfederal costs of all applicable services listed in this section. In addition, the State shall pay one hundred percent (100%); the county shall pay zero percent (0%) of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004.
- (3) Use of Funds for Development and Acquisition of Equipment and Software. – If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software and related operational costs through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed funds allocated for the 2007-2008 and 2008-2009 fiscal years for the new

contract for the fiscal agent for the Medicaid Management Information System.

(4) Reports. – Unless otherwise provided, whenever the Department of Health and Human Services is required by this section to report to the General Assembly, the report shall be submitted to the House of Representatives Appropriations Subcommittee for Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division of the Legislative Services Office. Reports shall be submitted on the date provided in the reporting requirement.

**SECTION 10.36.(b) Policy. –**

(1) Volume purchase plans and single source procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

(2) Cost-containment programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

(3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

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

**SECTION 10.36.(c) Eligibility. –** Eligibility for Medicaid shall be determined in accordance with the following:

(1) Medicaid and Work First Family Assistance.

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

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

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

- b. 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.
- c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.
- d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

- a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.
- b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.
- c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
- d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
- e. Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines and without regard to resources.

- f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.
- (3) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs regardless of the adoptive family's income.
- (4) Effective October 1, 2007, the Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the adolescent's assets, resources, or income levels.
- (5) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly engaged in work activities as part of their developmental plan, and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:
 

<b>Monthly Net Wages</b>	<b>Monthly Incentive Allowance</b>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00
- (6) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a.(a)(10)(A)(ii)(XVIII).

**SECTION 10.36.(d) Services and Payment Bases.** – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

- (1) Hospital inpatient.
- (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing facilities. – Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare-certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare.
- (4) Physicians, certified nurse midwife services, certified registered nurse anesthetists, nurse practitioners. – Fee schedules as developed by the Department of Health and Human Services.

- (5) Community Alternative Program, EPSDT Screens. – Payments in accordance with rate schedule developed by the Department of Health and Human Services.
- (6) Home health and related services, durable medical equipment. – Payments according to reimbursement plans developed by the Department of Health and Human Services.
- (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- (8) Rural health clinical services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.
- (9) Family planning. – Negotiated rate for local health departments. For other providers see specific services, e.g., hospitals, physicians.
- (10) Independent laboratory and X-ray services. – Uniform fee schedules as developed by the Department of Health and Human Services.
- (11) Ambulatory surgical centers.
- (12) Private duty nursing, clinic services, prepaid health plans.
- (13) Intermediate care facilities for the mentally retarded.
- (14) Chiropractors, podiatrists, optometrists, dentists.
- (15) Limitations on Dental Coverage. – Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.
- (16) Medicare Buy-In. – Social Security Administration premium.
- (17) Ambulance services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
- (18) Optical supplies. – Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.
- (19) Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.
- (20) Physical therapy, occupational therapy, and speech therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy, occupational therapy, and speech therapy services are subject to prior approval and utilization review.
- (21) Personal care services. – Effective October 1, 2007, the Department of Health and Human Services shall impose prior authorization on all personal care services. Criteria for prior authorization shall be developed in consultation with the Physician Advisory Group of the North Carolina Medical Society and shall include a requirement that a determination and notification of approval or denial of personal care services shall be made within seven working days of receipt of the prior authorization request. The Department shall provide periodic data on recipients of personal care services to Community Care of North Carolina. Community Care of North Carolina shall assist the Department in assessing personal care services for medical necessity. The Department shall report on the implementation of prior authorization of all personal care services to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services.

Services, and the Fiscal Research Division by May 1, 2008. The report on implementation of prior authorization shall address the following:

- a. Criteria for prior authorization developed in consultation with the North Carolina Physician Advisory Group.
- b. Policies and procedures for the prior authorization program.
- c. Use of the Uniform Screening Tool and the Integrated Assessment Tool for Medicaid Long Term Care Services in determining the need for personal care services.
- d. Cost of implementing a prior authorization system.
- e. Estimated costs savings from the implementation of a prior authorization system for personal care services.

(22) Case management services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(23) Hospice.

(24) Medically necessary prosthetics or orthotics. – In order to be eligible for reimbursement, providers must be licensed or certified by the occupational licensing board or the certification authority having authority over the provider's license or certification. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.

(25) Health insurance premiums.

(26) Medical care/other remedial care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates.

(27) Pregnancy-related services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

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

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

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

Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or (ii) HIV/AIDS, except that the Department of Health and Human Services shall continually review utilization of medications under the State Medical Assistance Program prescribed for Medicaid recipients for the treatment of mental illness, including but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:

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

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

The Department shall report on the implementation of this subdivision not later than January 1, 2008, and quarterly thereafter to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health

and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(29) Other mental health services. – Unless otherwise covered by this section, coverage is limited to:

- a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and
- b. For children eligible for EPSDT services provided by:
  1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and
  2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.
- c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and licensed clinical supervisors, Medicaid-eligible adults may be self-referred.
- d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or

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

**SECTION 10.36.(e) Provider payments and visits. –**

- (1) Payment is limited to Medicaid-enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid-enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.
- (2) Reimbursement is available for up to 30 visits per recipient per fiscal year for the following professional services: hospital outpatient providers, physicians, nurse practitioners, nurse midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The Department of Health and Human Services shall adopt medical policies in accordance with G.S. 108A-54.2 to distribute the allowable number of visits for each service or each group of services consistent with federal law. In addition, the Department shall establish a threshold of some number of visits for these services. The Department shall ensure that primary care providers or the appropriate CCNC network are notified when a patient is nearing the established threshold to facilitate care coordination and intervention as needed.

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

**SECTION 10.36.(f) Exceptions and limitations on services; authorization of co-payments and other services. –**

- (1) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payment bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or

community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(2) Co-Payment for Medicaid Services. – The Department of Health and Human Services may establish co-payments up to the maximum permitted by federal law and regulation.

**SECTION 10.36.(g) Rules, Reports, and Other Matters. –**

(1) Rules. – The Department of Health and Human Services may adopt temporary or emergency rules according to the procedures established in G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. The Department of Health and Human Services shall adopt rules requiring providers to attend training as a condition of enrollment and may adopt temporary or emergency rules to implement the training requirement.

Prior to the filing of the temporary or emergency rules authorized under this subsection with the Rules Review Commission and the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary or emergency rule and its effect on State appropriations and local governments.

(2) Changes to Medicaid program; reports. – The Department shall report on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval. In addition to the entities listed in subsection (a)(4) of this section, the report shall be submitted to the Joint Legislative Health Care Oversight Committee.

**MEDICAID COST-CONTAINMENT ACTIVITIES**

**SECTION 10.37.** The Department of Health and Human Services may use up to five million dollars (\$5,000,000) in the 2007-2008 fiscal year and up to five million dollars (\$5,000,000) in the 2008-2009 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost-containment programs.

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

Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. On or before October 1, 2007, the Department shall also report the amounts paid for cost-containment activities in fiscal years 2003-2004 through 2006-2007, and the amount of savings realized from cost-containment activities in fiscal years 2003-2004 through 2006-2007.

## **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

**SECTION 10.39.(a)** Disproportionate share receipts reserved at the end of the 2007-2008 and 2008-2009 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

**SECTION 10.39.(b)** For each year of the 2007-2009 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars (\$100,000,000) shall be reserved by the State Treasurer for future appropriations.

## **SKILLED NURSING FACILITY REIMBURSEMENT RATES**

**SECTION 10.39A.(a)** The Department of Health and Human Services, Division of Medical Assistance, shall rebase the rates for the case-mix reimbursement system for skilled nursing facilities according to the following schedule:

- (1) Effective January 1, 2008, one-half of the rate rebasing shall be implemented using 2005 audited cost data.
- (2) Effective October 1, 2008, the remaining half of the rate rebasing shall be implemented using 2006 audited cost data. If 2006 audited cost data is not available on October 1, 2008, then the remaining half of the rate rebasing shall be implemented using 2005 audited cost data.

Funding for inflationary increases for skilled nursing facilities for the 2007-2008 and 2008-2009 fiscal years shall be used to implement the rebasing of rates for the case-mix reimbursement system for skilled nursing facilities.

**SECTION 10.39A.(b)** Effective January 1, 2008, the skilled nursing facility provider assessment shall be increased by one dollar (\$1.00). Effective January 1, 2009, the skilled nursing facility provider assessment shall be increased by one dollar (\$1.00) over the assessment amount in effect on January 1, 2008. These assessment increases shall be consistent with federal law and regulations for provider assessments. The revenue realized from the increased provider assessment for skilled nursing facilities shall be used to reduce State appropriations needed to rebase the rates for the case-mix reimbursement system for skilled nursing facilities. If additional funding is needed to implement the rebasing of the case-mix reimbursement system for skilled nursing facilities, the Department may use funds available in order to implement the rebasing.

**SECTION 10.39A.(c)** The Department of Health and Human Services, Division of Medical Assistance, shall develop an appropriate schedule for ongoing rebasing of rates for the case-mix reimbursement system for skilled nursing facilities. Not later than December 1, 2008, the Department shall report on the implementation of this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include how rebasing can effectively replace the existing system for providing inflationary increases for skilled nursing facilities.

## **MEDICAID SPECIAL FUND TRANSFER**

**SECTION 10.40.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars (\$43,000,000) for the 2007-2008 fiscal year and the sum of forty-three million dollars (\$43,000,000) for the 2008-2009 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act. The Department may also use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share Hospital payment audit issues between the Department of Health and Human Services and the federal government related to fiscal years 1997-2002, and funds are appropriated from the fund for the 2007-2009 fiscal biennium for this purpose.

#### **MMIS+ DEVELOPMENT AND IMPLEMENTATION/REPORTING**

**SECTION 10.40D.(a)** The Department of Health and Human Services (Department) shall make full development of the replacement Medicaid Management Information System (MMIS+) a top priority. During the development and implementation of MMIS+, the Department shall develop plans to ensure the timely and effective implementation of future enhancements to the system to provide the following capabilities:

- (1) Receiving and tracking premium or other payments required by law.
- (2) Compatibility with the administration of NC Health Choice, NC KIDSCare, the State Employees' Health Plan, the Health Information System, and Medicaid waivers and the Medicare 646 waiver.

These enhancements shall not delay the procurement or implementation of the core system but shall be included as an additional phase in the development and implementation of the multipayer initiatives included in the MMIS program currently under development between the Department, the Federal Centers for Medicare and Medicaid Services, and the Office of Information Technology Services (ITS). The Department shall make every effort to expedite the implementation of the enhancements. ITS shall work in cooperation with the Department to ensure the timely and effective implementation of the core system and enhancements.

**SECTION 10.40D.(b)** Notwithstanding G.S. 114-2.3, the Department of Health and Human Services shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals and to negotiate and review contracts associated with MMIS+.

**SECTION 10.40D.(c)** The Department shall make interim and final reports on the development and implementation of MMIS+ to the Joint Legislative Oversight Committee on Information Technology, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division as follows:

- (1) By January 31, 2008, the Department shall make a detailed written interim report on:
  - a. The projected date for implementation of the new core MMIS+ system.
  - b. The status of the system development and implementation.
  - c. Any issues that may impact the development and implementation of the core system, along with the actions being taken to reduce the impact.
  - d. Any issues related to vendor performance and the actions being taken to ensure that the issues do not impact the timely completion of the project.

- e. The status of the project as indicated by the Office of Information Technology Services Project Portfolio Manager tool with an explanation of actions being taken to address any unsatisfactory indicators and the date by which remediation will be accomplished.
- f. Estimated final cost of the system, including an explanation of any additional costs not previously budgeted.
- g. A list of system enhancements under development.
- h. Projected date for implementation of each enhancement.
- i. Current status of each system enhancement.
- j. Any issues that may impact the development and implementation of the system enhancements, along with the actions being taken to reduce the impact.
- k. Cost for each system enhancement.
- l. Availability of federal funds to support development and implementation of each system enhancement.
- m. Any potential system enhancements not currently being considered or implemented.

(2) By May 1, 2008, the Department shall make a detailed final written report on the total costs and functionality of the MMIS+ system. A copy of the final report shall also be submitted to the Joint Legislative Commission on Governmental Operations.

## **PILOT PROGRAM/MEDICAID DUAL ELIGIBLE SPECIAL NEEDS PLAN**

**SECTION 10.40F.(a)** The Department of Health and Human Services, Division of Medical Assistance, shall evaluate and establish a pilot program in at least two but not more than four regions of the State to offer nursing facility certifiable (NFC) dual eligible Medicaid recipients services through a Special Needs Plan (SNP). The SNP will work with the Department's Community Care Networks. The SNP must be currently licensed in the State, have expertise in managing NFC dually eligible Medicaid recipients, have expertise or a relationship with experts in geriatrics and be capable and willing to work directly with Community Care North Carolina (CCNC). The SNP must also have no citations or ongoing investigations from the State, the Centers for Medicaid and Medicare Services, or other regulatory agency.

**SECTION 10.40F.(b)** In establishing the pilot program, the Department shall select up to four regions (county clusters) based on the number of NFC dual eligible Medicaid recipients, number of skilled nursing facilities, and other factors. These regions and their respective CCNC will work with the SNP to promote enhanced care, greater efficiency, and cost savings.

**SECTION 10.40F.(c)** The Department shall report on the evaluation, selection, and implementation of the pilot program to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than May 1, 2008. The Department shall include in its report information on increased primary care visits, hospital admission and readmission rates, mortality rates, results of pharmacy management, measurable quality outcomes, and associated cost savings for NFC managed through this pilot. The Department shall also include in its report the feasibility of expansion of the pilot to other regions of the State or expansion into the assisted living and home-based populations.

## **IMPLEMENT ELECTRONIC QUALITY PRESCRIPTION MANAGEMENT PROGRAM**

**SECTION 10.41.** The Department of Health and Human Services, Division of Medical Assistance, in consultation with the Community Care of NC (CCNC) program, shall implement an Electronic Quality Prescription Management program for

prescription drugs through the use of personal data assistance (PDA) technology. The Division may designate CCNC through the Office of Rural Health and Community Care as the lead program to implement this section and shall assist CCNC by providing cost containment funds to purchase PDAs, connectivity, and software, and for other related costs.

## **EFFECTIVE DATE OF CHANGES TO MEDICAID ESTATE RECOVERY PLAN**

**SECTION 10.42.(a)** Section 10.21C(c) of S.L. 2005-276, as amended by Section 16 of S.L. 2005-345, and further amended by Section 10.9B of S.L. 2006-66, and as further amended by Section 10 of S.L. 2007-145, reads as rewritten:

**"SECTION 10.21C.(c)** This section becomes effective ~~August 1, 2007, July 1, 2008~~, and applies to recipients of medical assistance on or after that date."

**SECTION 10.42.(b)** In the event the effective date of Section 10.21C(c) of S.L. 2005-276 made applicable under subsection (a) of this section conflicts with the effective date of a provision in House Bill 1537, enacted by the 2007 General Assembly, pertaining to Medicaid Estate Recovery, the effective date contained in House Bill 1537 shall apply.

## **EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVES PROGRAMS REIMBURSEMENT SYSTEM**

**SECTION 10.44.** Full implementation for the Community Alternatives Programs reimbursement system shall be not later than twelve months after the date on which the replacement Medicaid Management Information System becomes operational and stabilized.

## **FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY INCOME**

**SECTION 10.45.(a)** Subject to approval from the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical Assistance, shall develop a schedule of cost-sharing requirements for families of children with incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation and Developmentally Disabled) Program and the CAP-C (Community Alternatives Program for Children). The cost-sharing amounts shall be based on a sliding scale of family income and shall take into account the impact on families with more than one child in the CAP programs. In developing the schedule, the Department shall also take into consideration how other states have implemented cost-sharing in their CAP programs. The Division of Medical Assistance may establish monthly deductibles as a means of implementing this cost-sharing. The Department shall provide for at least one public hearing and other opportunities for individuals to comment on the imposition of cost-sharing under the CAP program. Not later than March 1, 2008, the Department shall report on the cost-sharing requirements to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, and to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall include a summary of comments the Department has received at the public hearing required under this subsection, and shall also indicate any barriers to implementing the cost-sharing schedule.

**SECTION 10.45.(b)** This section becomes effective July 1, 2008, for children enrolled in CAP-MR/DD or CAP-C on and after that date. For currently enrolled CAP-MR/DD and CAP-C recipients, this section becomes effective at the recipient's first certification period following July 1, 2008.

**SECTION 10.45.(c)** The Division of Medical Assistance shall report on savings realized due to the cost-sharing implemented pursuant to this section. Savings realized from the implementation of cost-sharing shall remain in the CAP-MR/DD and CAP-C programs, as applicable, and shall be used to fund additional CAP-MR/DD and CAP-C slots. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2009.

**CONTINUE EFFORTS TO EXPAND COMMUNITY CARE AND IMPROVE QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID RECIPIENTS**

**SECTION 10.46.(a)** The Department of Health and Human Services shall continue its efforts to expand the scope of Community Care of NC care management model to recipients of Medicaid and dually eligible individuals with a chronic condition and long-term care needs. In expanding the scope, the Department shall focus on the Aged, Blind, and Disabled, and CAP-DA populations for improvement in management, cost-effectiveness, and local coordination of services through Community Care of NC and in collaboration with local providers of care. The Department shall target personal care services, private duty nursing, home health, durable medical equipment, ancillary professional services, specialty care, residential services, including skilled nursing facilities, home infusion therapy, pharmacy, and other services determined target-worthy by the Department. The Department shall pilot communitywide initiatives and shall expand statewide successful models. The initiatives may include one or more pilot projects to control costs and improve quality of care for the Aged, Blind, and Disabled recipients of Medicaid.

**SECTION 10.46.(b)** The Department of Health and Human Services shall report not later than March 1, 2008, on the status of the implementation and findings of this pilot project with regard to improving the quality of care and controlling the cost of care for the Aged, Blind, and Disabled recipients of Medicaid. The report shall also address the Department's plans for expanding the pilot project and implementing the practices for all Aged, Blind, and Disabled Medicaid recipients in the State. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**NC HEALTH CHOICE ENROLLMENT**

**SECTION 10.47.** The Department of Health and Human Services may allow up to six percent (6%) enrollment growth annually over the prior fiscal year's enrollment in the NC Health Choice Program. The cap in enrollment growth shall be based on the month of highest Program enrollment in the prior fiscal year.

**NC KIDS' CARE**

**SECTION 10.48.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of three hundred sixty-eight thousand dollars (\$368,000) for the 2007-2008 fiscal year shall be used by the Department of Health and Human Services to produce a report that identifies the most cost-efficient and cost-effective method for developing and implementing a program of comprehensive health care benefits within available funding for children ages 0 through 18 in families with annual incomes between two hundred percent (200%) and three hundred percent (300%) of the federal poverty level. The report shall consider and address the following:

- (1) Congress' reauthorization of the State Children's Health Insurance Program (SCHIP) with respect to:

- a. The amount of federal funds authorized for each of the fiscal years covered in the reauthorization;
- b. The number of fiscal years that federal funding awarded to the states remains available to each state;
- c. The adequacy of the formula by which federal funds are distributed to the states; and
- d. The ability of states to expand SCHIP coverage to children whose family incomes exceed two hundred percent (200%) of the federal poverty level.

The Department shall determine whether the most effective use of State funds is to develop a program that expands access to health insurance for children whose family income exceeds two hundred percent (200%) of the federal poverty level through NC Health Choice or the State Medical Assistance Program.

- (2) Eligibility and benefits are not an entitlement, are for legal residents of North Carolina, and are subject to availability of State and federal funds, and State and federal requirements.
- (3) The most cost-effective use of limited State funds to offer health care services to children in families between two hundred percent (200%) and three hundred percent (300%) of the federal poverty level.
- (4) Children enrolled in the program must be ineligible for Medicaid, Medicare, or other government-sponsored health insurance. The Department shall study whether children must also be without private health insurance for a specified amount of time, e.g. six months.
- (5) The health care benefits covered in the proposed expansion program shall not exceed the benefits currently covered by the NC Health Choice.
- (6) The establishment of cost-sharing measures for the families of children with an income above two hundred percent (200%) of the federal poverty level, including:
  - a. A monthly premium per child that is at an optimal level that simultaneously is affordable, encourages participation by families, controls costs, and provides revenue to reduce the cost of the program to the State. The amount of the premium may increase as income increases above two hundred percent (200%) of the federal poverty level.
  - b. Increased co-payments and cost-sharing that are affordable and sufficient to control costs, while not discouraging families from seeking and continuing prescribed treatment for children.
  - c. A deductible that is to be applied to certain health care benefits.
  - d. A limit on out-of-pocket expenses that is no more than five percent (5%) of family income.
- (7) The establishment of a comprehensive annual benefit limit per child that is no more than the current annual benefit limit under NC Health Choice.
- (8) The most cost-effective and efficient way of administering and managing enrollment in the program and the collection of premiums. This may include having the current administrator of NC Health Choice be the entity to collect premiums, or designating some other benefit management or administrative entity to do so, including the Department.

**SECTION 10.48.(b)** Not later than January 1, 2008, the Department shall submit an interim report of its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint

Legislative Commission on Governmental Operations, and the Fiscal Research Division. The Department shall submit its final report not later than February 1, 2008. It is the intent of the General Assembly to review the Department's recommendations before the Department implements a program to expand access to health insurance to children above two hundred percent (200%) of the federal poverty level effective July 1, 2008, or upon approval of all required federal waivers, whichever occurs later.

**SECTION 10.48.(c)** Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven million dollars (\$7,000,000) for the 2008-2009 fiscal year shall be used to implement a program to expand access to health insurance to children above two hundred percent (200%) of the federal poverty level effective July 1, 2008.

## **BUILD COMMUNITY INFRASTRUCTURE FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

### **INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT.**

**SECTION 10.49.(a)** Except as otherwise provided in this subsection, funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for regionally funded, locally hosted substance abuse services shall be allocated for the purpose of developing and enhancing the American Society of Addiction Medicine (ASAM) continuum of care at the community level. In coordination with local management entities, the Division shall develop and direct purchasing mechanisms to improve the availability of substance abuse services offered on a local, regional, and statewide basis in coordination with one or more local management entities. Of the funds allocated in this subsection for regionally funded, locally hosted substance abuse services, the sum of five hundred thousand dollars (\$500,000) for the 2007-2008 fiscal year and the sum of seven hundred thousand dollars (\$700,000) for the 2008-2009 fiscal year shall be allocated for residential substance abuse programs with a vocational component.

**SECTION 10.49.(b)** G.S. 122C-147.1 is amended by adding the following new subsection to read:

"(d1) Notwithstanding subsections (b) and (d) of this section, each area program shall determine whether to earn the funds for crisis services and funds for services to substance abuse clients in a purchase-for-service basis, under a grant, or some combination of the two. Area programs shall account for funds expended on a grant basis according to procedures required by the Secretary and in a manner that is similar to funds expended in a purchase-for-service basis."

**SECTION 10.49.(c)** Consistent with G.S. 122C-2, the General Assembly strongly encourages LMEs to use a portion of the funds appropriated for substance abuse treatment services to support prevention and education activities.

**SECTION 10.49.(d)** An LME may use up to one percent (1%) of funds allocated to it for substance abuse treatment services to provide nominal incentives for consumers who achieve specified treatment benchmarks, in accordance with the federal substance abuse and mental health services administration best practice model entitled Contingency Management.

**SECTION 10.49.(e1)** In providing treatment and services for adult offenders and increasing the number of TASC case managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate punishment offenders, community punishment offenders at risk for revocation, and DOC releasees who have completed substance abuse treatment while in custody.

In addition to the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and

Substance Abuse Services to provide substance abuse services for adult offenders and to increase the number of TASC case managers, the Department shall allocate up to three hundred thousand dollars (\$300,000) to Treatment Accountability for Safer Communities (TASC). These funds shall be allocated to TASC before funds are allocated to local management entities for mental health services, substance abuse services, and crisis services.

**SECTION 10.49.(e2)** In providing Drug Treatment Court services, local management entities shall consult with the local drug treatment court team and shall select a treatment provider that meets all provider qualification requirements and the drug treatment court's needs. A single treatment provider may be chosen for non-Medicaid-eligible participants only. A single provider may be chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in a single group. During the 52-week Drug Treatment Court program, participants shall receive an array of treatment and after-care services that meets the participant's level of need, including step-down services that support continued recovery.

**SECTION 10.49.(f)** Within available State and county resources, local management entities shall work with county public health departments and county sheriffs to provide medical assessments and medication, if appropriate, for inmates housed in county jails who are suicidal, hallucinating, or delusional. LMEs shall also examine ways to provide additional treatment to persons who are determined to be psychotic, severely depressed, suicidal, or who have substance abuse disorders. To this end:

- (1) The Department shall work with LMEs, county public health departments, and county sheriffs to develop a statewide standardized evidence-based screening instrument to be used when offenders are booked. The standardized screening tool shall be implemented by January 1, 2008.
- (2) LMEs and county sheriffs shall work together to develop all of the following:
  - a. A designated LME employee who is responsible for screening the daily jail booking log for known mental health consumers.
  - b. Protocols for effective communication between the LME and the jail staff including collaborative development of medication management protocols between the jail staff and the mental health providers.
  - c. Training to help detention officers recognize signals of mental illness.

## **ADDITIONAL HOUSING ASSISTANCE.**

**SECTION 10.49.(g)** The independent and supportive living apartments for persons with disabilities developed from funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the North Carolina Housing Finance Agency for that purpose shall be affordable to persons with incomes at the Supplemental Security Income (SSI) level. The Department shall maximize the number of subsidies that can be paid for with these funds by giving first priority to North Carolina Housing Agency-financed apartments, giving second priority to other publicly subsidized apartments, and third priority to market-rate apartments. Unless prohibited by the Fair Housing Act or other applicable federal law, in awarding funds for financing apartments, the Housing Finance Agency shall give first priority to those housing developments with an LME as the lead agency.

**SECTION 10.49.(h1)** The Department of Health and Human Services and the North Carolina Housing Finance Agency (NCHFA) shall work together to develop a plan for the most efficient and effective use of State resources in the financing and development of additional independent- and supportive-living apartments for

individuals with mental health, developmental or substance abuse disabilities. Not later than March 1, 2008, the Department and the NCHFA shall submit jointly an interim report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services ("Oversight Committee"). The interim report shall include how housing finance agencies and departments of health and human services in other states have worked together to address the housing needs of these populations and how other states have addressed disability specific housing. Not later than March 1, 2009, the Department and the NCHFA shall submit jointly a final report to the Oversight Committee. The final report shall take into consideration findings in the interim report and shall include strategies for addressing gaps in the housing continuum identified by the DHHS study of the housing needs of persons with mental illness in adult care homes, if the study is completed. The Department and the NCHFA shall also jointly report on the progress of the Housing 400 Initiative to the Oversight Committee not later than March 1, 2008.

**SECTION 10.49.(h2)** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, may transfer funds appropriated for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities to the North Carolina Housing Finance Agency (NCHFA) to be used for these purposes. If funds appropriated in this act for operating assistance for the independent supportive living apartments for people with disabilities exceed the amount necessary to finance those apartments for which funds were appropriated, then the excess funds may be used in each fiscal year to subsidize other apartments for individuals with disabilities that are affordable for individuals with income at the SSI level.

For the purposes of ensuring that State supported assisted housing is available to all disability groups, the NCHFA and the Department of Health and Human Services shall do the following:

- (1) The NCHFA shall provide to the Division of Medical Assistance the identifying information of each resident that receives housing assistance in NCHFA properties because of the recipient's disability.
- (2) The Department of Health and Human Services shall review the Medicaid database to determine which of these residents receives Medicaid and, of those, the type of disability of each Medicaid recipient for whom information was provided under subdivision (1) of this subsection.
- (3) The Department of Health and Human Services shall report to the General Assembly the aggregate statewide total by type of disability. The types of disability for which aggregate data is reported shall be mental illness, developmental disability, physical disability, and the multiple combination of these types. The report shall ensure that individuals with multiple diagnoses are counted only one time for each aggregate report. The Department of Health and Human Services shall ensure that information reported does not include information that would identify or lead to the identity of a Medicaid recipient. The Department of Health and Human Services shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than May 1, 2008, and again not later than May 1, 2009.
- (4) The reports required under subdivision (3) of this subsection shall include data on all housing units for people with disabilities financed with Housing Trust Fund funds appropriated for the 2006-2007 fiscal year or after.

Of the funds appropriated in this act to the Department of Health and Human Services for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities, not more than one hundred fifty thousand dollars (\$150,000) may be used for administration of the subsidies and for evaluation and reporting requirements under this subsection.

**SECTION 10.49.(i)** The Department of Health and Human Services shall develop a "Transitional Residential Treatment Program" service definition to provide 24-hour residential treatment and rehabilitation for adults who have a pattern of difficult behaviors related to mental illness, which exceeds the capabilities of traditional community residential settings. Before implementing the definition and rate, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. Not later than March 1, 2008, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the implementation of this subsection.

**SECTION 10.49.(j)** The joint ad hoc subcommittee regarding the mentally ill in adult care homes convened by the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the North Carolina Commission on Aging may continue to study and identify rules and laws that are necessary to regulate facilities that provide housing for adults with mental illness in the same location with adults without mental illness.

**SECTION 10.49.(k)** Not later than January 1, 2008, the Department of Health and Human Services shall complete the development of a Uniform Screening Tool (UST) to determine the mental health of any individual admitted to any long-term care facility. The Department shall report on the status of UST development on or before October 1, 2007, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

**SECTION 10.49.(l)** G.S. 122C-115.4(b)(5) reads as rewritten:

"(b) The primary functions of an LME include all of the following:

(5) Care coordination and quality management. This function includes the direct monitoring of the effectiveness of person centered plans. It also includes the initiation of and participation in the development of required modifications to the plans for high risk and high cost consumers in order to achieve better client outcomes or equivalent outcomes in a more cost effective manner. Monitoring effectiveness includes reviewing client outcomes data supplied by the provider, direct contact with consumers, and review of consumer charts. involves individual client care decisions at critical treatment junctures to assure clients' care is coordinated, received when needed, likely to produce good outcomes, and is neither too little nor too much service to achieve the desired results. Care coordination is sometimes referred to as "care management." Care coordination shall be provided by clinically trained professionals with the authority and skills necessary to determine appropriate diagnosis and treatment, approve treatment and service plans, when necessary to link clients to higher levels of care quickly and efficiently, to facilitate the resolution of disagreements between providers and clinicians, and to consult with providers, clinicians, case managers, and utilization reviewers. Care coordination activities for high risk/high cost consumers or consumers at a critical treatment juncture include the following:

- a. Assisting with the development of a single care plan for individual clients, including participating in child and family teams around the development of plans for children and adolescents.
- b. Addressing difficult situations for clients or providers.

- c. Consulting with providers regarding difficult or unusual care situations.
- d. Ensuring that consumers are linked to primary care providers to address the consumer's physical health needs.
- e. Coordinating client transitions from one service to another.
- f. Customer service interventions.
- g. Assuring clients are given additional, fewer, or different services as client needs increase, lessen, or change.
- h. Interfacing with utilization reviewers and case managers.
- i. Providing leadership on the development and use of communication protocols.
- j. Participating in the development of discharge plans for consumers being discharged from a State facility or other inpatient setting who have not been previously served in the community."

## **CRISIS AND ACUTE CARE SERVICES.**

**SECTION 10.49.(m)** The thirteen million seven hundred thirty-seven thousand eight hundred fifty-six dollars (\$13,737,856) appropriated in this act for crisis services in each fiscal year to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, shall be allocated to local management entities to continue to implement the crisis plans developed under S.L. 2006-66, Section 10.26. In allocating these funds, the Department shall consider the impact of the closure of any State institution on each local management entity. The Department of Health and Human Services may use up to two hundred fifty thousand dollars (\$250,000) in each fiscal year of the funds allocated under this subsection to extend its contract with the crisis services consultant authorized under Section 10.26(b) of S.L. 2006-66.

**SECTION 10.49.(n)** S.L. 2006-66, Section 10.26(d), as amended by Section 11 of S.L. 2006-221, reads as rewritten:

"**SECTION 10.26.(d)** With the assistance of the consultant, the ~~area authorities and county programs~~ LMEs within a crisis region shall work together to identify gaps in their ability to provide a continuum of crisis services for all consumers and use the funds allocated to them to develop and implement a plan to address those needs. At a minimum, the plan must address the development over time of the following components: 24-hour crisis telephone lines, walk-in crisis services, mobile crisis outreach, crisis respite/residential services, crisis stabilization units, 23-hour beds, facility-based crisis, in-patient crisis, detox, and transportation. Options for voluntary admissions to a secured facility must include at least one service appropriate to address the mental health, developmental disability, and substance abuse needs of adults, and the mental health, developmental disability, and substance abuse needs of children. Options for involuntary commitment to a secured facility must include at least one option in addition to admission to a State facility."

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

**SECTION 10.49.(o)** LMEs shall report monthly to the Department and to the consultant regarding the use of the funds, whether there has been a reduction in the use of State psychiatric hospitals for acute admissions, and any remaining gaps in local and regional crisis services. The consultant and the Department shall report quarterly to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental

Health, Developmental Disabilities, and Substance Abuse Services regarding each LME's proposed and actual use of the funds appropriated under this section. The reporting requirements under this subsection shall expire July 1, 2008.

**SECTION 10.49.(q)** G.S. 122C-147.1 is amended by adding the following new subsection to read:

"(b1) Notwithstanding subsection (b) of this section, funds appropriated by the General Assembly for crisis services shall not be allocated in broad disability or age/disability categories. Subsection (c) of this section shall not apply to funds appropriated by the General Assembly for crisis services."

**SECTION 10.49.(r)** The Department of Health and Human Services shall develop a system for reporting to LMEs aggregate information regarding all visits to community hospital emergency departments due to a mental illness, a developmental disability, or a substance abuse disorder. The report shall be submitted on a quarterly basis beginning with the 2007-2008 fiscal year.

**SECTION 10.49.(s1)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division), the sum of two million five hundred thousand dollars (\$2,500,000) for the 2007-2008 fiscal year and the sum of five million dollars (\$5,000,000) for the 2008-2009 fiscal year shall be used to develop a pilot program to reduce State psychiatric hospital use and to increase local services for persons with mental illness. Of these funds, the sum of two hundred fifty thousand dollars (\$250,000) in each fiscal year shall be retained by the Department. The remainder in each fiscal year shall be allocated to LMEs to be used in accordance with this section. The Division and each selected LME shall implement an 18-month pilot beginning in the 2007-2008 fiscal year, as provided in subsections (s2) and (s3) of this section. It is the intent of the General Assembly to provide funds to expand the pilot program in the 2008-2009 fiscal year. To this end, the Division shall develop a plan for expanded pilots as provided in subsection (s4) of this section.

**SECTION 10.49.(s2)** The purpose of the 18-month pilot program developed under subsection (s1) of this section and to be implemented during the 2007-2008 fiscal year is to test a mechanism to reduce psychiatric hospital use by holding an LME financially and clinically responsible for the cost of that use and by providing additional resources to build community capacity. The Department shall select up to three LMEs in the same catchment area and at least one LME in a different catchment area that submit a proposal to participate in the pilot to the Division no later than October 15, 2007. The proposal shall include a plan by the LME to reduce hospital use by a specified amount and an explanation of how the LME expects to accomplish this goal. To facilitate pilot implementation, the Division shall do all of the following:

- (1) Calculate the cost of each LME's 2006-2007 use of State psychiatric hospital services based roughly on that hospital's total budget and the percentage of patients at the hospital admitted from the LME's catchment area.
- (2) Calculate a daily rate for hospital usage based on 2006-2007 statewide usage. The daily rate shall be higher for subsequent admissions by the same patient and higher for patients admitted with a primary diagnosis of substance abuse.
- (3) Provide the results from subdivisions (1) and (2) of this subsection to all LMEs not later than September 1, 2007.
- (4) Award pilot participation not later than November 1, 2007, based upon the proposals that project the largest decrease in use and that the Division believes has the greatest likelihood of succeeding.
- (5) Commence pilot implementation not later than January 1, 2008.

**SECTION 10.49.(s3)** Parameters of the pilot developed under subsection (s1) of this section are as follows:

- (1) The pilot LMEs will have a virtual budget account for January 1, 2008, through June 30, 2008, based on one-half of the LME's cost of State psychiatric hospital use during the 2006-2007 fiscal year minus the LME's proposed reduction in hospital use. The virtual budget account will be for the full amount less an agreed upon reduction in the second year of the pilot.
- (2) Every bed day used by patients from that LME's catchment area will be debited against that LME's virtual account.
- (3) The cost of bed days will increase by the agreed upon amount for patients who are repeatedly admitted to the hospital.
- (4) The cost of bed days will increase by the agreed upon amount for patients who are admitted with a primary diagnosis of substance abuse.
- (5) The LME shall have one or more representatives on site at the State psychiatric hospital. The LME representatives shall be involved with patient admissions, development of treatment plans, supervision and delivery of treatment, and development and implementation of discharge plans.
- (6) The pilot LMEs shall use their allocated funds to: (i) build community capacity through start-up operations or payment for local services; (ii) pay for the on-site representative at State psychiatric hospitals; and (iii) pay for patient bed days that are in excess of RFP's projected use.
- (7) Any funds remaining from the two million two hundred fifty thousand dollar (\$2,250,000) allocation shall carry over to be used by the LMEs to pay for services to the mentally ill.

**SECTION 10.49.(s4)** Based on the experiences of the pilot programs authorized under subsections (s2) and (s3) of this section, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division) shall work with the existing hospital use study group to develop a proposal for subsequent pilots to reduce hospital use and build community services. The Division may use up to two hundred fifty thousand dollars (\$250,000) in each fiscal year to develop the proposal. The Division shall submit an interim report on its progress to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (Oversight Committee) by October 15, 2007, and a second interim report by February 1, 2008. The Division shall submit its final report to the Oversight Committee by February 1, 2009. The final report shall include a description of the pilot LMEs' success in working with local hospitals and the resulting reductions in the use of emergency rooms, jails, and State facilities.

**SECTION 10.49.(s5)** The budgets for the State psychiatric hospitals shall not be reduced during the 2007-2008 fiscal year as a result of the pilot developed under subsection (s1) of this section. However, those budgets shall be adjusted in following years to reflect the previous year's use by the LMEs participating in the pilot program.

**SECTION 10.49.(t)** Notwithstanding G.S. 122C-112.1(a)(30) and G.S. 122C-181, the Secretary of Health and Human Services may close Dorothea Dix Hospital, and the Secretary of Health and Human Services may close John Umstead Hospital or any unit or section of that hospital, provided that all of the following conditions have been met prior to closure of each hospital or unit thereof:

- (1) The Secretary has notified the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure.
- (2) The Secretary has presented a plan for the closure of each hospital or unit thereof to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (Oversight Committee) for its review, advice, and recommendations.

The Secretary shall also provide a copy of the plan to each member of the General Assembly in a timely manner to permit each member of the General Assembly to comment at the presentation of the plan to the Oversight Committee. The plan shall address specifically all of the following: (i) the capacity of any replacement facility and the catchment area to meet the needs of those consumers who require long-term secure services as well as acute care; (ii) an inventory of existing capacity in the communities within the catchment area for patients to access crisis services, appropriate housing, and other necessary supports; (iii) how the State and the LMEs in the catchment area will attract and retain qualified private providers that will provide services to State-paid non-Medicaid-eligible consumers; and (iv) the impact of the closure on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the Oversight Committee and other members of the General Assembly.

- (3) The Central Regional Hospital is operational and patient transfers from Dorothea Dix Hospital and John Umstead Hospital have been completed.
- (4) Notwithstanding any other provision of law, the Secretary shall not close a State facility if there are not adequate replacement services available prior to the date of closure.

**SECTION 10.49.(u)** In keeping with the United States Supreme Court decision in Olmstead v. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall continue to implement a plan for the transition of patients from State psychiatric hospitals to the community or to other long-term care facilities, as appropriate. The goal is to develop mechanisms and identify resources needed to enable patients and their families to receive the necessary services and supports based on the following guiding principles:

- (1) Individuals shall be provided acute psychiatric care in non-State facilities when appropriate.
- (2) Individuals shall be provided acute psychiatric care in State facilities only when non-State facilities are unavailable.
- (3) Individuals shall receive evidence-based psychiatric services and care that are cost-efficient.
- (4) The State shall minimize cost shifting to other State and local facilities or institutions.

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

The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. These reports shall be submitted on December 1, 2007, and May 1, 2008.

## **USE OF MENTAL HEALTH TRUST FUNDS.**

**SECTION 10.49.(v)** Funds in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs (Mental Health Trust Fund) that are designated by the Department of Health and Human Services in its 2006-2007 Mental Health Trust Fund Plan for increasing community-based services, shall be disbursed in full by the Department to LMEs for this purpose not later than October 1, 2007. Funds received by LMEs on or before October 1, 2007, for this purpose and not expended or encumbered by LMEs for this purpose by June 30, 2009, shall revert on that date to the Mental Health Trust Fund.

Notwithstanding G.S. 143C-9-2, as amended by subsection (w1) of this section, the Department of Health and Human Services may spend funds in the Mental Health Trust Fund for the 2007-2008 fiscal year for allowable purposes other than community-based programs provided that such purposes were included in the 2006-2007 Mental Health Trust Fund Plan. As used in this subsection "allowable purposes" means the statutory authorization in effect under G.S. 143-15.3D on June 30, 2007.

**SECTION 10.49.(w1)** G.S. 143C-9-2 reads as rewritten:

**"§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.**

(a) The Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs is established as an interest-bearing, nonreverting special trust fund in the Office of State Budget and Management. Moneys in the Trust Fund shall be held in trust and used solely to increase community-based services that meet the mental health, developmental disabilities, and substance abuse services needs of the State. The Trust Fund shall be used to supplement and not to supplant or replace existing State and local funding available to meet the mental health, developmental disabilities, and substance abuse services needs of the State.

The State Treasurer shall hold the Trust Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Trust Fund shall become part of the Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust Fund for the next succeeding fiscal year.

Moneys in the Trust Fund shall be expended only in accordance with subsection (b) of this section and in accordance with limitations and directions enacted by the General Assembly.

(b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs shall be allocated to area programs to be used only to:

- (1) Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.
- (2) ~~Facilitate the State's compliance with the United States Supreme Court decision in Olmstead v. L.C. and E.W.~~
- (3) Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand and enhance treatment and prevention services in these program areas to remove waiting lists and provide appropriate and safe services for clients.
- (4) Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.
- (5) ~~Construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities.~~

(c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143C-1-2, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(1) (b)(2) and (b)(3) of this section.

(d) Beginning July 1, 2007, the Secretary of the Department of Health and Human Services shall report annually to the Fiscal Research Division on the expenditures made during the preceding fiscal year from the Trust Fund. The report shall identify each expenditure by recipient and purpose and shall indicate the authority under subsection (b) of this section for the expenditure."

**SECTION 10.49.(w2)** Notwithstanding G.S. 143C-9-2(c), additional savings in the 2007-2008 and 2008-2009 fiscal years shall be used to fund the State's contribution for local management entity system administration.

**SECTION 10.49.(w3)** Notwithstanding G.S. 143C-9-2(b) requiring allocation of funds to area programs, the Department of Health and Human Services may use up to one million five hundred thousand dollars (\$1,500,000) in each of the 2007-2008 and 2008-2009 fiscal years from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs for the purposes authorized under G.S. 143C-9-2(b)(1), (3), and (4).

**SECTION 10.49.(x)** Notwithstanding G.S. 143C-9-2, as amended by this act, the Secretary of Health and Human Services may use funds for the 2007-2008 fiscal year from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs (Trust Fund) or, if funds in the Trust Fund are insufficient, from other available sources in the Department of Health and Human Services, to support up to 66 new positions in the Julian F. Keith Alcohol and Drug Abuse Treatment Center, provided that these funds may be used only if the Julian F. Keith Alcohol and Drug Abuse Treatment Center opens before July 1, 2008.

## **STRENGTHEN THE SERVICES NETWORK.**

**SECTION 10.49.(y)** Not later than September 1, 2007, the Department of Health and Human Services shall designate two additional local management entities to receive all State allocations through single stream funding. The Department shall develop clear standards for how an LME qualifies for single stream funding and shall award single stream funding to any other LME that meets those standards within the 2007-2008 and 2008-2009 fiscal years. These standards shall be developed and implemented not later than October 1, 2007. In addition to the LMEs designated by the Department, the Piedmont, New River, Smoky Mountain, Guilford, Sandhills, Five County, and Mecklenburg LMEs shall continue to receive State allocations through single stream funding. The Department may adopt temporary rules in accordance with Chapter 150B of the General Statutes in order to implement the standards required by this subsection by October 1, 2007.

**SECTION 10.49.(z)** The Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the effectiveness of the 1915(b) Medicaid waiver and of those LMEs operating under a waiver.

**SECTION 10.49.(z1)** The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) shall study whether and under what circumstances it would be appropriate for an LME to be a service provider. The LOC shall report its findings in its report to the 2008 Regular Session of the 2007 General Assembly.

**SECTION 10.49.(aa)** No later than July 1, 2008, the Department of Health and Human Services shall commence the process for three additional local management entities to apply for Medicaid waivers.

### **FILLING SERVICE GAPS.**

**SECTION 10.49.(bb)** Funds appropriated in this act for mental health services and supported employment shall be allocated to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level. Funds appropriated to the Department of Health and Human Services for the 2006-2007 fiscal year for mental health services, substance abuse services, and crisis services and allocated based on the poverty level shall continue to be allocated by the Department to local management entities such that each local management entity receives a percentage of the total allocation that is equal to that local management entity's percentage of the State's total population that is below the federal poverty level.

**SECTION 10.49.(cc)** G.S. 122C-147.1(c) shall apply to the State-funded service of developmental therapies.

**SECTION 10.49.(dd)** The Department of Health and Human Services shall develop and apply to the Centers for Medicare and Medicaid Services for additional home and community-based waivers for persons with developmental disabilities. In conjunction with the existing CAP MR/DD waiver, the new waivers will create a tiered system of services. Not later than March 1, 2008, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the status of the waivers required under this section.

**SECTION 10.49.(ee)** For the purpose of avoiding overutilization of community support services and overexpenditure of funds for these services, the Department of Health and Human Services shall immediately conduct an in-depth evaluation of the use and cost of community support services to identify existing and potential areas of overutilization and overexpenditure. The Department shall also adopt or revise as necessary management policies and practices that will ensure that at a minimum:

- (1) There is in place a list of community support services that are appropriate to meet the critical needs of the client and are cost effective;
- (2) Community support services are appropriately utilized based on the critical needs of the client, and utilization is monitored routinely to ensure against overutilization;
- (3) That expenditures for services are controlled to the maximum extent possible without unnecessarily impairing service quality and efficiency;
- (4) Service providers are fully competent to provide each service, to provide the service in the most efficient manner, and that services and providers meet standards of protocol adopted by the Department. To this end, endorsement shall be based on compliance with: a Medicaid service-specific checklist, rules for Mental Health, Developmental Disabilities, and Substance Abuse Services, client rights rules in community Mental Health, Developmental Disabilities, and Substance Abuse Services, the Medicaid service records manual, and other Medicaid requirements as stipulated in the participation agreement with the Division of Medical Assistance. In accordance with G.S. 122C-115.4, an LME may remove a provider's endorsement;
- (5) All community support services are subject to prior approval after the initial assessment and development of a person-centered plan has been completed;

- (6) Providers are limited to four hours of community support for adults and eight hours of community support for children to develop the person-centered plan. Those hours shall be provided only by a qualified professional. Providers that determine that additional hours are needed must seek and obtain prior approval. If additional hours are authorized, the LME may participate in the development of the person-centered plan as part of its care coordination and quality management function as defined in G.S. 122C-115.4.
- (7) Based on standards of care and practice, a stringent clinical review process for authorization of services is implemented uniformly and in accordance with State guidelines;
- (8) Additional record audits of providers are conducted on a routine basis to continually ensure compliance with Medicaid requirements;
- (9) Post-payment clinical reviews are conducted at the local level to ensure that consumers receive the appropriate level and intensity of care;
- (10) Beginning October 1, 2007, and monthly thereafter, report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The report shall include the following:
  - a. The number of consumers of community support services by month, segregated by adult and child;
  - b. The number of units of community support services billed and paid by month, segregated by adult and child;
  - c. The amount paid for community support by month, segregated by adult and child;
  - d. Of the numbers provided in sub-subdivision b. of this subdivision, identify those units provided by a qualified professional and those provided by a paraprofessional;
  - e. The length of stay in community support, segregated by adult and child;
  - f. The number of clinical post payment reviews conducted by LMEs and a summary of those findings;
  - g. The total number of community support providers and the number of newly enrolled, re-enrolled, or terminated providers, and if available, reasons for termination;
  - h. The number of community support providers that have been referred to DMA's Program Integrity Section, the Division's "Rapid Action response" committee; or the Attorney General's Office;
  - i. The utilization of other, newly enhanced mental health services, including the number of consumers served by month, the number of hours billed and paid by month, and the amount expended by month;
- (11) If possible, modify the Medicaid claims payment processing system so that providers will be required to identify, by claim, whether the service was provided by a qualified professional or a paraprofessional; and
- (12) The Department of Health and Human Services and the Department of Public Instruction shall amend their Memorandum of Agreement to ensure that each local education agency develops its own list of approved providers and individual service providers authorized to

provide services on campus as provided under the Federal Safe Schools Act.

The Department shall report not later than November 1, 2007, on the list of community support services determined to be appropriate. Not later than March 1, 2008, the Department shall provide a detailed report on the implementation and status of each of the activities required by this subsection to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall also include clear standards for determining local management entity capability to perform utilization review and utilization management and clear statewide standards for utilization review and utilization management. These standards shall include (i) determination of medical necessity; (ii) an authorization process that includes the use of standardized forms; (iii) concurrent review procedures; (iv) recipient appeals process; (v) minimum staffing requirements; (vi) requirements for data collection and reporting; and (vi) performance criteria for the LMEs and outside vendor.

In order to ensure full compliance with the laws of this State on the implementation of mental health reform, the Department shall, by January 1, 2008, adopt statewide standardized authorization procedures and processes for Medicaid utilization review. Before July 1, 2008, (i) up to six LMEs that meet those standards (not including LMEs approved for 1915(b) waivers) may, under contract with the outside vendor, complete the utilization review process for enhanced benefit and CAP MR/DD services for the LMEs' respective catchment areas; (ii) the Department shall have a process outlined that would enable all other LMEs to meet the standards required for completing the utilization review process under contract with the outside vendor; (iii) the Department shall report on the implementation of utilization review, including the utilization review process, subcontract details, and funding levels, to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The Department shall ensure that all Medicaid utilization review contracts with outside vendors, as required under this subsection, that are executed, renewed, or extended after the effective date of this act, are in compliance with and do not impair, interfere with, or otherwise prohibit the implementation of this subsection. Prior to renewing, extending, or entering into a contract with an outside vendor for utilization review under this subsection, the Department shall consult with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

#### **LME ADMINISTRATIVE FUNDING.**

**SECTION 10.49.(ff)** The General Assembly finds that counties have budgeted almost one hundred twenty-one million dollars (\$121,000,000) to LMEs to pay for mental health, developmental disabilities, and substance abuse services. However, the General Assembly lacks information regarding the specific services that are purchased with those county funds. The General Assembly also lacks data regarding the incomes of persons receiving mental health, developmental disabilities, and substance abuse services that are paid for by either State or county funds. This lack of data severely limits the General Assembly's ability to determine the distribution of services that are being paid for with public funds, whether persons who are eligible for Medicaid are being enrolled in that program, and whether expanding the State's Medicaid eligibility criteria would impact a significant number of mental health, developmental disabilities, and substance abuse services consumers. Therefore, LMEs shall report annually to the Division all expenditures from county funds by the LME for services, start-up expenses, and capital and operational expenditures, regardless of the

source of the funds and regardless of whether the funds were earned on a payment for service or grant basis. This reporting shall include specific information regarding the expenditure of all funds provided to the LME by the county or counties contained in the LME's catchment area and the amount of expenditures for services provided by the multicounty LME to residents of each county in the multicounty LME's catchment area. To the extent possible, the information shall be submitted through the Integrated Payment and Reimbursement System. LMEs shall also gather income data for all individuals receiving services. Notwithstanding G.S. 143C-6-4, Budget Adjustments Authorized, the Department of Health and Human Services shall fully fund the State's contribution for LME system administration.

**SECTION 10.49.(gg)** It is the intent of the General Assembly that the deficit in State funding for local management entity system administration will be eliminated in future years through savings from hospital downsizing. The General Assembly anticipates that full funding for this purpose will be available in the 2009-2011 fiscal biennium.

**SECTION 10.49.(hh)** G.S. 122C-115.4(d) reads as rewritten:

"(d) Except as provided in G.S. 122C-142.1 and G.S. 122C-125, the Secretary may ~~not~~neither remove from an LME ~~nor~~designate another entity as eligible to implement any function enumerated under subsection (b) of this section unless all of the following applies:

- (1) The LME fails during the previous three months to achieve a satisfactory outcome on any of the critical performance measures developed by the Secretary under G.S. 122C-112.1(33).
- (2) The Secretary provides focused technical assistance to the LME in the implementation of the function. The assistance shall continue for at least six months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.
- (3) If, after six months of receiving technical assistance from the Secretary, the LME still fails to achieve or maintain a satisfactory outcome on the critical performance measure, the Secretary shall enter into a contract with another LME or agency to implement the function on behalf of the LME from which the function has been removed."

**SECTION 10.49.(ii)** The Department of Health and Human Services shall use available funds not to exceed five hundred thousand dollars (\$500,000) in each fiscal year to contract with the University of North Carolina at Chapel Hill, Kenan Flagler Business School, to provide administrative training to local management entities. The Department of Health and Human Services shall advise the Kenan Flagler Business School on prioritizing those local management entities that would most benefit from the training. The Department of Health and Human Services shall use funds available for the contract.

**SECTION 10.49.(jj)** In allocating funds from existing resources to local management entities for administrative costs, the Department shall ensure that each local management entity receives not less in service dollars than that local management entity expensed for services in the 2006-2007 fiscal year.

## **DEVELOPMENTAL CENTER DOWNSIZING**

**SECTION 10.50.(a)** In accordance with the Department of Health and Human Services' plan for mental health, developmental disabilities, and substance abuse services system reform, the Department shall ensure that the downsizing of the State's Developmental Centers is based upon individual needs and the availability of community-based services with a targeted goal of four percent (4%) each year. The Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the Developmental Centers in order to ensure that placements for ICF-MR level of care shall be made to appropriate community-based

settings. Admissions to a State-operated ICF-MR facility is permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the Developmental Centers shall be reduced, and positions shall be eliminated as the census of each facility decreases in accordance with the Department's budget reduction formula. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

**SECTION 10.50.(b)** The Department of Health and Human Services shall apply any savings in State appropriations in each year of the 2007-2009 biennium that result from reductions in beds or services as follows:

- (1) The Department shall place nonrecurring savings in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and use the savings to facilitate the transition of clients into appropriate community-based services and support in accordance with G.S. 143C-9-2;
- (2) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall retain recurring savings realized through implementation of this section to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead v. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the Developmental Centers, including the savings in direct State appropriations in the budgets of the Developmental Centers; and
- (3) The Department of Health and Human Services, Division of Medical Assistance, shall transfer any recurring Medicaid savings resulting from the downsizing of State-operated Developmental Centers from the ICF-MR line in Medicaid to support Medicaid services to assist in continued community service opportunities for people with developmental disabilities.

**SECTION 10.50.(c)** Consistent with the requirements of this section, the Secretary of Health and Human Services shall update the existing plan to ensure that there are sufficient developmental disability/mental retardation regional centers to correspond with service catchment areas. The plan shall address:

- (1) Methods of funding for community services necessitated by downsizing;
- (2) How many State-operated beds and non-State-operated beds are needed to serve the population; and
- (3) Alternative uses for facilities.

Not later than April 1, 2008, the Department shall provide an updated report on the development of the plan, and not later than April 1, 2009, shall report the final plan, including recommendations for legislative action, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.50.(d)** The Department of Health and Human Services shall provide an updated report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall submit the progress report no later than January 15, 2008, and submit a final report no later than May 1, 2009.

## **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

**SECTION 10.51.(a)** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in cooperation with area mental health authorities and county programs, identify and eliminate administrative and fiscal barriers created by existing State and local policies and procedures in the delivery of community-based mental health, developmental disabilities, and substance abuse services provided through the area programs and county programs, including services provided through the Comprehensive Treatment Services Program for Children and services delivered to multiply diagnosed adults. The Department shall implement changes in policies and procedures in order to facilitate all of the following:

- (1) The provision of services to adults and children as defined in the Mental Health System Reform State Plan as priority or targeted populations.
- (2) The provision of services to children not deemed eligible for the Comprehensive Treatment Services Program for Children, but who would otherwise be in need of medically necessary treatment services to prevent out-of-home placement.
- (3) The provision of services in the community to adults remaining in and being placed in State institutions addressed in Olmstead v. L.C.

**SECTION 10.51.(b)** The Department shall rework the revised system of allocating State and federal funds to area mental health authorities and county programs to better reflect projected needs, including the impact of system reform efforts rather than historical allocation practices and spending patterns. The reworked allocation shall include the following:

- (1) For each LME, the current allocation by source and age/disability category, and the newly proposed allocation by source and age/disability category;
- (2) A clear formula for how the new allocations are derived with a detailed methodology for how the formula was created; and
- (3) A plan for moving to the new formula.

The Department shall submit the reworked language to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than October 1, 2007, for review. The Department shall implement the system only after review and approval by the 2007 General Assembly, Regular Session 2008.

**SECTION 10.51.(c)** Area mental health, developmental disabilities, and substance abuse services authorities and county programs shall use all funds appropriated for and necessary to provide mental health, developmental disabilities, and substance abuse services to meet the need for these services. If excess funds are available after expending appropriated funds to fully meet service needs, one-half of these excess funds shall not revert to the General Fund but shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that one-half of the funds appropriated for the Comprehensive Treatment Services Program for Children that are unexpended and unencumbered shall not revert to the General Fund but shall be carried forward and used only for services for children and adolescents.

The Department, in consultation with the area mental health authorities and county programs, shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the progress in implementing these changes. The report shall be submitted on October 1, 2007, and February 1, 2008.

## **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

**SECTION 10.52.(a)** In order to ensure that multiply diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

- (1) Implement the following guiding principles for the provision of services:
  - a. Service delivery system must be outcome-oriented and evaluation-based.
  - b. Services should be delivered as close as possible to the consumer's home.
  - c. Services selected should be those that are most efficient in terms of cost and effectiveness.
  - d. Services should not be provided solely for the convenience of the provider or the client.
  - e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
- (2) Provide those treatment services that are medically necessary.
- (3) Implement utilization review of services provided.

**SECTION 10.52.(b)** The Department of Health and Human Services shall implement all of the following cost-reduction strategies:

- (1) Preauthorization for all services except emergency services.
- (2) Criteria for determining medical necessity.
- (3) Clinically appropriate services.

**SECTION 10.52.(c)** No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply diagnosed adults.

**SECTION 10.52.(d)** The Department shall report on implementation of this section on May 1, 2008, and again on May 1, 2009, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

## **DEPARTMENTAL FLEXIBILITY IN SCHEDULING THE TRANSFER OF POSITIONS PERTAINING TO THE CLOSURE OF DOROTHEA DIX AND JOHN UMSTEAD HOSPITALS AND THE OPENING OF CENTRAL REGIONAL HOSPITAL**

**SECTION 10.53.(a)** The Department of Health and Human Services may schedule the transfer of positions relating to the closure of Dorothea Dix Hospital and John Umstead Hospital and the opening of Central Regional Hospital in accordance with appropriations and reductions in funding enacted in this act in a manner that is timely and with minimal disruption in services. The Department may not transfer more positions than are authorized in the House of Representatives Appropriations Committee Report on Health and Human Services, referenced in this act, for the closure of Dorothea Dix Hospital and John Umstead Hospital, the opening of Central Regional Hospital, the transfer of Whitaker School and R. J. Blackley ADATC to Central Regional Hospital, and the transfer of Dorothea Dix Hospital Forensic Unit beds to Broughton Hospital.

**SECTION 10.53.(b)** Of the funds appropriated in this act to the Department of Health and Human Services for Broughton Hospital, the sum of up to two hundred fifty thousand dollars (\$250,000) may be used by Broughton Hospital to purchase a CT Scanner.

## **INSTITUTE OF MEDICINE TASK FORCE/STUDY OF SUBSTANCE ABUSE SERVICES IN NORTH CAROLINA**

**SECTION 10.53A.(a)** The three hundred thousand dollars (\$300,000) appropriated in this act to the Department of Health and Human Services for allocation to the North Carolina Institute of Medicine (NC IOM) shall be used by the IOM to hire new staff, to undertake additional studies annually at the request of the General Assembly, and to support a rapid-response capacity to analyze secondary data sources on health or health-related data to the General Assembly and to State and local government agencies.

**SECTION 10.53A.(b)** The North Carolina Institute of Medicine shall use a portion of the funds allocated to it in subsection (a) of this section to convene a task force to study substance abuse services in North Carolina. The NC IOM shall provide staff and arrange for meeting facilities for the Task Force.

**SECTION 10.53A.(c)** The Task Force shall include the following:

- (1) Members of the North Carolina Senate and the North Carolina House of Representatives. Senate members shall be appointed by the President Pro Tempore of the Senate. Members of the House of Representatives shall be appointed by the Speaker of the House of Representatives.
- (2) Representatives of the North Carolina Department of Health and Human Services, local management entities, the North Carolina Department of Justice, the NC Office of the Attorney General, the North Carolina Community College System, and the North Carolina Department of Public Instruction.
- (3) Providers of substance abuse services, academics and researchers with substance abuse expertise, local governmental agencies, business and industry, domestic violence organizations, consumer and family members, and other interested members of the public.

The IOM shall appoint as cochairs of the Task Force one member of the North Carolina House of Representatives, one member of the North Carolina Senate, and one member who provides substance abuse services selected from the Task Force.

**SECTION 10.53A.(d)** The Task Force shall:

- (1) Identify the continuum of services needed for treatment of substance abuse services, including, but not limited to, prevention, outpatient services, residential treatment, and recovery supports. The Task Force shall examine what public and private organizations currently provide services, where services are offered, and gaps in the current service delivery system. The Task Force shall examine services that are available through public and private systems, but shall focus on the availability of substance abuse services through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and local management entities. The Task Force shall identify which services should be available locally throughout the State, and which services should be offered regionally or statewide.
- (2) Identify evidence-based models of care or promising practices in coordination with the NC Practice Improvement Collaborative for the prevention and treatment of substance abuse and develop recommendations to incorporate these models into the current substance abuse service system of care.
- (3) Examine different financing options to pay for substance abuse services at the local, regional, and State levels. The Task Force shall also consider different reimbursement methodology, including, but not limited to, fee-for-service, grant funding, case rates, and capitation.
- (4) Examine the adequacy of the current and future substance abuse workforce, including, but not limited to, credentialed substance abuse

counselors, availability of substance abuse workers throughout the State, and reimbursement levels. The Task Force shall develop a workforce education plan, if needed, to address current or future workforce shortages.

- (5) Develop strategies to identify people in need of substance abuse services, including people who are dually diagnosed as having mental health and substance abuse problems. In addition, the Task Force shall examine strategies for providing substance abuse services to people with substance abuse problems identified through the State hospitals, and the judicial and social services systems.
- (6) Examine barriers that people with substance abuse problems have in accessing publicly funded substance abuse services and explore possible strategies for improving access.
- (7) Examine current outcome measures and identify other appropriate outcome measures to assess the effectiveness of substance abuse services, if necessary.
- (8) Examine the economic impact of substance abuse in North Carolina. If data are available, the Task Force shall estimate the impact of substance abuse on the court system, health care system (e.g., through preventable hospitalizations), social services, and worker productivity.
- (9) Make recommendations on the implementation of a cost-effective plan for prevention, early screening, diagnosis, and treatment of North Carolinians with substance abuse problems. In so doing, the Task Force shall identify any policy changes needed to implement the plan and develop cost estimates associated with different recommendations. The Task Force shall also examine existing public and private financing options and explore how existing funding could be used more effectively to pay for the recommended services.

**SECTION 10.53A.(e)** The North Carolina Institute of Medicine's Substance Abuse Services Task Force shall submit its interim report and recommendations to the 2008 General Assembly upon its convening and to the chairs of the Senate Health Committee, the House of Representatives Health Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Governor. The final report shall be submitted no later than the convening of the 2009 General Assembly. Upon submission of this report, the Task Force shall terminate.

**FUNDS FOR HEALTH CARE PERSONNEL REGISTRY AND FOR RATED CERTIFICATES FOR ADULT CARE HOMES/CONTINGENCY**

**SECTION 10.54.(a)** Funds appropriated in this act to the Department of Health and Human Services, Division of Health Service Regulation, for the 2007-2008 fiscal year and the 2008-2009 fiscal year for positions and related costs to expand the Health Care Personnel Registry are contingent upon enactment of Senate Bill 56, 2007 Regular Session, by the 2007 General Assembly.

**SECTION 10.54.(b)** Funds appropriated in this act to the Department of Health and Human Services, Division of Health Service Regulation, for the 2007-2008 fiscal year and the 2008-2009 fiscal year for implementation of rated certificates for adult care homes are contingent upon enactment of Senate Bill 56, 2007 Regular Session, by the 2007 General Assembly.

**DHHS BLOCK GRANTS**

**SECTION 10.55.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2008, according to the following schedule:

**TEMPORARY ASSISTANCE TO NEEDY FAMILIES**

**(TANF) BLOCK GRANT**

**Local Program Expenditures**

**Division of Social Services**

01.	Work First Family Assistance (Cash Assistance)	\$94,857,234
02.	Work First County Block Grants	94,653,315
03.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
04.	Work First – Boys and Girls Clubs	2,000,000
05.	Work First – After-School Services for At-Risk Children	2,249,642
06.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
07.	Work First – Connect, Inc.	550,000
08.	Adoption Services – Special Children's Adoption Fund	3,000,000
09.	Family Violence Prevention	2,200,000
10.	Subsidized Child Care Program	48,563,266

**DHHS Administration**

11.	Division of Social Services	762,626
12.	Office of the Secretary	65,836
13.	Office of the Secretary/DIRM – TANF Automation Projects	592,500
14.	Office of the Secretary/DIRM – NC FAST Implementation	1,800,000

**Division of Public Health**

15.	Teen Pregnancy Prevention Initiatives	450,000
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**Transfers to Other Block Grants**

**Division of Child Development**

16.	Transfer to the Child Care and Development Fund	81,292,880
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## Division of Social Services

17.	Transfer to Social Services Block Grant for Department of Juvenile Justice and Delinquency Prevention – Support Our Students	2,749,642
18.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,550,000
19.	Transfer to Social Services Block Grant for Maternity Homes	838,000
20.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
21.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
22.	Transfer to Social Services Block Grant for Foster Care Services	1,181,907
<b>TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT</b>		<b>\$362,309,239</b>

## SOCIAL SERVICES BLOCK GRANT

### Local Program Expenditures

#### Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02.	State In-Home Services Fund	2,101,113
03.	State Adult Day Care Fund	2,155,301
04.	Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program	238,321
05.	Foster Care Services (Transfer from TANF – \$1,181,907)	2,649,662
06.	Foster Care Maintenance Payments	2,636,587
07.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	2,550,000
08.	Maternity Homes (Transfer from TANF)	838,000

### Division of Aging and Adult Services

09.	Home and Community Care Block Grant (HCCBG)	1,834,077
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
10.	Mental Health Services Program	422,003
11.	Developmental Disabilities Services Program	5,000,000
12.	Mental Health Services-Adult and Child/Developmental Disabilities Program/Substance Abuse Services-Adult	3,234,601
Division of Child Development		
13.	Subsidized Child Care Program	3,195,000
Division of Vocational Rehabilitation		
14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	188,263
Office of the Secretary – Office of Economic Opportunity		
15.	Elderly Supplemental Grant Program	41,302
Division of Public Health		
16.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
DHHS Program Expenditures		
Division of Aging and Adult Services		
17.	UNC-CARES Training Contract	247,920
Division of Services for the Blind		
18.	Independent Living Program	3,480,133
Division of Health Service Regulation		
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668
DHHS Administration		
21.	Division of Aging and Adult Services	658,674
22.	Division of Social Services	869,058
23.	Office of the Secretary/Controller's Office	126,155

24.	Office of the Secretary/DIRM	82,009
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	28,860
27.	Division of Health Service Regulation	159,218
28.	Office of the Secretary-NC Inter-Agency Council For Coordinating Homeless Programs	250,000
29.	Office of the Secretary-Housing Coalition	100,000
30.	Office of the Secretary	46,819

Transfers to Other State Agencies

Department of Administration

31.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
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Department of Juvenile Justice and Delinquency Prevention

32.	Support Our Students (Transfer from TANF)	2,749,642
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Transfers to Other Block Grants

Division of Public Health

33.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
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**TOTAL SOCIAL SERVICES BLOCK GRANT** \$ 68,232,489

**LOW-INCOME ENERGY BLOCK GRANT**

Local Program Expenditures

Division of Social Services

01.	Low-Income Energy Assistance Program (LIHEAP)	\$ 17,315,919
02.	Crisis Intervention Program (CIP)	12,904,706

Office of the Secretary – Office of Economic Opportunity

03.	Weatherization Program	5,578,702
04.	Heating Air Repair & Replacement Program (HARRP)	2,602,008

Local Administration

Division of Social Services

05.	County DSS Administration	2,215,016
Office of the Secretary – Office of Economic Opportunity		
06.	Local Residential Energy Efficiency Service Providers – Weatherization	262,837
07.	Local Residential Energy Efficiency Service Providers – HARRP	122,591

DHHS Administration

08.	Division of Social Services	215,000
09.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	7,389
10.	Office of the Secretary/DIRM	245,395
11.	Office of the Secretary/Controller's Office	11,211
12.	Office of the Secretary/Office of Economic Opportunity – Weatherization	262,837
13.	Office of the Secretary/Office of Economic Opportunity – HARRP	122,591

Transfers to Other State Agencies

14.	Department of Administration – N.C. State Commission of Indian Affairs	59,740
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**TOTAL LOW-INCOME ENERGY BLOCK GRANT** \$ 41,925,942

**CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

Local Program Expenditures

Division of Child Development

01.	Subsidized Child Care Services	\$166,914,864
02.	Subsidized Child Care Services (TANF to CCDF)	81,292,880

DHHS Program Expenditures

Division of Child Development

03.	Quality and Availability Initiatives	31,463,419
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Local Administrations

Division of Child Development

04. Administrative Expenses (Nondirect Subsidy Services Support) 2,221,688

DHHS Administration

05. DCD Administrative Expenses 6,403,354

**TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT** \$288,296,205

**MENTAL HEALTH SERVICES BLOCK GRANT**

Local Program Expenditures

01. Mental Health Services – Adult \$ 5,654,932

02. Mental Health Services – Child 3,921,991

03. Comprehensive Treatment Service Program 1,500,000

Local Administration

04. Division of Mental Health 100,000

**TOTAL MENTAL HEALTH SERVICES BLOCK GRANT** \$ 11,176,923

**SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

Local Program Expenditures

01. Substance Abuse Services – Adult \$ 20,287,390

02. Substance Abuse Treatment Alternative for Women 8,069,524

03. Substance Abuse – HIV and IV Drug 4,816,378

04. Substance Abuse Prevention – Child 5,835,701

05. Substance Abuse Services – Child 4,940,500

06. Substance Abuse Strengthening Families – Prevention 851,156

Division of Public Health

07. Risk Reduction Projects 633,980

08. Aid-to-Counties 209,576

09. Maternal Health 37,779

DHHS Administration

10. Division of Mental Health	500,000
<b>TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>	<b>\$ 46,181,984</b>

**MATERNAL AND CHILD HEALTH BLOCK GRANT**

Local Program Expenditures

Division of Public Health

01. Children's Health Services	6,657,275
02. Family Planning	4,078,338
03. Maternal Health	3,441,129
04. Teen Pregnancy Prevention Initiatives	85,710
05. Oral Health	35,951

DHHS Program Expenditures

Division of Public Health

06. Children's Health Services	2,444,445
07. Maternal Health	106,927
08. State Center for Health Statistics	33,134
09. Local Technical Assistance & Training	17,318
10. Injury and Violence Prevention	142,850
11. Office of Minority Health	37,068
12. Immunization Program – Vaccine Distribution	310,667

DHHS Administration

13. Division of Public Health Administration	600,586
<b>TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT</b>	<b>\$ 17,991,398</b>

**PREVENTIVE HEALTH SERVICES BLOCK GRANT**

Local Program Expenditures

01. NC Statewide Health Promotion	\$1,755,653
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02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819
<b>DHHS Program Expenditures</b>		
04.	NC Statewide Health Promotion	718,451
05.	Oral Health	70,000
<b>DHHS Administration</b>		
06.	Division of Public Health	163,806
<b>TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>		<b>\$3,070,841</b>
<b>COMMUNITY SERVICES BLOCK GRANT</b>		
<b>Local Program Expenditures</b>		
Office of Economic Opportunity – Community Services Block Grant		
01.	Community Action Agencies	\$ 15,071,666
02.	Limited Purpose Agencies	823,136
<b>DHHS Administration</b>		
03.	Office of Economic Opportunity	823,136
<b>TOTAL COMMUNITY SERVICES BLOCK GRANT</b>		<b>\$ 16,717,938</b>

## **GENERAL PROVISIONS**

**SECTION 10.55.(b)** Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

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

**SECTION 10.55.(c)** Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally

across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Department shall not propose funding for new programs or activities not appropriated in this section or increase State administrative expenditures.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately across the program and activity appropriations identified for that Block Grant in this section. In allocating a decrease in federal fund availability, the Department shall not eliminate the funding for a program or activity appropriated in this section unless it is related to the State administration.

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

**SECTION 10.55.(d)** All changes to the budgeted allocations to the Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and a report shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. All changes to the budgeted allocations to the Block Grant shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

#### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)**

**SECTION 10.55.(e)** The sum of seven hundred sixty-two thousand six hundred twenty-six dollars (\$762,626) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to support administration of TANF-funded programs.

**SECTION 10.55.(f)** The sum of two million two hundred thousand dollars (\$2,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2007. The Division of Social Services, in consultation with the Council for Women, shall review

the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2007, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2007. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

**SECTION 10.55.(g)** The sum of two million two hundred forty-nine thousand six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy, school dropout, and gang participation. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration.

**SECTION 10.55.(h)** The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2007-2008 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

**SECTION 10.55.(i)** The sum of three million dollars (\$3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2007-2008 fiscal year shall be used in accordance with Section 10.31 of this act. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

**SECTION 10.55.(j)** The sum of one million eight hundred thousand dollars (\$1,800,000) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant for the 2007-2008 fiscal year shall be used to implement N.C. FAST (North Carolina Families Accessing Services through Technology). The N.C. FAST Program involves the entire automation initiative through which families access services and local departments of social services deliver benefits, supervised by the Department of Health and Human Services, Divisions of Social Services, Aging and Adult Services, Medical Assistance, and Child Development. The statewide automated initiative shall be implemented in compliance with federal regulations in order to ensure federal financial participation in the project. The

Department of Health and Human Services shall report on its compliance with this subsection to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2008.

**SECTION 10.55.(k)** The sum of five hundred thousand dollars (\$500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2007-2008 fiscal year shall be used to expand after-school programs for at-risk children attending middle school. The Department shall develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools.

**SECTION 10.55.(l)** In implementing the TANF Block Grant, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives. The Department shall encourage county departments of social services to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

**SECTION 10.55.(m)** The sum of five hundred fifty thousand dollars (\$550,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for the 2007-2008 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of people served and the services received as a result of the receipt of funds. The report shall contain expenditure data, including the amount of funds used for administration and direct training. The report shall also include the number of people who have been employed as a direct result of services provided by Connect, Inc., including the length of employment in the new position. The Department of Health and Human Services shall evaluate the program and ensure that services provided are not duplicative of local employment security commissions in the nine counties served by Connect, Inc. The evaluation report shall be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2008.

**SECTION 10.55.(n)** The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2007-2008 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

**SECTION 10.55.(o)** The Department of Health and Human Services, Division of Social Services, shall continue implementing county demonstration grants that began in the 2006-2007 fiscal year. The county demonstration grants may be awarded for up to three years with all projects ending no later than the end of fiscal year 2009-2010. The purpose of the county demonstration grants is to identify best practices that can be used by counties to improve the work participation rates. The Division of Social Services is authorized to establish two time-limited positions to manage the grant award process and monitor the demonstration projects through fiscal year 2009-2010.

Funding provided under the county demonstration grants shall not be used to supplant local funds, and counties shall be required to maintain the current level of effort and funding for the Work First program.

The Department of Health and Human Services, Division of Social Services, shall report on the status of county demonstration grants implemented pursuant to this subsection to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than February 1, 2008.

## **SOCIAL SERVICES BLOCK GRANT**

**SECTION 10.55.(p)** Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for Coordinating Homeless Programs and the North Carolina Housing Coalition are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.55.(q)** The sum of two million seven hundred forty-nine thousand six hundred forty-two dollars (\$2,749,642) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2007-2008 fiscal year shall be used to support the existing Support Our Students Program, including gang prevention, and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

**SECTION 10.55.(r)** The sum of two million five hundred fifty thousand dollars (\$2,550,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to support various child welfare training projects as follows:

- (1) Provide a regional training center in southeastern North Carolina.
- (2) Support the Master's Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
- (3) Provide training for residential child caring facilities.
- (4) Provide for various other child welfare training initiatives.

**SECTION 10.55.(s)** The sum of eight hundred thirty-eight thousand dollars (\$838,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services for the 2007-2008 fiscal year shall be used to purchase services at maternity homes throughout the State.

**SECTION 10.55.(t)** The sum of two million six hundred forty-nine thousand six hundred sixty-two dollars (\$2,649,662) appropriated in this section in the Social Services Block Grant for child caring agencies for the 2007-2008 fiscal year shall be allocated to the State Private Child Caring Agencies Fund.

**SECTION 10.55.(u)** The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

## **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM**

**SECTION 10.55.(v)** Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

## **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

**SECTION 10.55.(w)** The sum of no more than four hundred thousand dollars (\$400,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant for the 2007-2008 fiscal year may be used for the operations of the Medical Child Care Pilot.

**SECTION 10.55.(x)** Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.55.(y)** If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

## **MENTAL HEALTH BLOCK GRANT**

**SECTION 10.55.(z)** The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2007-2008 fiscal year and the sum of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2007-2008 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 10.10 of this act.

**SECTION 10.55.(aa)** The Department of Health and Human Services shall contract with the University of North Carolina at Chapel Hill for the purpose of providing psychology student stipends in the amount of fifty thousand dollars (\$50,000) for the 2007-2008 fiscal year. Twenty-five thousand dollars (\$25,000) of this contract shall be paid from the Mental Health Block Grant.

## **MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.55.(bb)** If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2007-2008 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

**SECTION 10.55.(cc)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

## **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

**SECTION 10.55.(dd)** Of the funds appropriated for risk reduction projects, the sum of two hundred fifty thousand dollars (\$250,000) shall be used to fund a pilot to do basic education resource and referral for individuals with HIV/AIDS and substance abuse disorder. If substance abuse prevention and treatment carry-forward funds are available, the Department of Health and Human Services shall budget the first two hundred fifty thousand dollars (\$250,000) of these funds to adult substance abusers.

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

### **SALE OF TIMBER**

**SECTION 11.1.** G.S. 143-64.05(a) reads as rewritten:

"(a) The State agency for surplus property may assess and collect a service charge for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property and for the transfer or sale of recyclable material. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources ~~Commission~~ Commission or the Department of Agriculture and Consumer Services."

**STUDY STRUCTURE AND MANAGEMENT PRACTICES OF AGRICULTURAL RESEARCH STATIONS AND RESEARCH FARMS**

**SECTION 11.4.(a)** The Performance Evaluation Division of the General Assembly shall study the structure and management practices of the 18 agricultural research stations and research farms currently owned either by North Carolina State University or the Department of Agriculture and Consumer Services and currently managed by the Department of Agriculture and Consumer Services. This study shall consider ways to achieve efficiency savings and whether it is desirable and feasible to consolidate or transfer to another State department these research stations and research farms.

**SECTION 11.4.(b)** No later than May 1, 2008, the Performance Evaluation Division of the General Assembly shall prepare a report of the findings and recommendations of the study and submit this report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

**PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK PROGRAM ADMINISTRATIVE COSTS**

**SECTION 12.1.(a)** G.S. 143-215.94B is amended by adding a new subsection to read:

"(g) The Commercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits."

**SECTION 12.1.(b)** G.S. 143-215.94D is amended by adding a new subsection to read:

"(g) The Noncommercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits."

**BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND**

**SECTION 12.2.(a)** G.S. 87-98 reads as rewritten:

**"§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established within ~~under~~ the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing fund consisting of monies appropriated by the General

Assembly or made available to the Fund from any other source and investment interest credited to the Fund.

(b) The Fund may be used to pay for notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business. The funds Fund may also be used by the Department to cover pay the costs of testing of private drinking water wells and improved springs for suspected contamination up to once every three years upon request by a person who uses the well for contamination and for the temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this subsection, an alternative drinking water supply includes the repair or replacement of a contaminated well or the connection to a public water supply.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The funds Fund shall not be used for remediation of groundwater contamination. Nothing in this section expands, contracts, or modifies the obligation of responsible parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or soil contamination. The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level. The Fund shall not be used to provide alternative drinking water supplies unless the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the Maximum Contaminant Level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2006) and 40 Code of Federal Regulations § 143.3 (1 July 2006). The Fund shall not be used to provide temporary water supplies in any calendar quarter until all needs for permanent replacement water supplies that have been identified in that calendar quarter have been met through hookups to public water supplies, repair, or replacement of contaminated wells. In disbursing monies from the Fund, preference shall be given to providing permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse funds monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Health Services and local health departments, shall report no later than 1 October of each year to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action."

**SECTION 12.2.(b)** The first report required by G.S. 87-98(e), as enacted by subsection (a) of this section, shall be submitted on or before 1 October 2008.

## **FUNDS FOR PENDING CIVIL LITIGATION EXPENSES**

**SECTION 12.2A.** Notwithstanding G.S. 143-215.3A, of the funds available in the Water and Air Quality Account for the costs of administering the air quality

program, the Department of Environment and Natural Resources shall transfer the sum of one million dollars (\$1,000,000) for the 2007-2008 fiscal year to the Office of State Budget and Management's Litigation Reserve. These funds shall be used solely by the Department of Justice for expenses related to litigation and expert witnesses associated with either of the actions pending in North Carolina ex rel. Cooper v. Tennessee Valley Authority, No. 1:06CV20 (W.D.N.C. filed Jan. 30, 2006) or South Carolina v. North Carolina, No. 22O138 ORG (U.S. Sup. Ct. filed June 7, 2007). Any of these funds that remain unused for this purpose on June 30, 2008, shall revert to the Water and Air Quality Account.

## **NEW LEASE PURCHASE/INSTALLMENT CONTRACTS FOR FORESTRY EQUIPMENT**

**SECTION 12.4.** Prior to the Division of Forest Resources of the Department of Environment and Natural Resources entering into either a new lease purchase contract for the purchase of forestry equipment or a new installment contract for the purchase of forestry equipment, the Division of Forest Resources shall submit a detailed list of the forestry equipment to be purchased under the contract to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Prior to the Department of Administration entering into either a new lease purchase contract for the purchase of forestry equipment or a new installment contract for the purchase of forestry equipment on behalf of the Division of Forest Resources, the Department of Administration shall submit a detailed list of the forestry equipment to be purchased under the contract to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. If a list is modified after it is submitted under this section, the modified list shall be submitted to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division prior to entering into the contract.

## **GRASSROOTS SCIENCE PROGRAM**

**SECTION 12.5.(a)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million nine hundred six thousand three hundred forty dollars (\$3,906,340) for the 2007-2008 fiscal year and the sum of three million four hundred eighty-one thousand three hundred forty dollars (\$3,481,340) for the 2008-2009 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2007-2008	2008-2009
Aurora Fossil Museum	\$59,057	\$59,057
Cape Fear Museum	\$161,007	\$161,007
Carolina Raptor Center	\$112,174	\$112,174
Catawba Science Center	\$146,356	\$146,356
Colburn Earth Science Museum, Inc.	\$74,545	\$74,545
Core Sound Waterfowl Museum	\$50,000	\$50,000
Discovery Place	\$662,865	\$662,865
Eastern NC Regional Science Center	\$350,000	\$50,000
Fascinate-U	\$81,072	\$81,072
Granville County Museum Commission, Inc.–Harris Gallery	\$56,422	\$56,422
Greensboro Children's Museum	\$135,076	\$135,076
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$155,611	\$155,611
Highlands Nature Center	\$79,268	\$79,268
Imagination Station	\$86,034	\$86,034
The Iredell Museums, Inc.	\$61,306	\$61,306

Kidsenses	\$81,282	\$81,282
Museum of Coastal Carolina	\$78,020	\$78,020
The Natural Science Center of Greensboro, Inc.	\$311,354	\$186,354
North Carolina Museum of Life and Science	\$379,826	\$379,826
Pisgah Astronomical Research Institute	\$50,000	\$50,000
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	\$50,000	\$50,000
Rocky Mount Children's Museum	\$72,254	\$72,254
Schiele Museum of Natural History and Planetarium, Inc.	\$229,547	\$229,547
Sci Works Science Center and Environmental Park of Forsyth County	\$146,499	\$146,499
Sylvan Heights Waterfowl Park and Eco-Center	\$50,000	\$50,000
Western North Carolina Nature Center	\$112,879	\$112,879
Wilmington Children's Museum	\$73,886	\$73,886
 Total	 \$3,906,340	 \$3,481,340

**SECTION 12.5.(b)** No later than March 1, 2008, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

- (1) The operating budget for the 2006-2007 fiscal year.
- (2) The operating budget for the 2007-2008 fiscal year.
- (3) The total attendance at the museum during the 2007 calendar year.

**SECTION 12.5.(c)** No later than March 1, 2009, the Department of Environment and Natural Resources shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

- (1) The operating budget for the 2007-2008 fiscal year.
- (2) The operating budget for the 2008-2009 fiscal year.
- (3) The total attendance at the museum during the 2008 calendar year.

**SECTION 12.5.(d)** As a condition for qualifying to receive funding under this section, all of the following documentation shall be submitted for each museum under this section to the Department of Environment and Natural Resources for fiscal years ending between July 1, 2005, and June 30, 2006, and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

- (1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.
- (2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available, in which case, it shall submit either an IRS Form 990 or an annual report.
- (3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the

museum receives funds from the county or municipality for the benefit of the museum.

(4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

**SECTION 12.5.(e)** As used in subsection (d) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

**SECTION 12.5.(f)** The Fiscal Research Division shall study the current formula used to calculate the allocations for members of the Grassroots collaborative and shall report no later than January 15, 2008, its findings and any recommendations for revising this formula to be used for the 2008-2009 fiscal year to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives.

### **BEAVER DAMAGE CONTROL PROGRAM FUNDS**

**SECTION 12.5A.** Of the funds appropriated in this act to the Department of Environment and Natural Resources, the sum of three hundred forty-nine thousand dollars (\$349,000) for the 2007-2008 fiscal year and the sum of three hundred forty-nine thousand dollars (\$349,000) for the 2008-2009 fiscal year shall be allocated to the Wildlife Resources Commission to be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

### **RETAIN EARNINGS OF PARKS AND RECREATION TRUST FUND**

**SECTION 12.8.** G.S. 113-44.15(a) reads as rewritten:

"(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund."

### **STUDY ADVISABILITY OF ADDING DEEP RIVER STATE TRAIL TO STATE PARKS SYSTEM**

**SECTION 12.9.** The Department of Environment and Natural Resources, Division of Parks and Recreation, shall study the advisability of the General Assembly authorizing the addition of the Deep River State Trail to the State Parks System, as provided in G.S. 113-44-14. In the course of the study, the Division shall consider the cost over the next five years of land acquisition, park development, and park operations. The Department shall report the results of this study to the Joint Legislative Commission on Governmental Operations by March 1, 2008.

## **PART XIII. DEPARTMENT OF COMMERCE**

### **ONE NORTH CAROLINA FUND**

**SECTION 13.1.(a)** Of the funds appropriated in this act to the One North Carolina Fund for the 2007-2008 fiscal year, the Department of Commerce may use up

to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2007-2008 fiscal year.

**SECTION 13.1.(b)** Of the funds appropriated in this act to the One North Carolina Fund for the 2007-2008 fiscal year, the sum of six hundred fifty thousand dollars (\$650,000) shall be transferred to the Department of Environment and Natural Resources, Division of Information Technology Services, for the development of a Tier II hazardous chemicals inventory database and Web-based access application.

**SECTION 13.1.(c)** If any One North Carolina funds that have been previously awarded and disbursed are recovered by the Department of Commerce during the 2007-2008 fiscal year, the Department of Commerce may use up to one million dollars (\$1,000,000) of the recovered funds to supplement the Department's budget for statewide economic development marketing and business assistance, including continued development and maintenance of the Department's Web site, development of software and systems to improve service to North Carolina businesses, and the promotion of North Carolina nationally and internationally as a location for business growth and expansion through advertising, events-related marketing, and hosting international economic development conferences.

#### **TEMPORARY EXPANSION OF JDIG CAP**

**SECTION 13.1A.** Notwithstanding G.S. 143B-437.52(c), the maximum amount of total annual liability for grants for agreements entered into in calendar year 2007 under the Job Development Investment Grant Program, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed twenty-five million dollars (\$25,000,000).

#### **NC GREEN BUSINESS FUND**

**SECTION 13.2.(a)** Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

##### "Part 2B. NC Green Business Fund.

##### **"§ 143B-437.4. NC Green Business Fund established as a special revenue fund.**

(a) Establishment. – The NC Green Business Fund is established as a special revenue fund in the Department of Commerce, and the Department shall be responsible for administering the Fund.

(b) Purposes. – Moneys in the NC Green Business Fund shall be allocated pursuant to this subsection. The Department of Commerce shall make grants from the Fund to private businesses with less than 100 employees, nonprofit organizations, local governments, and State agencies to encourage the expansion of small to medium size businesses with less than 100 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund shall be used for projects that will focus on the following three priority areas:

(1) To encourage the development of the biofuels industry in the State. The Department of Commerce may make grants available to maximize development, production, distribution, retail infrastructure, and consumer purchase of biofuels in North Carolina, including grants to enhance biofuels workforce development.

(2) To encourage the development of the green building industry in the State. The Department of Commerce may make grants available to assist in the development and growth of a market for environmentally conscious and energy efficient green building processes. Grants may support the installation, certification, or distribution of green building materials; energy audits; and marketing and sales of green building technology in North Carolina, including grants to enhance workforce development for green building processes.

(3) To attract and leverage private-sector investments and entrepreneurial growth in environmentally conscious clean technology and renewable energy products and businesses, including grants to enhance workforce development in such businesses.

**"§ 143B-437.5. Green Business Fund Advisory Committee.**

The Department of Commerce may establish an advisory committee to assist in the development of the specific selection criteria and the grant-making process of the NC Green Business Fund.

**"§ 143B-437.6. Agreements required.**

Funds may be disbursed from the NC Green Business Fund only in accordance with agreements entered into between the Department of Commerce and an eligible grantee. Each agreement must contain the following provisions:

- (1) A description of the acceptable uses of grant proceeds. The agreement may limit the use of funds to specific purposes or may allow the funds to be used for any lawful purposes.
- (2) A provision allowing the Department of Commerce to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.
- (3) A provision establishing the method for determining compliance with the agreement.
- (4) A provision establishing a schedule for disbursement of funds under the agreement.
- (5) A provision requiring recapture of grant funds if a grantee subsequently fails to comply with the terms of the agreement.
- (6) Any other provision the State finds necessary to ensure the proper use of State funds.

**"§ 143B-437.7. Program guidelines.**

The Department of Commerce shall develop guidelines related to the administration of the NC Green Business Fund and to the selection of projects to receive allocations from the Fund, including project evaluation measures. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

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

**"§ 143B-437.8. Reports.**

Grants made to non-State entities through the NC Green Business Fund shall be subject to the oversight and reporting requirements of G.S. 143C-6-23. The Department of Commerce shall publish a report on the commitment, disbursement, and use of funds allocated from the NC Green Business Fund at the end of each fiscal year. The report is due no later than September 1 and must be submitted to the following:

- (1) The Joint Legislative Commission on Governmental Operations.
- (2) The chairs of the House of Representatives and Senate Finance Committees.
- (3) The chairs of the House of Representatives and Senate Appropriations Committees.
- (4) The Fiscal Research Division of the General Assembly.

**"§§ 143B-437.9 through 143B-437.11: Reserved for future codification purposes."**

SECTION 13.2.(b) G.S. 147-68(d1) reads as rewritten:

~~"(d1) The Treasurer shall report to the Joint Legislative Commission on Governmental Operations, to the Chairman, Appropriations Base Budget Committee and the Chairman, Appropriations Expansion Budget Committee of the House of Representatives, and to the Chairman, Committee on Appropriations and the Chairman, Committee on Base Budget of the Senate the chairs of the House of Representatives and Senate Appropriations Committees, the chairs of the House of Representatives and Senate Finance Committees, and the Fiscal Research Division of the General Assembly, on a quarterly basis, concerning all investments and deposits made by and through his office. The report shall include a listing of all investments with or on behalf of the State or any of its agencies or institutions and shall include the particular agency or institution, fund, rate of return, duration of the investment, and the amount of deposit on all noninterest bearing accounts. The first report is due 90 days after July 1, 1982, and shall include all investments and deposits made during the 1981-82 fiscal year and all investments made during the first quarter of the 1982-83 fiscal year; thereafter, reports shall be made on a quarterly basis including all investments and deposits made during that reporting period. The report shall include a specific listing of all investments made with certified green managers and companies and funds that support sustainable practices, including the names of the companies, managers, and funds, the amount invested, and the State's return on investment."~~

**SECTION 13.2.(c)** G.S. 150B-1(d) is amended by adding the following new subdivision to read:

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

~~...  
(17) The Department of Commerce in developing guidelines for the NC Green Business Fund under Part 2B of Article 10 of Chapter 143B of the General Statutes."~~

**SECTION 13.2.(d)** Of the funds appropriated in this act to the NC Green Business Fund, the Department of Commerce may use up to fifty thousand dollars (\$50,000), if necessary, to cover the Department's expenses in administering the NC Green Business Fund.

## EXECUTIVE AIRCRAFT/USES

**SECTION 13.3.** Part 2 of Article 10 of Chapter 143B is amended by adding a new section to read:

**"§ 143B-437.011. Executive aircraft used for economic development; other uses.**

~~The use of executive aircraft by the Department of Commerce for economic development purposes shall take precedence over all other uses. The Department of Commerce shall annually review the rates charged for the use of executive aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an executive aircraft is not being used for economic development purposes, priority of use shall be given first to the Governor, second to the Council of State, and third to other State officials traveling on State business. If an executive aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."~~

## WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

**SECTION 13.3A.(a)** Funds appropriated to the Department of Commerce for the 2006-2007 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes.

These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

**SECTION 13.3A.(b)** Funds appropriated to the Department of Commerce for the 2006-2007 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for securing adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

**SECTION 13.3A.(c)** This section becomes effective June 30, 2007.

## **EMPLOYMENT SECURITY COMMISSION FUNDS**

**SECTION 13.4.(a)** Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the 2007-2008 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

**SECTION 13.4.(b)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of seven million three hundred thousand dollars (\$7,300,000) for the 2007-2008 fiscal year to be used for the following purposes:

- (1) Seven million dollars (\$7,000,000) for the operation and support of local offices.
- (2) Two hundred thousand dollars (\$200,000) for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.
- (3) One hundred thousand dollars (\$100,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

**SECTION 13.4.(c)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed two million five hundred thousand dollars (\$2,500,000) for the 2007-2008 fiscal year to fund State initiatives not currently funded through federal grants.

**SECTION 13.4.(d)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed three hundred fifty thousand dollars (\$350,000) for the 2007-2008 fiscal year to allow the Commission to continue to work with Connect, Inc., to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.

**SECTION 13.4.(e)** This section becomes effective July 1, 2007.

## **INDUSTRIAL COMMISSION STRATEGIC PLAN/REPORT**

**SECTION 13.4A.(a)** G.S. 97-78 is amended by adding two new subsections to read:

"(f) No later than April 1, 2008, the Commission shall prepare and implement a strategic plan for accomplishing all of the following:

- (1) Tracking compliance with the provisions of G.S. 97-18(b), (c), and (d), and establishing a procedure to enforce compliance with the requirements of these subsections.
- (2) Expeditiously resolving requests for, or disputes involving, medical compensation under G.S. 97-25, including selection of a physician, change of physician, the specific treatment involved, and the provider of such treatment.

(g) The Commission shall demonstrate its success in implementing its strategic plan under subsection (f) of this section by including all of the following in its annual report under subsection (e) of this section:

- (1) The total number of claims made during the preceding calendar year, the total number of claims in which compliance was not timely made, and, for each claim, the date the claim was filed, the date by which compliance was required, the date of actual compliance, and any sanctions or other remedial action imposed by the Commission.
- (2) The total number of requests for, and disputes involving, medical compensation under G.S. 97-25 in which final disposition was not made within 45 days of the filing of the motion with the Commission, and, for each such request or dispute, the date the motion or other initial pleading was filed, the date on which final disposition was made and, where reasonably ascertainable, the date on which any ordered medical treatment was actually provided."

**SECTION 13.4A.(b)** G.S. 97-78(e) reads as rewritten:

"(e) The No later than October 1 of each year, the Commission shall publish annually for free distribution a report of the administration of this Article, together with such recommendations as the Commission deems advisable. No later than October 1 of each year, the Commission shall submit this report to the Joint Legislative Commission on Governmental Operations."

**NORTH CAROLINA CENTER FOR AUTOMOTIVE RESEARCH/FUNDS SHALL NOT REVERT**

**SECTION 13.5.(a)** Funds appropriated to the North Carolina Center for Automotive Research, Inc., (Center) for the 2005-2006 fiscal year and for the 2006-2007 fiscal year that are unexpended and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30, 2007, but shall remain available at the Department of Commerce.

**SECTION 13.5.(b)** Of the funds appropriated to the North Carolina Center for Automotive Research for the 2005-2006 fiscal year and for the 2006-2007 fiscal year, the Department of Commerce, with approval from the Office of State Budget and Management, may, subject to the provisions of subsection (c) of this section, allocate the remaining appropriated funds to the Center when the Office of State Budget and Management, in consultation with the Department of Commerce, determines the Center has completed goals and projects consistent with the Center's business plan. The goals and projects shall include the following:

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

**SECTION 13.5.(c)** No funds shall be released by the Office of State Budget and Management under subsection (b) of this section until a board of directors for the

Center consisting of no fewer than five members representing five different organizations is appointed and operating.

**SECTION 13.5.(d)** The Center shall file with the Department of Commerce a copy of the Center's policy addressing conflicts of interest that may arise involving the Center's management employees and members of the Center's board of directors or other governing body before funds may be allocated to the Center. The policy shall address situations in which any of the Center's management employees and members of the board of directors or other governing body may directly or indirectly benefit, except as Center employees or members of the board or other governing body, from the Center's disbursing of State funds and shall include actions to be taken by the Center or the employee or member, or both, to avoid conflicts of interest and the appearance of impropriety.

**SECTION 13.5.(e)** By December 31, 2007, and April 30, 2008, the Center shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division the following information: (i) fiscal year 2007-2008 projects, objectives, and accomplishments; and (ii) fiscal year 2007-2008 itemized expenditures and fund sources. The April 30, 2008, report shall also contain the following information: (i) fiscal year 2008-2009 planned projects, objectives, and accomplishments; and (ii) fiscal year 2008-2009 estimated expenditures and fund sources.

**SECTION 13.5.(f)** The Center shall also provide to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement and a copy of the Center's IRS Form 990.

**SECTION 13.5.(g)** The Center shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. The Center shall provide specific salary information upon the written request of the chairs of the Joint Legislative Commission on Governmental Operations and the chairs of the House Appropriations Committee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.

## **COUNCIL OF GOVERNMENT FUNDS**

**SECTION 13.6.(a)** Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2007-2008 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2008-2009 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2007-2008 and the 2008-2009 fiscal years.

**SECTION 13.6.(b)** A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

**SECTION 13.6.(c)** Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2007, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2008, as specified in subdivision (e)(1) of this section.

**SECTION 13.6.(d)** Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

**SECTION 13.6.(e)** Each council of government or lead regional organization shall do the following:

- (1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
  - b. State fiscal year 2006-2007 itemized expenditures and fund sources;
  - c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
  - d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2007.
- (2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
  - b. State fiscal year 2007-2008 itemized expenditures and fund sources;
  - c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
  - d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2008.
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

## **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

**SECTION 13.7.(a)** Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

**SECTION 13.7.(b)** Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and
- (2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of three hundred thirty thousand seven hundred fifty dollars (\$330,750) in the 2007-2008 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance

of seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of three hundred thirty thousand seven hundred fifty dollars (\$330,750) in the 2007-2008 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

**SECTION 13.7.(c)** No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

**SECTION 13.7.(d)** No later than September 1, 2007, the Department of Commerce shall submit a report in writing on the implementation of the provisions of G.S. 158-8.6 to the chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, the Office of State Budget and Management, and the Fiscal Research Division. The Department shall include in the report a detailed plan to address any impediments to the development of uniform standards for the commissions.

**SECTION 13.7.(e)** The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

**SECTION 13.7.(f)** The Performance Evaluation Division of the General Assembly shall study the structure and funding of the seven regional economic development commissions. In conducting the study, the Division shall consider the availability and utilization of non-State funding sources and shall make recommendations concerning the commissions' funding, including whether State funding should be recurring or nonrecurring. No later than May 1, 2008, the Division shall submit a report of its findings and recommendations to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division. The chairs of the House and Senate Appropriations Committees shall take into consideration the results of the study when developing the budget for the 2008-2009 fiscal year.

**SECTION 13.7.(g)** G.S. 158-8.5 reads as rewritten:

**"§ 158-8.5. Annual reporting requirement.**

By February 15 of each year, the commissions created pursuant to G.S. 158-8.1, 158-8.2, 158-8.3, and 158-33 shall publish a report containing the information required by this section. As a condition on the receipt of State funds, the Charlotte Regional Partnership, Inc., the Piedmont Triad Regional Partnership, and the Research Triangle Regional Partnership shall, by February 15 of each year, publish a report containing the information required by this section. The commissions and partnerships shall also submit a copy of the report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Economic Development Oversight Committee, and the Fiscal Research Division of the General Assembly. The report shall include all of the following:

(1) A summary of the preceding year's program activities, objectives, and accomplishments.

- (2) The preceding fiscal year's itemized expenditures ~~of State funds and fund sources. Itemized expenditures shall be reported separately for each fund source.~~
- (3) A demonstration of how the commission's or partnership's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.
- (4) A demonstration of how the commission's or partnership's involvement in promotion activities has generated leads.
- (5) The most recent audited annual financial statement regarding State funds.
- (6) A demonstration of the commission's efforts to obtain funds from local, private, and federal sources."

**KERR-TAR REGIONAL ECONOMIC DEVELOPMENT CORPORATION/REPORTING REQUIREMENTS**

**SECTION 13.9.** The Kerr-Tar Regional Economic Development Corporation shall do the following:

- (1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
  - b. State fiscal year 2006-2007 itemized expenditures and fund sources;
  - c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments including actual results through December 31, 2007; and
  - d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2007.
- (2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
  - b. State fiscal year 2007-2008 itemized expenditures and fund sources;
  - c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments including actual results through December 31, 2008; and
  - d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2008.
- (3) Provide to the Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance of the statement.

**BIOTECHNOLOGY CENTER**

**SECTION 13.10.(a)** The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

**SECTION 13.10.(b)** The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

**SECTION 13.10.(c)** The North Carolina Biotechnology Center shall:

- (1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
  - b. State fiscal year 2006-2007 itemized expenditures and fund sources;
  - c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
  - d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.
- (2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
  - b. State fiscal year 2007-2008 itemized expenditures and fund sources;
  - c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
  - d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 13.10.(d)** The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

#### **NONPROFIT REPORTING REQUIREMENTS**

**SECTION 13.11.(a)** The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., Coalition of Farm and Rural Families, and Partnership for the Sounds, Inc., shall do the following:

- (1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
  - b. State fiscal year 2006-2007 itemized expenditures and fund sources;
  - c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments including actual results through December 31, 2007; and
  - d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2007.

- (2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
  - b. State fiscal year 2007-2008 itemized expenditures and fund sources;
  - c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments including actual results through December 31, 2008; and
  - d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2008.
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 13.11.(b)** No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2007. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2008, or January 15, 2009.

## RURAL ECONOMIC DEVELOPMENT CENTER

**SECTION 13.12.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million twenty-five thousand six hundred ninety-seven dollars (\$2,025,697) for the 2007-2008 fiscal year and the sum of two million twenty-five thousand six hundred ninety-seven dollars (\$2,025,697) for the 2008-2009 fiscal year shall be allocated as follows:

	2007-2008	2008-2009
Research and Demonstration Grants	\$370,000	\$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/ Natural Gas Critical Needs	199,722	199,722
Bond Act of 1998		
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000
Institute for Rural Entrepreneurship	144,000	144,000.

**SECTION 13.12.(b)** The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

**SECTION 13.12.(c)** For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

**SECTION 13.12.(d)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2007-2008 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2008-2009 fiscal year shall be allocated as follows:

- (1) \$1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any new or previously funded community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:
  - a. \$997,410 for direct grants to local community development corporations to support operations and project activities.
  - b. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.
- (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and
- (3) \$983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subsection. The Center shall allocate these funds as follows:
  - a. \$675,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
    - 1. Necessary economic development projects and activities in economically distressed areas;
    - 2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure-pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or
    - 3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
  - b. \$208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.

- c. \$100,000 in each fiscal year to support the update of the statewide water and sewer database and to support the development of a statewide water management plan.
- (4) \$190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:
  - a. \$75,000 in each fiscal year for operating expenses associated with the Consortium; and
  - b. \$115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

**SECTION 13.12.(e)** The Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
  - b. State fiscal year 2006-2007 itemized expenditures and fund sources;
  - c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
  - d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.
- (2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
  - b. State fiscal year 2007-2008 itemized expenditures and fund sources;
  - c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
  - d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.
- (3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 13.12.(f)** No funds appropriated in this act shall be released to a community development corporation, as defined in this section, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

**RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

**SECTION 13.13.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of nineteen million five hundred thousand dollars (\$19,500,000) for the 2007-2008 fiscal year and the sum of nineteen million five

hundred thousand dollars (\$19,500,000) for the 2008-2009 fiscal year shall be allocated as follows:

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

**SECTION 13.13.(b)** The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

**SECTION 13.13.(c)** During each year of the 2007-2009 biennium, the Rural Economic Development Center, Inc., may use up to two percent (2%) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

**SECTION 13.13.(d)** No later than January 15 of each year, the Rural Economic Development Center, Inc., shall submit an annual report to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program.

#### **FUNDS FOR LOCAL GOVERNMENT WATER AND SEWER IMPROVEMENT GRANTS**

**SECTION 13.13A.(a)** Allocation of Funds. – Of the funds appropriated in this act to the Rural Economic Development Center, Inc., (Rural Center) the sum of one hundred million dollars (\$100,000,000) for the 2007-2008 fiscal year shall be allocated as follows:

- (1) Up to \$50,000,000 may be used to provide grants to local government units for wastewater-related projects under subsection (b) of this section.
- (2) Up to \$50,000,000 may be used to provide grants to local government units for public water system-related projects under subsection (b) of this section.

**SECTION 13.13A.(b)** Definitions. – The definitions in G.S. 159G-20 and the following definitions apply in this section. In addition, the following definitions shall apply in this section unless otherwise provided:

- (1) Ability to pay. – An assessment of the ability of a local government unit to pay for a water infrastructure project as calculated annually by the Division of Community Assistance in the Department of Commerce.
- (2) Economically distressed area. – Any of the following:
  - a. An economically distressed county as defined in G.S. 143B-437.01.
  - b. That part of a county in which the poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. The poverty rate is the percentage of the population whose income

is below the most recent federal poverty level set by the U.S. Bureau of the Census.

c. That part of a county that experiences an actual or imminent loss of jobs in a number equal to or greater than five percent (5%) of the total number of jobs in the part.

(3) Rural county. – A county with a population density of fewer than 250 people per square mile based on the most recent federal decennial census.

**SECTION 13.13A.(c) Eligible Applicants; Eligible Projects.** – A local government unit is not eligible for a grant under subsection (a) of this section unless it meets the eligibility requirements under subsection (d) or subsection (e) of this section for that type of grant. The funds allocated under this section may be used to provide either a planning grant that meets the requirements under subsection (d) of this section or a supplemental grant that meets the requirements of subsection (e) of this section. The following projects are eligible for receiving a grant under this section:

- (1) Wastewater collection system.
- (2) Wastewater treatment works.
- (3) Public water system.
- (4) Wastewater and drinking water infrastructure planning.
- (5) Multi-jurisdictional wastewater, drinking water, water quality, and stormwater planning.

**SECTION 13.13A.(d) Planning Grants.** – A planning grant under this section is available for the costs associated with preliminary planning for wastewater collection system projects, wastewater treatment works projects, and public water system projects. Preliminary planning includes developing a capital improvement plan, developing a comprehensive land-use plan, conducting a study, developing a regional or multi-jurisdictional infrastructure or water quality improvement plan, assembling a financing plan to carry out a project, completing a grant application, and preparing a preliminary engineering report for a proposed project. A planning grant is subject to the following restrictions:

- (1) Eligibility. – For purposes of this subsection, a regional council of government organized under G.S. 160A-460 or a regional planning and development commission organized under G.S. 153A-391 is considered a local government unit. A local government unit is eligible for a planning grant if it meets the following criteria:
  - a. It is a rural county or is located in one of these counties.
  - b. It is an economically distressed county or is located in an economically distressed county or an economically distressed area.
  - c. It is applying for a regional or multi-jurisdictional planning project involving two or more units of local government.
- (2) Maximum. – A planning grant shall not exceed forty thousand dollars (\$40,000) for each unit of local government.
- (3) Matching funds. – A local government unit shall match a planning grant on a dollar-for-dollar basis unless the unit meets one or more of the following descriptions, in which instance the Rural Center may require a match of less than fifty percent (50%):
  - a. It is an economically distressed county or located in an economically distressed county.
  - b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
  - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

**SECTION 13.13A.(e) Supplemental Grants.** – A supplemental grant is available to match other funds to be applied to the construction costs of an eligible

project. Other funds include federal funds, State funds received under Article 2 of Chapter 159G of the General Statutes, and local funds. A supplemental grant is subject to the following restrictions:

- (1) Eligibility. – A local government unit is eligible for a supplemental grant if it meets the following criteria:
  - a. It is a rural county or is located in one of these counties.
  - b. It adopts a resolution to set the household user fee for water and sewer service in the area served by the project at an amount that equals or exceeds the high-unit-cost threshold.
- (2) Maximum. – A supplemental grant shall not exceed five hundred thousand dollars (\$500,000) unless the applicant meets one or more of these descriptions:
  - a. It is an economically distressed county or is located in an economically distressed county.
  - b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
  - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.
- (3) Matching funds. – A local government unit shall match a supplemental grant on a dollar-for-dollar basis unless the unit meets one or more of the following descriptions, in which instance the Rural Center may require a match of less than fifty percent (50%):
  - a. It is an economically distressed county or is located in an economically distressed county.
  - b. Its poverty rate is at least one hundred fifty percent (150%) of the State poverty rate.
  - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.

**SECTION 13.13A.(f) Criteria for Grants.** – The criteria in G.S. 159G-23, the criteria set out in this section, and any other criteria established by the Board of Directors of the Rural Center shall apply to a grant provided under this section. An application for a project that serves an economically distressed area shall have priority over a project that does not.

**SECTION 13.13A.(g) Grant Applications.** – Any application for a grant under this section shall be submitted by the local government unit to the Rural Center. An application shall be submitted on a form prescribed by the Rural Center, and shall contain the information required by the Rural Center. An applicant shall submit to the Rural Center, any additional information requested by the Rural Center to enable the Rural Center to make a determination on the application. An application that does not contain information required on the application or requested by the Rural Center is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this section.

**SECTION 13.13A.(h) Environmental Assessment.** – An application submitted under this section for any grant other than a planning grant for a project under subdivision (b)(4) or (b)(5) of this section shall state whether the project to be funded by the grant requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. The Rural Center, shall give the Department of Environment and Natural Resources a copy of an application that indicates an environmental assessment is not required. If the Department of Environment and Natural Resources determines that the project requires an environmental assessment, the Department shall notify the Rural Center, and the applicant, and the applicant shall submit the assessment to the Department before the Center continues its review of the application.

An application that does not identify an exclusion in the North Carolina Environmental Policy Act shall include the environmental assessment of the project's probable impacts on the environment that was submitted to the Department of Environment and Natural Resources. If the Department notifies the Rural Center that an environmental impact statement is required, the Rural Center shall not award the applicant a grant until a final environmental assessment impact statement has been completed and approved as provided in the Environmental Policy Act.

**SECTION 13.13A.(i) Review of Applications and Award of Grant. –**

- (1) Point Assignment. – The Rural Center shall review all grant applications submitted under this section for an application period, to be determined by the Rural Center, and shall rank each application in accordance with the points assigned to the evaluation criteria. The Rural Center shall make a written determination of an application's rank and attach the determination to the application. The Rural Center's determination of rank is conclusive.
- (2) Reconsideration. – When an application's rank is too low to receive an award of a grant for the application period, the Rural Center may reconsider an amended application, provided the application addresses questions from the previous grant round.
- (3) Notification of Decision. – When the Rural Center determines that an application's rank makes it eligible for an award of a grant, the Rural Center shall send the applicant a letter of intent to award the grant. The notice shall set out any conditions the applicant must meet to receive an award of a grant. When the applicant satisfies the conditions set out in the letter of intent, the Rural Center shall send the applicant an offer to award a grant. The applicant shall give the Rural Center written notice of whether it accepts or rejects the offer. A grant is considered awarded the date the offer to award the grant is sent by the Rural Center.

**SECTION 13.13A.(j) Disbursement of Grant. –** A planning grant awarded under this section may be disbursed in one payment. Other grants awarded under this section shall be disbursed in two or more payments based on the progress of the project for which the grant was awarded. To obtain a payment, a grant recipient shall submit a request for payment to the Rural Center and shall document the expenditures for which the payment is requested. The Rural Center shall review the payment request for compliance with all grant conditions.

**SECTION 13.13A.(k) Withdrawal of Grant. –** An award for a grant for a project is withdrawn if the applicant fails to enter into a construction contract for the project within one year after the date of the award for supplemental grants under subsection (d) of this section, unless the Board of Directors of the Rural Center finds that the applicant has good cause for the failure. If the Rural Center finds good cause for an applicant's failure, the Rural Center shall set a date by which the applicant must take action or forfeit the grant. This subsection does not apply to a planning grant for a project under subdivision (b)(4) or (b)(5) of this section.

**SECTION 13.13A.(l) Inspection of Project. –**

- (1) Authority. – The Rural Center may inspect a project for which it awards a grant under this section to determine the progress made on the project and whether the construction of the project is consistent with the project described in the grant application. The inspection may be performed by personnel of the Rural Center or by a professional engineer licensed under Chapter 89C of the General Statutes.
- (2) Disqualification. – An individual may not perform an inspection of a project under this section if the individual meets any of the following criteria:

- a. Is an officer or employee of the local government unit that received the grant award for the project.
- b. Is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of the project for which the grant was made.

**SECTION 13.13A.(m)** The Rural Center may use a portion of the funds allocated under this section for administration, not to exceed two percent (2%), for the life of the grant program created by this section. Of these funds for administrative costs, the sum of two hundred fifty thousand dollars (\$250,000) may be used to fund the ongoing work of the State Water Infrastructure Commission in the 2007-2008 fiscal year.

**SECTION 13.13A.(n)** Reporting Requirement. – The Rural Center shall report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the progress of the grant program created under this section. The first report is due no later than December 1, 2007.

**SECTION 13.13A.(o)** Separate Accounts. – Each grant that is provided under this section shall be administered through a separate account.

**SECTION 13.13A.(p)** Loans Prohibited. – The Rural Center shall not use the funds allocated under this section to make loans.

## RURAL ECONOMIC DEVELOPMENT CENTER FUNDS

**SECTION 13.14.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million dollars (\$19,000,000) for the 2007-2008 fiscal year shall be used to expand the North Carolina Rural Economic Infrastructure Fund with targeted priority to severely distressed rural areas.

**SECTION 13.14.(b)** The Rural Center shall use the funds appropriated in this act to establish and implement the Rural Economic Transition Program. This program shall provide grants and equity investments to carry out transformative economic development and agricultural enhancement projects that will generate jobs and expand business activity.

**SECTION 13.14.(c)** Units of local government and nonprofit organizations in rural areas are eligible for grants, with priority to applicants in development tier one areas as defined in G.S. 143B-437.08.

**SECTION 13.14.(d)** Priority for grant funds shall be given to economic development projects that satisfy one or more of the following criteria:

- (1) It is located in a county or census area with a persistently high poverty rate of at least one hundred fifty percent (150%) of the State's poverty rate according to the most recent decennial census.
- (2) It is located in a community that has experienced a sudden and severe economic downturn as reflected in numbers of business closings, layoffs, and unemployment rate during the previous 12 months.
- (3) It is located in a small town with a population under 10,000, an agrarian growth zone as defined in G.S. 143B-437.10, or an urban progress zone as defined in G.S. 143B-437.09.
- (4) It is identified in community-based strategic planning efforts and coordinated with other economic development and community-building initiatives, such as the North Carolina Rural Economic Development Center Small Town Economic Prosperity Program, the North Carolina Department of Commerce 21<sup>st</sup> Century Communities Program, the North Carolina Department of Commerce Main Street Program, and federally funded Comprehensive Economic Development Strategies.

- (5) It is supportive of strategies to expand entrepreneurial small business activity based on the natural, cultural, or historical assets of the community.
- (6) It has the ability to demonstrate benefits to small farm business diversifying into value-added production and marketing, and it increases opportunities in food and beverage manufacturing and distribution for small farm entrepreneurs.

**SECTION 13.14.(e)** Eligible units of local government and nonprofit organizations are not required to match grants received under this section, but shall demonstrate the commitment of other funds to the project.

**SECTION 13.14.(f)** Up to twenty percent (20%) of the funds appropriated in this section may be used for equity investments and loans through the Rural Venture Fund to private business ventures that will substantially transform and improve the economic status of rural areas, with priority to businesses locating or expanding in development tier one areas as defined in G.S. 143B-437.08.

**SECTION 13.14.(g)** The Rural Center may use a portion of the funds appropriated under this section, not to exceed four percent (4%), for administration of the programs created by this section.

**SECTION 13.14.(h)** The Rural Center may contract with other State agencies and branches of The University of North Carolina for certain aspects of the programs created under this section, including the design of program guidelines and evaluation of program results.

**SECTION 13.14.(i)** The Rural Center shall report to the Joint Legislative Commission on Governmental Operations on a quarterly basis concerning the progress of the programs created under this section. The first report is due no later than February 15, 2008.

## **STUDY EQUINE INDUSTRY IN NORTH CAROLINA**

**SECTION 13.14A.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five hundred thousand dollars (\$500,000) for the 2007-2008 fiscal year shall be allocated to the Agricultural Advancement Consortium for the purpose of assessing the numbers, composition, and value of the equine industry in North Carolina, analyzing the direct and indirect impact of the industry on the State's economy, and developing a comprehensive plan to maximize the economic opportunities presented by the industry.

**SECTION 13.14A.(b)** The assessment of the equine industry shall provide data on both a statewide and countywide basis. The assessment shall include the following:

- (1) A census of equines in the State, including numbers, breeds, and disciplines.
- (2) The value of equines in the State.
- (3) The number of equine owners.
- (4) The number of equine operations.
- (5) The size of equine operations.
- (6) The total acreage devoted to equine operations.
- (7) The value of equine-related assets.
- (8) The number of equines and owners participating in various activities within the State.
- (9) An analysis of the economic impact of the existing exhibition facilities including the Hunt Horse Complex, the Senator Bob Martin Horse Complex, the WNC Agricultural Center, and the Carolina Horse Park.
- (10) An analysis of the programs, contributions, and industry support provided by the North Carolina State University College of Veterinary Medicine and other equine programs, at both private and public education institutions including the College of Agriculture and Life

Sciences at North Carolina State University, Martin Community College, and St. Andrews College.

- (11) An analysis of the economic impact of breeding, training, and other horse operations.
- (12) An analysis of the economic impact of services provided to the equine industry including farrier, veterinary, design and planning, farm management and consulting, show management, and other services related to equines and equine operations.
- (13) An analysis of the economic impact, including manufacturing, agricultural production and employment, and wholesale and retail sales, of the purchase of equines, feed and grain, hay, tack and other horse equipment, riding clothes, insurance, vehicles and trailers, farm and pasture inputs, capital improvements such as barns, sheds, and fencing, and real estate, including planned equestrian communities.
- (14) An analysis of the economic impact of other recreational uses of equines, including trail riding, camping with horses, therapeutic riding programs, other recreational activities, and equine-related agritourism.
- (15) An analysis of the impact of the equine industry on State and local governments including the generation of tax revenues.

**SECTION 13.14A.(c)** The Agricultural Advancement Consortium, in developing a plan to maximize the economic impact of the equine industry, shall:

- (1) Evaluate existing equine-related facilities, programs, and services in the State and make recommendations for enhancing those facilities, programs, and services so as to maximize their economic impact on the State.
- (2) Identify opportunities for the growth of the equine industry, including the production of feed crops, improved pasture, and high quality horse hays, attracting industry engaged in the production of horse-related products, equipment, and pharmaceuticals, the addition of exhibition and show facilities, including the development of a world-class equestrian park, and other horse-related programs, activities, and facilities, and evaluate the potential economic contribution to the State's economy of each of these potential undertakings.
- (3) Evaluate the need to create an equine industry board tasked with the market development, education, publicity, research, and promotion of the North Carolina equine industry and other such measures it deems appropriate to promote the objectives, findings, and recommendations of the equine industry survey and analysis.
- (4) Evaluate the laws, rules, and policies that impact equine owners and persons engaged in equine activities, including land-use policies, preservation of trails, use of State recreational facilities, and tax credits and make recommendations directed toward making North Carolina more attractive to equine operations and activities.

**SECTION 13.14A.(d)** The Agricultural Advancement Consortium may contract with other agencies of State government, any of the constituent institutions of The University of North Carolina, and private consultants as it deems necessary and advisable in its conduct of the assessment and plan development. The Agricultural Advancement Consortium shall complete its work within 12 months of the funds becoming available and shall file a report containing the results of the assessment of the equine industry and its plan for maximizing the economic impact of the equine industry with the Chairs of the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Committees.

## **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

**SECTION 13.15.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2007-2008 fiscal year and the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2008-2009 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers for ongoing job training programs.

**SECTION 13.15.(b)** For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2006-2007 program activities, objectives, and accomplishments;
  - b. State fiscal year 2006-2007 itemized expenditures and fund sources;
  - c. State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
  - d. State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2007.
- (2) By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2007-2008 program activities, objectives, and accomplishments;
  - b. State fiscal year 2007-2008 itemized expenditures and fund sources;
  - c. State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
  - d. State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2008.
- (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.
- (4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

**SECTION 13.15.(c)** No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section if the Center has any overdue tax debts, as that term is defined in G.S. 105-243.1, at the federal or State level.

#### **E-NC AUTHORITY CONTRACTS/ REPORTING REQUIREMENTS**

**SECTION 13.16.(a)** The e-NC Authority may contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.

**SECTION 13.16.(b)** The e-NC Authority shall report to the 2008 General Assembly on the following:

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

The e-NC Authority shall, by September 30, 2007, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

#### **E-NC AUTHORITY/STAGGER COMMISSION MEMBERS TERMS**

##### **SECTION 13.16A.(a)** G.S. 143B-437.46(d) reads as rewritten:

~~"(d) Terms; Commencement; Staggering. – Except as provided in subsection (f) of this section, all terms of office shall commence on January 1, 2004. Each January 1, 2008. For purposes of staggering the terms of office, each appointing officer shall designate one appointee to serve a one-year term; one appointee to serve a two-year term; and one appointee to serve a three-year term. Members may serve up to four consecutive one year terms. The appointing officers shall designate their remaining appointees to serve three year terms. Members may serve up to two consecutive three year terms. Upon the expiration of each staggered term, each appointing officer shall appoint a member for a term of three years."~~

**SECTION 13.16A.(b)** This section becomes effective January 1, 2008, and applies to appointments commencing on or after that date.

#### **WOW E-COMMUNITY DEVELOPMENT CORPORATION PILOT PROGRAM FUNDS**

**SECTION 13.17.(a)** Of the funds appropriated to the e-NC Authority for the 2007-2008 fiscal year, the sum of two hundred ninety thousand dollars (\$290,000) shall be transferred to WOW e-Community Development Corporation (WOW e-CDC) for the Windows on the World Technology Center to establish and implement a two-year pilot program that will enable the Windows on the World Technology Center to become the northeastern North Carolina regional technology resource center for indigent rural low-wealth communities through direct engagement. These funds shall be used as follows:

- (1) \$150,000 for operating expenses of the Windows on the World Technology Center.
- (2) \$100,000 for the following:
  - a. Developing, maintaining, and hosting municipal Web sites and a northeastern North Carolina portal.
  - b. Expanding public access points and digital literacy classes in the northeastern North Carolina Tier I counties.
  - c. Establishing initiatives in indigent communities to create a sense of urgency concerning digital literacy and information technology.
- (3) \$40,000 for operations of the Internet service provider.

These funds shall not revert at the end of each fiscal year but shall remain available until expended for the purposes provided in this subsection.

**SECTION 13.17.(b)** No funds shall be released by the Office of State Budget and Management to WOW e-CDC until the Office of the State Auditor finds that the WOW e-CDC is in compliance with all recommendations made by the State Auditor regarding fiscal management and internal controls.

**SECTION 13.17.(c)** WOW e-CDC shall file with the Department of Commerce a copy of WOW e-CDC's policy addressing conflicts of interest that may arise involving WOW e-CDC's management employees and members of WOW e-CDC's board of directors or other governing body before funds may be allocated to WOW e-CDC. The policy shall address situations in which any of WOW e-CDC's management employees and members of the board of directors or other governing body may directly or indirectly benefit, except as WOW e-CDC employees or members of the board or other governing body, from WOW e-CDC's disbursing of State funds, and the policy shall include actions to be taken by WOW e-CDC or the employee or member, or both, to avoid conflicts of interest and the appearance of impropriety.

**SECTION 13.17.(e)** By April 30, 2008, WOW e-CDC shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division the following information: (i) fiscal year 2007-2008 planned projects, objectives, and accomplishments; and (ii) fiscal year 2007-2008 estimated expenditures and fund sources.

**SECTION 13.17.(f)** WOW e-CDC shall also provide to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division a copy of WOW e-CDC's annual audited financial statement within 30 days of issuance of the statement and a copy of WOW e-CDC's IRS Form 990.

**SECTION 13.17.(g)** WOW e-CDC shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. WOW e-CDC shall provide specific salary information upon the written request of the chairs of the Joint Legislative Commission on Governmental Operations and the chairs of the House Appropriations Committee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.

## **NER BLOCK GRANTS**

**SECTION 13.18.(a)** Appropriations from federal block grant funds are made for fiscal year ending June 30, 2008, 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	7,710,000
05. Small Business/Entrepreneurship	1,000,000
06. Community Revitalization	13,500,000
07. State Technical Assistance	450,000
08. Housing Development	2,000,000
09. Infrastructure	5,140,000
<b>TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2008 Program Year</b>	<b>\$ 45,000,000</b>

**SECTION 13.18.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

**SECTION 13.18.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

**SECTION 13.18.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State Administration; not less than one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; seven million seven hundred ten thousand dollars (\$7,710,000) may be used for Economic Development; up to one million dollars (\$1,000,000) may be used for Small Business/Entrepreneurship; not less than thirteen million five hundred thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

**SECTION 13.18.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

**SECTION 13.18.(f)** The Department of Commerce will operate a small business/entrepreneurship program in coordination with micro-lending programs and other small business assistance groups in the State. The Department of Commerce shall award up to one million dollars (\$1,000,000) in grants to local governments to provide assistance to low-to-moderate income individuals for small business and entrepreneurship development as a means of achieving economic independence during these times of structural change in North Carolina's economy.

**SECTION 13.18.(g)** The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.
- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made. The Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the

report, the Department may take the action without consulting the Commission.

**SECTION 13.18.(h)** G.S. 143B-437.04(a) reads as rewritten:

"(a) The Department of Commerce shall adopt guidelines for the awarding of Community Development Block Grants to ensure that:

- (1) No local match is required for grants awarded for projects located in counties that have one of the 25 highest rankings under G.S. ~~143B-437.08~~ after the adjustments of that section are applied. ~~143B-437.08~~ or counties that have a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census.
- (2) To the extent practicable, priority consideration for grants is given to projects located in counties ~~that have one of the 25 highest rankings under G.S. 143B-437.08~~ after the adjustments of that section are applied ~~that have met the conditions of subdivision (a)(1) of this section~~ or in urban progress zones that have met the conditions of subsection (b) of this section."

**SECTION 13.18.(i)** G.S. 143B-437.01(a)(3) reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

...

- (3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under G.S. ~~143B-437.08~~ after the adjustments of that section are applied. ~~143B-437.08~~ or that has a population of less than 50,000 and more than nineteen percent (19%) of its population below the federal poverty level according to the most recent federal decennial census."

**SECTION 13.18.(j)** Subsections (h) and (i) of this section are effective January 1, 2008.

## **PART XIV. JUDICIAL DEPARTMENT**

### **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

**SECTION 14.1.** Funds appropriated to the Judicial Department in the 2007-2009 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

### **GRANT FUNDS**

**SECTION 14.2.** Notwithstanding G.S. 143C-6-9, the Judicial Department may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

### **NORTH CAROLINA STATE BAR FUNDS**

**SECTION 14.3.** Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2007-2009 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred one thousand five hundred dollars (\$501,500) for the 2007-2008 fiscal year and up to the sum of five hundred one thousand five hundred dollars (\$501,500) for the 2008-2009 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, 2008, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by the grant-in-aid authorized by this section.

**OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS/ESTABLISHMENT OF ADDITIONAL PUBLIC DEFENDER OFFICES**

**SECTION 14.4.(a)** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred ninety-two thousand three hundred fifty dollars (\$2,192,350) in appropriated funds during the 2007-2008 fiscal year and up to the sum of two million eighty-two thousand five hundred ten dollars (\$2,082,510) in appropriated funds during the 2008-2009 fiscal year for the expansion of existing or new public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 20 new attorney positions and 10 new support staff positions. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

**SECTION 14.4.(b)** Notwithstanding the provisions of G.S. 7A-498.7(a), the Indigent Defense Services Commission may establish additional district public defender offices during the 2007-2009 fiscal biennium. Of the funds appropriated in this act to the Office of Indigent Defense Services, the Office may use up to the sum of one million five hundred seventy thousand fifty-seven dollars (\$1,570,057) during the 2008-2009 fiscal year to establish these offices. These funds may be used for recurring and nonrecurring personnel and operating costs in the new offices. No more than the sum of two hundred twenty-five thousand dollars (\$225,000) may be used for positions in the Office of Indigent Defense Services directly related to facilitating the establishment of these offices.

The Office of Indigent Defense Services shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division no later than October 1, 2007, on the location and establishment of the new public defender offices.

**SECTION 14.4.(c)** In addition to the new public defender offices established pursuant to subsection (b) of this section, the Office of Indigent Defense Services shall use funds from the Indigent Persons Attorney Fee Fund as follows:

- (1) Up to the sum of one million three hundred thirty-five thousand five hundred forty-three dollars (\$1,335,543) for the 2007-2008 fiscal year and up to the sum of one million two hundred sixty-four thousand six hundred seventy-nine dollars (\$1,264,679) for the 2008-2009 fiscal year to establish Public Defender District 5 as provided for in subsection (d) of this section.
- (2) Up to the sum of seven hundred eighty-eight thousand two hundred sixty-four dollars (\$788,264) for the 2007-2008 fiscal year and up to the sum of seven hundred forty-two thousand four hundred seventy-seven dollars (\$742,477) for the 2008-2009 fiscal year to establish Public Defender District 29B as provided for in subsection (d) of this section.

**SECTION 14.4.(d)** G.S. 7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

<u>Defender District</u>	<u>Counties</u>
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
<u>5</u>	<u>New Hanover</u>
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe
<u>29B</u>	<u>Henderson, Polk, Transylvania</u>

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

**OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

**SECTION 14.5.** The Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year;
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices; and
- (5) The changes in operations implemented in response to the following findings and recommendations contained in the March 2007 State Audit Report:
  - a. Attorney fee payment process lacks adequate controls. Measures should be implemented to ensure that attorneys are paid the correct amount and to minimize the incidence of overpayment resulting from accident, fraud, or other cause.
  - b. Attorney fee payment process is inefficient and labor-intensive.

c. The Office should automate the attorney fee payment process and require attorneys to register for electronic fund transfer.

## **INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS**

**SECTION 14.6.** Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

## **REPORT ON BUSINESS COURTS**

**SECTION 14.7.** The Administrative Office of the Courts shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases; average age of pending cases, and annual expenditures for the prior fiscal year.

## **COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 14.8.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2007, for the purchase or repair of office or information technology equipment during the 2007-2008 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

## **DISPUTE RESOLUTION FEES**

**SECTION 14.9.** Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are non-reverting and are only to be used at the direction of the Commission.

## **REIMBURSEMENT FOR USE OF PERSONAL VEHICLES**

**SECTION 14.10.** Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial Department, during the 2007-2009 fiscal biennium, may elect to establish a per-mile reimbursement rate for transportation by privately owned vehicles at a rate less than the business standard mileage rate set by the Internal Revenue Service.

## **DRUG TREATMENT FUNDS NEED NOT BE GRANTED**

**SECTION 14.12.** Notwithstanding the provisions of G.S. 7A-794 and G.S. 7A-798, funds appropriated to the Judicial Department for the 2007-2009 fiscal biennium for drug treatment courts need not be granted but may be budgeted to support existing and new drug treatment courts in a manner similar to other specialty courts operating within the Judicial Department.

## **ADDITIONAL DISTRICT COURT JUDGES**

**SECTION 14.13.(a)** G.S. 7A-133(a) reads as rewritten:

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

District	Judges	County
1	5	Camden

2	4	Chowan Currituck Dare Gates Pasquotank Perquimans Martin Beaufort Tyrrell Hyde Washington Pitt Craven Pamlico Carteret Sampson Duplin Jones Onslow New Hanover Pender Halifax Northampton Bertie Hertford Nash Edgecombe Wilson Wayne Greene Lenoir Granville (part of Vance see subsection (b)) Franklin Person Caswell Warren (part of Vance see subsection (b)) Wake Harnett Johnston Lee Cumberland Bladen Brunswick Columbus Durham Alamance Orange Chatham Scotland Hoke Robeson
3A	5	
3B	6	
4	8	
5	8	
6A	3	
6B	3	
7	7	
8	6	
9	4	
9A	2	
9B	2	
10	<u>4617</u>	
11	<u>910</u>	
12	<u>910</u>	
13	6	
14	7	
15A	4	
15B	5	
16A	3	
16B	5	

17A	3	Rockingham
17B	4	Stokes
		Surry
18	<u>4</u>	Guilford
19A	4	Cabarrus
19B	7	Montgomery
		Moore
		Randolph
19C	5	Rowan
20A	4	Stanly
		Anson
20B	1	Richmond
		(part of Union see subsection (b))
20C	2	(part of Union see subsection (b))
21	<u>9</u>	Forsyth
22	10	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	9	Burke
		Caldwell
		Catawba
26	<u>18</u>	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
		Lincoln
28	7	Buncombe
29A	3	McDowell
		Rutherford
29B	4	Henderson
		Polk
30	6	Transylvania
		Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

**SECTION 14.13.(b)** The Governor shall appoint the additional district court judges authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2008 general election for four-year terms commencing January 1, 2009.

**SECTION 14.13.(c)** As to Districts 11, 12, and 18, subsection (a) of this section becomes effective January 1, 2008, or 15 days after preclearance under section 5

of the Voting Rights Act of 1965, whichever is later. All other portions of subsection (a) and subsection (b) of this section become effective January 1, 2008.

**SECTION 14.13.(d)** G.S. 7A-133(a), as amended by subsection (a) of this section and by subsection (e) of Section 14.25 of this act, reads as rewritten:

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

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	6	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	<u>89</u>	New Hanover
		Pender
6A	3	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance see subsection (b))
9A	2	Franklin
9B	2	Person
		Caswell
		Warren
		(part of Vance see subsection (b))
10	<u>47</u> 18	Wake
11	10	Harnett
		Johnston
		Lee
12	10	Cumberland
13	6	Bladen

		Brunswick
14	7	Columbus
15A	4	Durham
15B	5	Alamance
16A	3	Orange
16B	5	Chatham
17A	3	Scotland
17B	4	Hoke
18	14	Robeson
19A	4	Rockingham
19B	7	Stokes
19C	5	Surry
20A	4	Guilford
20B	1	Cabarrus
20C	2	Montgomery
21	10	Moore
22A	5	Randolph
22B	6	Rowan
23	4	Stanly
24	4	Anson
25	9	Richmond
26	4920	(part of Union
27A	7	see subsection (b))
27B	5	(part of Union
28	7	see subsection (b))
29A	3	Forsyth
29B	4	Alexander
30	6	Iredell
		Davidson
		Davie
		Alleghany
		Ashe
		Wilkes
		Yadkin
		Avery
		Madison
		Mitchell
		Watauga
		Yancey
		Burke
		Caldwell
		Catawba
		Mecklenburg
		Gaston
		Cleveland
		Lincoln
		Buncombe
		McDowell
		Rutherford
		Henderson
		Polk
		Transylvania
		Cherokee
		Clay
		Graham

Haywood  
Jackson  
Macon  
Swain."

**SECTION 14.13.(e)** The Governor shall appoint the additional district court judges authorized by subsection (d) of this section. Those judges' successors shall be elected in the 2010 general election for four-year terms commencing January 1, 2011.

**SECTION 14.13.(f)** Subsections (d) and (e) of this section become effective January 15, 2009.

### **ADDITIONAL ASSISTANT DISTRICT ATTORNEYS**

**SECTION 14.14.(a)** G.S. 7A-60 is amended by adding a new subsection to read:

"(a2) Upon the convening of each regular session of the General Assembly and its reconvening in the even-numbered year, the Administrative Office of the Courts shall report its recommendations regarding the allocation of assistant district attorneys for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request for additional assistant district attorneys. The report shall include the number of assistant district attorneys that the Administrative Office of the Courts recommends to be allocated to each prosecutorial district and the caseload and criteria on which each recommended allocation is based. Any reports required under this subsection shall be made to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public, and the Fiscal Research Division."

**SECTION 14.14.(b)** Notwithstanding G.S. 7A-60(a2) as enacted by subsection (a) of this section, for the 2007-2008 fiscal year, the Administrative Office of the Courts shall allocate the 30 additional assistant district attorneys authorized by this act based upon caseload and criteria developed by the Administrative Office of the Courts and shall report by October 1, 2007, to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division regarding the allocation of assistant district attorneys for that year. The report shall include the number of assistant district attorneys allocated to each prosecutorial district and the caseload and criteria on which each allocation was based. The Administrative Office of the Courts shall transmit a copy of the order allocating the positions to the Revisor of Statutes. Upon receipt of such an order, the Revisor of Statutes shall revise the chart in G.S. 7A-60(a1) so that it reflects the changes made by the order.

### **STUDY AVAILABILITY OF PROSECUTORIAL RESOURCES TO DISTRICT ATTORNEYS AND THE MANAGEMENT AND USE OF THOSE RESOURCES BY DISTRICT ATTORNEYS**

**SECTION 14.15.(a)** The Legislative Research Commission may contract for an independent study that assesses the availability of prosecutorial resources to the State's district attorneys and that assesses the use and management of those prosecutorial resources by the district attorneys, their staffs, and the Conference of District Attorneys. The study shall address all of the following:

- (1) Current prosecutorial resources. – Resources to be considered include those available to district attorneys and their legal, administrative, support, and investigative staff, and the Conference of District Attorneys. The study shall also consider supplemental assistance and resources provided to district attorneys and their staffs through the State or other funding sources.
- (2) Services provided by the State's district attorneys and Conference of District Attorneys and the recipients of those services.

(3) Funding of prosecutorial services, adequacy of supplies, equipment, and working space, and allocation of prosecutorial resources. – Issues to be considered shall include the following:

- a. Funding, supplies, equipment, and space required to support prosecutorial services at an appropriate level.
- b. Distribution of prosecutorial resources and how that distribution is determined.
- c. Equitable allocation of prosecutorial resources among the geographical areas of the State and between urban and rural areas.
- d. The proportion of prosecution personnel and budget that is devoted to criminal prosecution, as opposed to other functions or mandates.
- e. Whether monies from the General Fund should be used to support positions for the Conference of District Attorneys, or positions for any other conferences that provide prosecutorial resources.

(4) The current role of the Conference of District Attorneys and district attorneys in assessing the needs of the public with regard to prosecutorial services and providing assistance in meeting those needs. The study shall also assess the current role, responsibilities, and interaction of the Conference of District Attorneys with regard to the General Assembly and the executive branch and whether those roles and responsibilities should be modified.

(5) Automation. – The study shall document which prosecutorial services are currently automated and the ability of those systems to interact with each other. The study shall also address areas in which automation could improve or increase the efficiency of prosecutorial services.

(6) Cost management practices of district attorneys and their staffs. – Practices to be reviewed and considered shall include how well district attorneys' offices manage costs associated with a prosecution such as forensics costs, expert witnesses, and witness travel expenses.

(7) Caseload management. – In the assessment of caseload management, the study shall focus particularly on whether current management techniques used by district attorneys recognize the critical need to prosecute serious crimes in a timely manner and to keep jail populations at a low level; the techniques, if any that have been adopted to achieve those objectives; and the effectiveness of those management techniques. Other issues that shall also be considered include the following:

- a. Mechanisms used by the district attorney to manage the incoming caseloads generally.
- b. The screening process, if any, for assessing cases prior to assignment.
- c. Initiatives implemented by a district attorney, if any, to expedite the resolution of certain categories of cases.
- d. The type of statistics, if any, the district attorney's office keeps and for what purposes.
- e. Performance indicators, if any, used by district attorneys. If performance indicators are not being used, then the study shall assess whether implementation of performance indicators would be helpful in achieving management goals and the types of indicators that may assist with caseload management. If there are performance indicators, then the study shall identify the

indicators, how they are developed, the effectiveness of the indicators, and whether additional performance indicators or modification of existing performance indicators would be helpful in achieving management objectives.

(8) How the current management and use of prosecutorial resources affect the following:

- a. Access to justice.
- b. Day-to-day functioning of the prosecution service.
- c. Case management, including the development of case screening mechanisms and protocols for diversion.
- d. Timely resolution of caseloads.
- e. Reduction of any backlogs that exist and the impact that current management and use of prosecutorial resources has on the jail population.
- f. The capacity to handle specialized or complex crimes.
- g. The effectiveness of district attorneys and their staffs in responding to domestic violence and other crimes of violence.
- h. Services and support provided to victims.
- i. Accountability to the public.

(9) Any other issue deemed relevant by the Legislative Research Commission.

**SECTION 14.15.(b)** The findings and recommendations of the study shall be reported to the Chairs of the House of Representatives and Senate Appropriations Committee, Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division by March 15, 2008.

## **STATE FUNDS NOT TO BE USED FOR TELEPHONE SERVICE**

**SECTION 14.16.(a)** G.S. 7A-302 reads as rewritten:

### **"§ 7A-302. Counties and municipalities responsible for physical facilities.**

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the Department of Juvenile Justice and Delinquency Prevention, and related judicial facilities (including furniture, properly functioning telephones that meet the specifications for Administrative Office of the Court telephones, and the equipment and infrastructure necessary to support those telephones), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the Administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities."

**SECTION 14.16.(b)** This section becomes effective July 1, 2008.

## **OFFICE OF INDIGENT DEFENSE SERVICES/ELECTRONIC FEE SUBMISSION**

**SECTION 14.17.(a)** The Office of Indigent Defense Services, in consultation with the Administrative Office of the Courts, shall study the potential for a statewide system of electronic fee submission and develop a proposal for statewide implementation of such a system. A report on this proposal shall be included as part of the report required under Section 14.5 of this act.

**SECTION 14.17.(b)** The Administrative Office of the Courts may conduct a pilot project in multiple counties to evaluate a system for the electronic filing, case processing, and case management of civil cases and special proceedings filed in the

General Court of Justice. The Administrative Office of the Courts may designate the case types that will be subject to mandatory electronic filing, case processing, and case management during the pilot project. No county may be selected without the concurrence of the senior resident superior court judge, the chief district court judge, and the clerk of superior court. Notwithstanding the requirements of Chapters 1A and Chapter 7A of the General Statutes, the North Carolina Supreme Court and the Administrative Office of the Courts shall establish rules, costs, procedures, and specifications for electronic filing, case processing, and case management under the pilot. However, Rule 4 of the Rules of Civil Procedure shall govern service of process of pleadings that are currently required to be served pursuant to Rule 4 of the Rules of Civil Procedure. The terms of any contract entered into for the purpose of implementing the provisions of this subsection shall provide that the State retains the ownership of all electronic data received by the vendor as part of the pilot project.

**SECTION 14.17.(c)** G.S. 7A-49.5(c) reads as rewritten:

"(c) The Administrative Office of the Courts may contract with a vendor to provide electronic filing in the ~~courts, provided that the costs for the hardware and software are not paid using State funds.~~ courts."

**SECTION 14.17.(d)** Subsection (b) of this section expires June 30, 2009.

**REPORT ON COURT SYSTEM PERFORMANCE MEASURES**

**SECTION 14.18.** The Administrative Office of the Courts shall develop and implement a system to measure the impact of the funding provided in this act on the operation of the courts. The system shall include uniform performance measures and standards for caseload management and resource allocation, including funding, personnel, technology, and equipment at district and county levels. The Administrative Office of the Courts shall submit an interim status report on the development and implementation of the performance measurement system to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House Appropriations Committees no later than December 31, 2007, and shall submit a final report no later than May 1, 2008.

**THE OFFICE OF INDIGENT DEFENSE SERVICES MAY COMPENSATE ATTORNEYS FOR CERTAIN FILINGS**

**SECTION 14.19.(a)** G.S. 7A-451(b) reads as rewritten:

"(b) In each of the actions and proceedings enumerated in subsection (a) of this section, entitlement to the services of counsel begins as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process. Entitlement continues through any critical stage of the action or proceeding, including, if applicable:

- (1) An in-custody interrogation;
- (2) A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;
- (3) A hearing for the reduction of bail, or to fix bail if bail has been earlier denied;
- (4) A probable cause hearing;
- (5) Trial and sentencing; and
- (6) Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 7A-30(2), and Subchapter XIV of Chapter 15A of the General Statutes. Statutes;
- (7) In a capital case in which a defendant is under a sentence of death, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by the Supreme Court of North Carolina pursuant to the certiorari jurisdiction of the United States Supreme Court; and

(8) In a noncapital case, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by a court of the North Carolina Appellate Division pursuant to the certiorari jurisdiction of the United States Supreme Court, when the judgment or decree:

- a. Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal Court of Appeals, or the court of last resort of another state;
- b. Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court; or
- c. Decides a question of federal law in the indigent's favor and the judgment or decree is challenged by opposing counsel through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court."

**SECTION 14.19.(b)** G.S. 7A-498.8(b) reads as rewritten:

"(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

- (1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.
- (2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.
- (3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.
- (4) Providing consulting services to attorneys representing defendants in capital cases.
- (5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.
- (6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.
- (6a) In the appellate defender's discretion, serving as counsel of record for indigent defendants in the United States Supreme Court pursuant to a petition for writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.
- (7) Undertaking other direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded."

**AUTHORIZE MILEAGE REIMBURSEMENT FOR APPELLATE JUDGES WHO RESIDE FIFTY MILES OR MORE FROM RALEIGH**  
**SECTION 14.21.(a)** G.S. 7A-10 is amended by adding a new subsection to

read:

"(b1) In addition to the reimbursement for travel and subsistence expenses authorized by subsection (b) of this section, and notwithstanding G.S. 138-6, each justice whose permanent residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage the justice travels each week to the City of Raleigh from the justice's home for business of the court. The reimbursement authorized by this

subsection shall be calculated for each justice by multiplying the actual round-trip mileage from that justice's home to the City of Raleigh by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service."

**SECTION 14.21.(b)** G.S. 7A-18 is amended by adding a new subsection to read:

"(a1) In addition to the reimbursement for travel and subsistence expenses authorized by subsection (a) of this section, and notwithstanding G.S. 138-6, each judge whose permanent residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage the judge travels each week to the City of Raleigh from the judge's home for business of the court. The reimbursement authorized by this subsection shall be calculated for each judge by multiplying the actual round-trip mileage from that judge's home to the City of Raleigh by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service."

## **EXPAND COURT-FUNDED INTERPRETER AUTHORITY**

**SECTION 14.23.** G.S. 7A-314(f) reads as rewritten:

"(f) In any case in which the Judicial Department is bearing the costs of representation for a party and that party or a witness for that party does not speak or understand the English language, and the court appoints a foreign language interpreter to assist that party or witness, the reasonable fee for the interpreter's services is payable from funds appropriated to the Administrative Office of the Courts. In order to facilitate the disposition of criminal or Chapter 50B cases, the court may authorize the use of a court interpreter, paid from funds appropriated to the Administrative Office of the Courts, in cases in which an interpreter is necessary to assist the court in the efficient transaction of business. The appointment and payment shall be made in accordance with G.S. 7A-343(9c)."

## **ADD TWO SPECIAL SUPERIOR COURT JUDGES**

**SECTION 14.24.** G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a7) Effective January 1, 2008, the Governor may appoint two special superior court judges to serve terms expiring five years from the date that each judge takes office. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

## **DIVIDE SUPERIOR COURT, DISTRICT COURT, AND PROSECUTORIAL DISTRICTS 22 INTO DISTRICTS 22A AND 22B**

**SECTION 14.25.(a)** Effective January 1, 2009, G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates,	2

		Pasquotank,	
		Perquimans	
First	2	Beaufort, Hyde,	1
		Martin,	
		Tyrrell, Washington	
First	3A	Pitt	2
Second	3B	Carteret, Craven,	3
		Pamlico	
Second	4A	Duplin, Jones,	1
		Sampson	
Second	4B	Onslow	1
Second	5A	(part of New Hanover,	1
		part of Pender	
		see subsection (b))	
	5B	(part of New Hanover,	1
		part of Pender	
		see subsection (b))	
	5C	(part of New Hanover,	1
		see subsection (b))	
First	6A	Halifax	1
First	6B	Bertie, Hertford,	1
		Northampton	
First	7A	Nash	1
First	7B	(part of Wilson,	1
		part of Edgecombe,	
		see subsection (b))	
First	7C	(part of Wilson,	1
		part of Edgecombe,	
		see subsection (b))	
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville,	2
		Vance, Warren	
Third	9A	Person, Caswell	1
Third	10A	(part of Wake,	2
		see subsection (b))	
Third	10B	(part of Wake,	2
		see subsection (b))	
Third	10C	(part of Wake,	1
		see subsection (b))	
Third	10D	(part of Wake,	1
		see subsection (b))	
Fourth	11A	Harnett,	1
		Lee	
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland,	1
		see subsection (b))	
Fourth	12B	(part of Cumberland,	1
		see subsection (b))	
Fourth	12C	(part of Cumberland,	2
		see subsection (b))	
Fourth	13	Bladen, Brunswick,	2
		Columbus	
Third	14A	(part of Durham,	1
		see subsection (b))	

Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	2
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1
Fifth	19B	Montgomery, Randolph	1
Sixth	19C	Rowan	1
Fifth	19D	Moore	1
Sixth	20A	Anson, Richmond, Stanley	2
Sixth	20B	Union	1
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth see subsection (b))	1
Sixth	<u>22</u> <u>22A</u>	Alexander, <u>Davidson</u> , <u>Davie</u> , Iredell	<u>3</u> <u>2</u>
<u>Sixth</u>	<u>22B</u>	<u>Davidson</u> , <u>Davie</u>	<u>2</u>
Fifth	23	Alleghany, Ashe Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	3
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29A	McDowell Rutherford	1
Eighth	29B	Henderson, Polk,	1

Eighth	30A	Transylvania Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

**SECTION 14.25.(b)** The two superior court judgeships established for District 22A by subsection (a) of this section shall be filled by the two judges currently serving District 22 who reside in Alexander and Iredell Counties. The term of one of those judges expires December 31, 2008, and a successor shall be elected in the 2008 election. The term of the other judges expires December 31, 2010, and a successor shall be elected in the 2010 election.

**SECTION 14.25.(c)** One of the superior court judgeships established for District 22B by subsection (a) of this section shall be filled by the judge currently serving District 22 who resides in Davidson County. That judge's term expires December 31, 2014, and a successor shall be elected in the 2014 election.

**SECTION 14.25.(d)** The additional judgeship established for District 22B by subsection (a) of this section shall be filled by election in the 2008 election for an eight-year term expiring December 31, 2016. That judge's successor shall be elected in the 2016 election.

**SECTION 14.25.(e)** Effective January 1, 2009, G.S. 7A-133(a), as amended by Section 14.13 of this act, reads as rewritten:

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

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	6	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	8	New Hanover Pender
6A	3	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene

9	4	Lenoir
9A	2	Granville
9B	2	(part of Vance see subsection (b))
10	17	Franklin
11	10	Person
12	9	Caswell
13	6	Warren
14	7	(part of Vance see subsection (b))
15A	4	Wake
15B	5	Harnett
16A	3	Johnston
16B	5	Lee
17A	3	Cumberland
17B	4	Bladen
18	14	Brunswick
19A	4	Columbus
19B	7	Durham
19C	5	Alamance
20A	4	Orange
20B	1	Chatham
20C	2	Scotland
21	10	Hoke
<u>22</u> <u>22A</u>	<u>9</u> <u>5</u>	Robeson
<u>22B</u>	<u>6</u>	Rockingham
23	4	Stokes
24	4	Surry
		Guilford
		Cabarrus
		Montgomery
		Moore
		Randolph
		Rowan
		Stanly
		Anson
		Richmond
		(part of Union see subsection (b))
		(part of Union see subsection (b))
		Forsyth
		Alexander
		<u>Davidson</u>
		<u>Davie</u>
		Iredell
		<u>Davidson</u>
		<u>Davie</u>
		Alleghany
		Ashe
		Wilkes
		Yadkin
		Avery
		Madison
		Mitchell

25	9	Watauga Yancey Burke Caldwell Catawba
26	19	Mecklenburg
27A	7	Gaston
27B	5	Cleveland
28	7	Lincoln
29A	3	Buncombe McDowell Rutherford
29B	4	Henderson Polk
30	6	Transylvania Cherokee Clay Graham Haywood Jackson Macon Swain."

**SECTION 14.25.(f)** G.S. 7A-133 is amended by adding two new subsections to read:

"(b3) The qualified voters of District Court District 22A shall elect all five judges established for the District in subsection (a) of this section, but only persons who reside in Alexander County may be candidates for two of the judgeships, and only persons who reside in Iredell County may be candidates for three of the judgeships.

(b4) The qualified voters of District Court District 22B shall elect all six judges established for the District in subsection (a) of this section, but only persons who reside in Davie County may be candidates for two of the judgeships, and only persons who reside in Davidson County may be candidates for four of the judgeships."

**SECTION 14.25.(g)** Three of the five judgeships established for District 22A by subsection (e) of this section shall be filled by the judges currently serving District 22 who reside in Alexander and Iredell Counties. The term of one of the judges residing in Iredell County expires December 31, 2010, and a successor shall be elected in the 2010 election as provided in G.S. 7A-133(b3). The terms of the other two judges expire December 31, 2008, and successors shall be elected in the 2008 election as provided in G.S. 7A-133(b3).

**SECTION 14.25.(h)** Two of the judgeships established for District 22A by subsection (e) of this section shall be filled by election in the 2008 election for four-year terms expiring December 31, 2012. Those judges' successors shall be elected in the 2012 election.

**SECTION 14.25.(i)** The six judgeships established for District 22B by subsection (e) of this section shall be filled by the judges currently serving District 22 who reside in Davie and Davidson Counties. The terms of each of those judges expire December 31, 2010, and successors shall be elected in the 2010 election as provided in G.S. 7A-133(b4).

**SECTION 14.25.(j)** Effective January 1, 2009, G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial

No. of Full-Time  
Asst. District

District	Counties	Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	7
3A	Pitt	11
3B	Carteret, Craven, Pamlico	11
4	Duplin, Jones, Onslow, Sampson	16
5	New Hanover, Pender	16
6A	Halifax	5
6B	Bertie, Hertford, Northhampton	5
7	Edgecombe, Nash, Wilson	18
8	Greene, Lenoir, Wayne	13
9	Franklin, Granville, Vance, Warren	12
9A	Person, Caswell	5
10	Wake	38
11	Harnett, Johnston, Lee	16
12	Cumberland	21
13	Bladen, Brunswick, Columbus	12
14	Durham	15
15A	Alamance	10
15B	Orange, Chatham	9
16A	Scotland, Hoke	6
16B	Robeson	13
17A	Rockingham	6
17B	Stokes, Surry	7
18	Guilford	30
19A	Cabarrus	8
19B	Montgomery, Randolph	8
19C	Rowan	7
19D	Moore	4
20A	Anson, Richmond, Stanly	10
20B	Union	8
21	Forsyth	20
<u>22</u> <u>22A</u>	Alexander, <u>Davidson, Davie,</u> Iredell	<u>20</u> <u>11</u>
<u>22B</u>	<u>Davidson, Davie</u>	<u>11</u>
23	Alleghany, Ashe, Wilkes, Yadkin	7
24	Avery, Madison, Mitchell, Watauga, Yancey	6
25	Burke, Caldwell, Catawba	18
26	Mecklenburg	49
27A	Gaston	14
27B	Cleveland, Lincoln	10
28	Buncombe	13
29A	McDowell, Rutherford	6
29B	Henderson, Polk, Transylvania	7
30	Cherokee, Clay, Graham,	11

Haywood, Jackson, Macon,  
Swain."

**SECTION 14.25.(k)** The district attorney position established for District 22A by subsection (j) of this section shall be filled by election in the 2008 election for a four-year term expiring December 31, 2012. That district attorney's successor shall be elected in the 2012 election.

**SECTION 14.25.(l)** The district attorney position established for District 22B by subsection (j) of this section shall be filled by the district attorney currently serving District 22 who resides in Davidson County. That district attorney's term expires December 31, 2010, and a successor shall be elected in the 2010 election.

**SECTION 14.25.(m)** The 10 assistant district attorney positions established for District 22A by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving Alexander and Iredell Counties in District 22. The 10 assistant district attorney positions established for District 22B by subsection (j) of this section shall be filled by 10 assistant district attorneys currently serving Alexander and Iredell Counties in District 22.

**SECTION 14.25.(n)** G.S. 7A-69 reads as rewritten:  
"§ 7A-69. Investigatorial assistants.

The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, 20A, 20B, 21, ~~22, 22A, 22B~~, 24, 25, 26, 27A, 27B, 28, 29A, 29B, and 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

**SECTION 14.25.(o)** This section becomes effective January 1, 2009, but applies to the 2008 election as provided in the terms of this section.

## **PART XV. DEPARTMENT OF JUSTICE**

### **STATEWIDE AUTOMATED FINGERPRINT SYSTEM REPLACEMENT (SAFIS) REPORTS**

**SECTION 15.1.** The Department of Justice shall provide two status reports on the implementation of Phase II of SAFIS to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations. The first report shall be provided no later than February 1, 2008, and the second report shall be provided no later than May 1, 2008. Each report shall include all of the following:

- (1) A description of the system.
- (2) A summary of work done with prior year appropriations.
- (3) A list of all sites that are scheduled to receive new equipment.
- (4) A list of sites that have already received new equipment.
- (5) A time line for completion of the project.
- (6) Expenditures for the year to date.

### **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

**SECTION 15.2.** The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

### **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 15.3.(a)** Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2007-2009 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

**SECTION 15.3.(b)** The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

**SECTION 15.3.(c)** Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

### **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

**SECTION 15.4.** Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

### **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION**

**SECTION 15.5.** The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

### **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS DISBURSED**

**SECTION 15.6.** The North Carolina Legal Education Assistance Foundation shall report by March 1 of each year to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds, the purpose of the expenditures, the number of attorneys receiving funds, the average award amount, the average student loan amount, the number of attorneys on the waiting list, and the average number of years for which attorneys receive loan assistance.

### **HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF INVESTIGATION**

**SECTION 15.7.** The Department of Justice may hire sworn personnel to fill vacant positions in the State Bureau of Investigation only in the following circumstances: (i) the position's regular responsibilities involve warrant executions, property searches, criminal investigations, or arrest activities that are consistent in frequency with the responsibilities of other sworn agents; (ii) the position is a promotion for a sworn agent who was employed at the State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; (iv) the position is a forensic impressions analyst position which requires "responding to clandestine

methamphetamine laboratories" as a primary duty; or (v) the position primarily involves supervising sworn personnel.

## **PART XVI. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

### **ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM**

**SECTION 16.1.** The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year of the biennium on the operations and effectiveness of the National Guard Tarheel Challenge Program. In particular, the Department shall evaluate and report on the Program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent and on the Program's role in improving individual skills and employment potential for participants. The report shall also include all of the following:

- (1) The source of referrals for individuals participating in the Program.
- (2) The summary of types of actions or offenses committed by the participants of the Program.
- (3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants.
- (4) The number of individuals who successfully complete the Program.
- (5) The number of participants who commit offenses after completing the Program.

### **NEW ALE NON-SWORN JOB CLASSIFICATION**

**SECTION 16.2.(a)** As recommended by the Fiscal Research Division of the General Assembly in the February 2007 Justification Review, the State Personnel Commission shall develop for review a new non-sworn position classification for the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety that would supplement the agents that are employed by the Division.

**SECTION 16.2.(b)** Prior to the action taken pursuant to subsection (a) of this section, the Office of State Personnel shall review all of the following:

- (1) The Justification Review report.
- (2) Current position descriptions and job classifications.
- (3) Tasks currently performed by ALE field agents in order to determine tasks that could be performed by non-sworn or noncertified personnel.
- (4) Information on other states that use non-sworn staff for inspection, compliance, and education efforts currently performed by North Carolina ALE agents.

**SECTION 16.2.(c)** The Office of State Personnel shall report the results of its review in writing to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the State Personnel Commission by February 1, 2008. The Office of State Personnel report shall include (i) a detailed description of the new ALE civilian position, including the job classification, a description of all of the duties assigned to the position, and the salary grade for the position, (ii) the estimated number of positions that should be established, and (iii) a time line for further review of the job classification by the State Personnel Commission.

### **ALTERNATIVE FUNDING SOURCE STUDY FOR LAW ENFORCEMENT SUPPORT SERVICES AND THE GEOSPATIAL AND TECHNOLOGY MANAGEMENT PROGRAM**

**SECTION 16.3.(a)** The Department of Crime Control and Public Safety shall study alternative funding sources for the operating costs of the Law Enforcement

Support Services Program. By March 1, 2008, the Department shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety. This report shall include information about possible federal grant sources and options for receipt-based funding from State and local agencies.

**SECTION 16.3.(b)** The Department of Crime Control and Public Safety shall study alternative funding sources for the Geospatial and Technology Management Program. By March 1, 2008, the Department shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety. This report shall include information about possible federal grant sources and receipt-based funding options from federal, State, and local agencies as well as private industry.

### **USE OF GANG PREVENTION FUNDS**

**SECTION 16.5.(a)** Of the funds appropriated in this act to the Department of Crime Control and Public Safety, Governor's Crime Commission, the sum of four million seven hundred sixty thousand one hundred ninety-five dollars (\$4,760,195) for the 2007-2008 fiscal year shall be used to provide grants for street gang violence prevention, intervention, and suppression programs.

**SECTION 16.5.(b)** The Governor's Crime Commission shall develop the criteria for eligibility for these funds. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be provided by the funds. Funds shall be available to public and private entities or agencies for juvenile or adult programs that meet the criteria established by the Governor's Crime Commission.

**SECTION 16.5.(c)** The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2008, on this program. The report shall include all of the following:

- (1) The grant award process.
- (2) A description of each grant awarded.
- (3) The performance criteria for evaluating grant programs.
- (4) A list of State grants awarded in the 2007 grant cycle.

### **REPORTS ON THE EXPANSION OF THE ALCOHOL LAW ENFORCEMENT DIVISION'S AUTOMATED SYSTEMS**

**SECTION 16.6.** The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1 and May 1, 2008, on the status of the expansion of the Alcohol Law Enforcement Division's automated systems for administrative and field processes. Each report shall include all of the following:

- (1) A description of the Division's automated systems.
- (2) A list of prior and ongoing automation projects, including an assessment of the Division's long-term automation needs and the potential cost.
- (3) A summary of work done with funds received.
- (4) A time line for completion of new and ongoing projects.
- (5) A list of expenditures to date.
- (6) Program performance/efficiencies achieved with expanded automation, including an assessment of the progress made in

improving the management information that will be collected and entered into the automated system. The assessment shall include information with respect to progress in the following areas: (i) recording of staff hours attributed to specific functional areas such as bingo, controlled substances, or video poker; (ii) recording of staff hours attributed to specific activities such as written inspections, compliance checks, and surveillance; and (iii) recording of violations reported to the Alcohol Beverage Control Commission, including further analysis of violations recorded from 2004-2006.

## **STUDY GANG ACTIVITY**

**SECTION 16.8.(a)** The Governor's Crime Commission shall study gang activity in North Carolina. In its study, the Governor's Crime Commission shall do all of the following:

- (1) Assess gang activity in communities known to have gangs, including any connections between gang activity and organized crime.
- (2) Consult with the Department of Correction to assess gang activity in the State's prisons.
- (3) Consult with the Department of Public Instruction, Department of Justice, and the Department of Correction on any gang prevention initiatives they have in place or administered in the past.
- (4) Summarize significant gang prevention, intervention, and suppression programs that have been administered by local law enforcement, State agencies, local governments, and community-based organizations and evaluate those programs for effectiveness.
- (5) Review accepted best practices in gang prevention and evaluate whether or not increasing penalties will mitigate gang activity.
- (6) Project the growth of gang activity over the next five years and identify the locations where that growth is expected to occur.
- (7) Provide recommendations on ways of using State and local resources to improve the effectiveness of future gang prevention initiatives.

**SECTION 16.8.(b)** The Governor's Crime Commission shall report on the study's findings and recommendations by March 15, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

## **PART XVII. DEPARTMENT OF CORRECTION**

### **MUTUAL AGREEMENT PAROLE PROGRAM**

**SECTION 17.1.** The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the number of inmates enrolled in the program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

### **INMATE ROAD SQUADS AND LITTER CREWS**

**SECTION 17.2.** Of the funds appropriated to the Department of Transportation in this act, the sum of eleven million three hundred thousand dollars (\$11,300,000) per year shall be transferred by the Department to the Department of Correction during the 2007-2008 and 2008-2009 fiscal years for the cost of operating medium custody inmate road squads, as authorized by G.S. 148-26.5, and minimum

custody inmate litter crews. This transfer shall be made quarterly in the amount of two million eight hundred twenty-five thousand dollars (\$2,825,000). The Department of Transportation may use funds appropriated in this act to pay an additional amount exceeding the eleven million three hundred thousand dollars (\$11,300,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

The Office of State Budget and Management shall conduct a study, in consultation with the Department of Correction and the Department of Transportation, to determine the actual cost and cost/benefit of operating medium custody road squads and minimum custody litter crews. The Office of State Budget and Management shall report the results of this study to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Joint Legislative Transportation Oversight Committee by March 1, 2008. The study shall include a recommendation on whether or not the amount transferred from the Department of Transportation to the Department of Correction for this work is adequate.

## **ALCOHOL AND CHEMICAL DEPENDENCY PROGRAM REPORT**

**SECTION 17.3.(a) G.S. 143B-262.3 reads as rewritten:**

### **"§ 143B-262.3. Reports to the General Assembly.**

(a) The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

- (1) Details of any new initiatives and expansions or reduction of programs;
- (2) Details on any treatment efforts conducted in conjunction with other departments;
- (3) Utilization of the DART/DWI program, including its aftercare program;
- (4) ~~Progress in the development on an offender and inmate tracking and program evaluation system; and~~
- (5) ~~A report on the number of current inmates with substance abuse problems, the numbers currently receiving treatment, and the numbers who have completed treatment. As an offender and inmate tracking system becomes operational, this report shall also include information on the recidivism of inmates who have previously completed substance abuse treatment and been released from prison.~~
- (6) ~~Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each DOC funded program; and~~
- (7) ~~Evaluation of each substance abuse treatment program funded by the Department of Correction. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in disciplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success.~~

(b) The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work

~~performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals)."~~

**SECTION 17.3.(b)** During the 2007-2009 fiscal biennium, the Department of Correction evaluation effort shall focus mainly on evaluation of the long-term residential programs operated by the Department of Correction through private contract and those operated directly by the Department of Correction. The evaluation component of the March 1, 2008, annual report shall be primarily a status report and provide only preliminary information on the evaluation of the residential program. The final evaluation report shall be included in the March 1, 2009, annual report.

### **INMATE CONSTRUCTION PROGRAM**

**SECTION 17.4.** Funding authorized in this act is intended to increase participation in the Inmate Construction Program in order to improve inmate job skills and reduce recidivism. By April 1, 2008, the Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the House and Senate Appropriations Subcommittees on Justice and Public Safety on the Inmate Construction Program. The report shall summarize the 2007-2008 Inmate Construction Program projects, including a description of each project, the number of inmate workers, and the estimated total cost of the project compared to the cost if the project was conducted without inmate workers. The report shall also estimate the number of inmate workers that will be used in the program during the 2008-2009 fiscal year.

### **FEDERAL GRANT REPORTING**

**SECTION 17.5.** The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

### **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

**SECTION 17.6.** Notwithstanding G.S. 143C-6-9, the Department of Correction may use funds available to the Department for the 2007-2009 biennium to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

## **USE OF CLOSED PRISON FACILITIES**

**SECTION 17.7.** In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

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

## **LIMIT USE OF OPERATIONAL FUNDS**

**SECTION 17.8.** Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

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

**SECTION 17.9.** The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2007-2009 biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction.

## **INMATE MEDICAL COSTS**

**SECTION 17.10.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use funds available during the 2007-2009 biennium for the inmate medical program if expenditures are projected to exceed the Department's inmate medical continuation budget. The Department shall consult with the Joint

Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

## **PAROLE ELIGIBILITY REPORT**

**SECTION 17.11.(a)** The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Correction, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2008, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

**SECTION 17.11.(b)** For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

- (1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.
- (2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).
- (3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

**SECTION 17.11.(c)** The Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2008. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

## **FEDERAL GRANT MATCHING FUNDS**

**SECTION 17.12.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2007-2008 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

## **REPORTS ON NONPROFIT PROGRAMS**

**SECTION 17.13.(a)** Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property to serve women released from prison with children in their custody. Harriet's House shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who successfully complete the Harriet's House program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

**SECTION 17.13.(b)** Summit House shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who successfully complete the program while housed at Summit House, Inc., and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

**SECTION 17.13.(c)** Women at Risk shall report by February 1 of each year to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who have successfully completed the program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

**SECTION 17.13.(d)** Our Children's Place shall report by February 1, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the status of the planning, design, and construction of Our Children's Place, the proposed program components and evaluation measures, and on the projected number of inmates and their children to be served. The report shall also provide financial data, including the expenditure of State funds and all funding sources and amounts.

#### **REPORT ON ELECTRONIC MONITORING PROGRAM/USE OF GLOBAL POSITIONING SYSTEMS FOR SEX OFFENDERS**

**SECTION 17.14.** The Department of Correction shall report by March 1 of each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

- (1) The number of sex offenders enrolled on active and passive GPS monitoring.

- (2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
- (3) The number of violations.
- (4) The number of absconders.
- (5) The projected number of offenders to be enrolled by the end of the 2007-2008 fiscal year and the end of the 2008-2009 fiscal year.
- (6) The total cost of the program, including a per-offender cost.

## **CRIMINAL JUSTICE PARTNERSHIP**

**SECTION 17.15.(a)** Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

**SECTION 17.15.(b)** The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

**SECTION 17.15.(c)** The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

- (1) The amount of funds carried over from the prior fiscal year;
- (2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
- (3) Any counties the Department anticipates will submit requests for new implementation grants;
- (4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
- (5) An analysis of offender participation data received, including data on each program's utilization and capacity;
- (6) An analysis of comparable programs prepared by the Division of Research and Planning, Department of Correction, including a comparison of programs in each program type on selected outcome measures developed by the Division of Community Corrections in consultation with the Fiscal Research Division and the Division of Research and Planning, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards;
- (7) A review of whether each sentenced offender program is meeting established program goals developed by the Division of Community Corrections in consultation with the Division of Research and Planning and the State Criminal Justice Partnership Advisory Board;
- (8) The number of community offenders and intermediate offenders served by each county program;
- (9) The amount of Criminal Justice Partnership funds spent on community offenders and intermediate offenders; and
- (10) A short description of the services and programs provided by each partnership, including who the service providers are and the amount of funds each service provider receives.

**SECTION 17.15.(d)** The Research and Planning Division of the Department of Correction shall review national best practice programs for community corrections and recommend whether the types of programs currently being funded should continue to be funded, and whether alternative programs should be funded if a county wants to expand sanction options. The Division shall report on its review by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

## **REPORT ON PROBATION AND PAROLE CASELOADS**

**SECTION 17.16.(a)** The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;
- (2) An analysis of the optimal caseloads for these officer classifications;
- (3) An assessment of the role of surveillance officers;
- (4) The number and role of paraprofessionals in supervising low-risk caseloads;
- (5) An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004;
- (6) The selection of a risk assessment and the resulting distribution of offenders among risk levels; and
- (7) Any position reallocations in the previous 12 months, and the reasons for and fiscal impact of those reallocations.

**SECTION 17.16.(b)** The Department of Correction shall conduct a study of probation/parole officer workload at least biannually. The study shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

**SECTION 17.16.(c)** The Department of Correction shall report the results of the study and recommendations for any adjustments to caseload goals to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2009.

## **COMMUNITY SERVICE WORK PROGRAM**

**SECTION 17.17.** The Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).

## **PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

### **SUPPORT OUR STUDENTS ADMINISTRATIVE COST LIMITS**

**SECTION 18.1.** Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than five hundred thousand dollars (\$500,000) for the 2007-2008 fiscal year and not more than five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal year may be used to administer the Support Our Students (S.O.S.) Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

### **JCPC GRANT REPORTING AND CERTIFICATION**

**SECTION 18.2.(a)** On or before April 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

**SECTION 18.2.(b)** Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

**SECTION 18.2.(c)** G.S. 143B-519 reads as rewritten:

#### **"§ 143B-519. Annual report.**

(a) On or before April 1 each year, beginning with the year 2001, the Department shall report to the General Assembly on the effectiveness and cost benefit of every program operated and contracted by the Department and a summary of the local programs that receive State funding. The report shall include the most current institutional populations of juveniles being served by the Department, a comparison of the costs of the services, and a ranking of all programs that provide services to juveniles. The Department shall submit the report to the various State agencies providing services to juveniles.

(b) On or before April 1 each year, the Department shall report to the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Fiscal Research Division on the following:

(1) The effectiveness of programs that receive Juvenile Crime Prevention Council grant funds and that serve juveniles who have been adjudicated delinquent or who have been diverted for delinquent offenses. The standards used to evaluate these programs shall include methods for measuring success factors following intervention and shall include those factors that:

- a. Reduce the use of alcohol or controlled substances.
- b. Reduce subsequent complaints.

- c. Reduce violations of terms of community supervision.
- d. Reduce convictions for subsequent offenses.
- e. Fulfill restitution to victims.
- f. Increase parental accountability.

(2) The number of diverted and adjudicated juveniles served.

(3) The specific methods used by the Juvenile Crime Prevention Councils to determine services, programs, and intervention strategies most likely to change behaviors of juvenile offenders.

(4) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(5) An assessment of the extent to which programs funded by Juvenile Crime Prevention Council grants:

- a. Are compatible with research that shows prevention and early intervention strategies that are effective with juvenile offenders.
- b. Are outcome-based in that the grantee describes what outcomes will be achieved or what outcomes have already been achieved.
- c. Include an evaluation component.
- d. Have a demonstrable impact on success factors.
- e. Detect gang participation and divert individuals from gang participation."

**SECTION 18.2.(d)** The Department shall withhold the fourth quarter payment for local Juvenile Crime Prevention Council grants pending receipt of the annual effectiveness report required by subsection (c) of this section.

## REPORTS ON CERTAIN PROGRAMS

**SECTION 18.3.(a)** Project Challenge North Carolina, Inc., shall report to the Department of Juvenile Justice and Delinquency Prevention and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on:

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

**SECTION 18.3.(b)** The Juvenile Assessment Center shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the effectiveness of the Center by April 1 each year. The report shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans. In addition, the report shall include information on the Center's budget and expenditures, including all funding sources.

## ANNUAL EVALUATION OF COMMUNITY PROGRAMS

**SECTION 18.4.** The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Support Our Students Program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical

information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

- (1) The expenditure of State appropriations on the program;
- (2) The operations and the effectiveness of the program; and
- (3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees on Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

## **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 18.5.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2007-2008 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the House of Representatives and Senate and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2007-2008 fiscal year, the amount of funds anticipated for the 2008-2009 fiscal year, and the allocation of funds by program and purpose.

## **REPORTING ON TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS**

**SECTION 18.6.(a)** The Department of Juvenile Justice and Delinquency Prevention shall continue quarterly reporting during the 2007-2008 fiscal year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the implementation of the treatment staffing model at Samarkand and Stonewall Jackson Youth Development Centers, including the latest results of the evaluation of the pilot treatment staffing models at the Centers and the progress in implementing the model at other youth development centers.

**SECTION 18.6.(b)** The Department shall implement the staffing treatment model presented to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee as part of the Department's November 14, 2006, report regarding the joint use with the Department of Correction of the Swannanoa Youth Development Center campus.

The staffing levels of the new youth development centers shall be capped at 66 staff for a 32-bed facility and 198 staff for the 96-bed facility for the 2007-2009 fiscal biennium. Staffing ratios shall be no more than 2.1 staff per every juvenile committed at every other existing youth development center.

**SECTION 18.6.(c)** In the April 1, 2008, report, the Department shall include a recommendation on whether the staffing and budget for youth development centers should be modified to reflect the results of the pilot treatment programs.

## **PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL PROJECTS**

**SECTION 18.7.** The Department of Juvenile Justice and Delinquency Prevention shall report quarterly during the 2007-2009 fiscal biennium, beginning October 1, 2007, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Department's progress in the planning, design, and construction of new youth development centers. The report shall include:

- (1) An overall project schedule for each new youth development center showing the original estimated date for construction completion and the original estimated date for occupancy by juvenile offenders, compared to the latest projected dates.
- (2) An explanation of significant delays in the schedule or any potential cost increase.

The Office of State Construction and the Capital Improvement Section of the Office of State Budget and Management shall assist the Department of Juvenile Justice and Delinquency Prevention in the preparation of the report required by this section.

## **STUDY OF STATE DETENTION CENTERS**

**SECTION 18.8.** The Department of Juvenile Justice and Delinquency Prevention shall study the nine juvenile detention centers that are operated by the State. For each of the facilities, the review shall include:

- (1) Recent admission trends and projections of future population.
- (2) The offense history and assessed needs of the population.
- (3) Whether staffing levels are appropriate for the number and types of offenders housed in the facility.
- (4) Whether the center has adequate housing capacity.
- (5) Determine the repair and renovation needs and estimate the cost of any repairs or renovations.
- (6) The estimated cost to plan, design, and construct new detention centers, if appropriate.
- (7) Information on security and control of the facility, including assaults, escapes, and infractions.

The Department shall report its findings to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2008.

## **YOUTH DEVELOPMENT CENTER SCHOLARSHIPS**

**SECTION 18.9.** Funds appropriated to the North Carolina Community College Foundation during the 2003-2004 fiscal year in S.L. 2003-284 for community college scholarships for students who have completed their commitment to a Youth Development Center and who have obtained a high school diploma or its equivalent are hereby transferred to the Department of Juvenile Justice and Delinquency Prevention. The Department of Juvenile Justice and Delinquency Prevention shall administer the community college scholarship program described in this section.

## **REPORT ON ECKERD FAMILY FOCUS ON REHABILITATIVE TREATMENT (EFFORT) PROJECT**

**SECTION 18.10.** The Department and Eckerd Family Youth Alternatives, Inc., shall report by April 1, 2008, and quarterly thereafter to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight

Committee on the progress of the Eckerd Family Focus on Rehabilitative Treatment (EFFORT) project. The report shall include lessons learned from the EFFORT project, staff assignments by shift, and implementation of the therapeutic model.

## **PROGRESS REPORT ON JOINT USE BY THE DEPARTMENT OF CORRECTION AND THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION OF THE SWANNANOA VALLEY YOUTH DEVELOPMENT CENTER**

**SECTION 18.11.** The Department of Juvenile Justice and Delinquency Prevention and the Department of Correction shall report quarterly during the 2007-2009 fiscal biennium, beginning October 1, 2007, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the joint use by both departments of the Swannanoa Valley Youth Development Center. The report shall include an explanation of significant delays in converting the Swannanoa Valley Youth Development Center into a facility that functions as an adult female correctional center as well as a youth development center and any cost increase related to that conversion.

## **PART XIX. DEPARTMENT OF ADMINISTRATION**

### **REDESIGNATION OF THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES**

**SECTION 19.1.(a)** Part 14A of Article 9 of Chapter 143B of the General Statutes is repealed.

**SECTION 19.1.(b)** Pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, the Governor shall redesignate the operation and function of the Governor's Advocacy Council for Persons with Disabilities from the Department of Administration to a nongovernmental entity. The Governor shall follow the federal statutory procedure for redesignation found at 45 C.F.R. § 1386.20, with a target transfer date of July 1, 2007.

**SECTION 19.1.(c)** G.S. 120-123(3) is repealed.

**SECTION 19.1.(d)** G.S. 122A-5.11(a)(5) reads as rewritten:

"(a) The Housing Coordination and Policy Council shall consist of 15 representatives, as follows:

...  
(5) One member of the Governor's Advocacy Council for Persons with Disabilities State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, who is familiar with the housing needs of the disabled.

....  
**SECTION 19.1.(e)** G.S. 122C-31(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Secretary shall notify the Governor's Advocacy Council for Persons With Disabilities State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Secretary shall provide the Council agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The Council agency shall use the information in accordance with its powers and duties under G.S. 143B-403.1 and applicable State and federal law and regulations."

**SECTION 19.1.(f)** G.S. 122C-31(e) reads as rewritten:

"(e) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary or the ~~Council-agency~~. In carrying out the requirements of this section, the Secretary and the ~~Council-agency~~ shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

**SECTION 19.1.(g)** G.S. 131D-10.6B(b) reads as rewritten:

"(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Department shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ ~~State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402~~, that a person with a disability has died. The Department shall provide the ~~Council-agency~~ access to the information about each death reported to the ~~Council-agency~~ pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department, and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council-agency~~ shall use the information in accordance with its powers and duties under G.S. 143B-403.1 and applicable ~~State and~~ federal law and regulations."

**SECTION 19.1.(h)** G.S. 131D-10.6B(d) reads as rewritten:

"(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the ~~Council-agency~~. In carrying out the requirements of this section, the Department and the ~~Council-agency~~ shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

**SECTION 19.1.(i)** G.S. 131D-34.1(b) reads as rewritten:

"(b) Upon receipt of notification from an adult care home in accordance with subsection (a) of this section, the Department of Health and Human Services shall notify the ~~Governor's Advocacy Council for Persons With Disabilities~~ ~~State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402~~, that a person with a disability has died. The Department shall provide the ~~Council-agency~~ access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The ~~Council-agency~~ shall use the information in accordance with its powers and duties under G.S. 143B-403.1 and applicable ~~State and~~ federal law and regulations."

**SECTION 19.1.(j)** G.S. 131D-34.1(d) reads as rewritten:

"(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the ~~Council-agency~~. In carrying out the requirements of this section, the Department and the ~~Council-agency~~ shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information."

**SECTION 19.1.(k)** Not later than May 1, 2008, the Department of Administration and the Office of State Personnel shall report to the House

Appropriations Subcommittee on General Government and the Senate Appropriations Subcommittee on General Government on the placement or compensation of all State employees affected by the redesignation of the Governor's Advocacy Council for Persons with Disabilities.

**SECTION 19.1.(I)** This section is effective on the effective date of the redesignation and transfer of the operation and function of the Governor's Advocacy Council for Persons with Disabilities from the Department of Administration to a nongovernmental entity under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402. Any funds appropriated to the Governor's Advocacy Council for Persons with Disabilities revert to the General Fund on that date.

## **SEXUAL ASSAULT/RAPE CRISIS CENTER FUNDING**

**SECTION 19.2.(a)** The Department of Administration, the Council for Women, and the Domestic Violence Commission shall distribute funds to the North Carolina Coalition Against Sexual Assault and to rape crisis centers. To receive funds, rape crisis centers shall meet the following criteria:

- (1) Operate as a private, nonprofit organization or a local unit of government applying for a rape crisis center that has provided basic services, as defined by the Council for Women and the Domestic Violence Commission, for a one-year period before the date of application;
- (2) Have a mission statement that clearly specifies rape crisis services are provided;
- (3) Act in support of victims of rape or sexual assault by providing assistance to ensure victims' interests are represented in law enforcement and legal proceedings and support and referral services are provided in medical and community settings; and
- (4) Provide a 24-hour crisis hotline.

**SECTION 19.2.(b)** Grant funds allocated from the General Fund to the Department of Administration, the Council for Women and the Domestic Violence Commission for rape crisis shall be distributed in two equal shares. The North Carolina Coalition Against Sexual Assault and rape crisis centers whose services are confined to rape crisis and sexual assault services shall be allocated the sum of fifty thousand dollars (\$50,000) in each year of the 2007-2009 biennium. Organizations that contain rape crisis services in addition to domestic violence services or other support services shall receive an equal share of remaining funds in each year of the 2007-2009 biennium.

## **STATE ENERGY OFFICE**

**SECTION 19.3.(a)** The State Energy Office shall develop a Strategic Plan for Energy Grants to establish criteria and guidelines to award and administer future grants. The plan shall include the proposed distribution of grant funds for energy purposes, which may include energy efficiency, renewable energy, alternative fuels, and energy conservation. The Department shall submit the plan to the Energy Policy Council and to the Chairs of the House Appropriations Committee and the Chairs of the Senate Appropriations Committee no later than November 1, 2007. After consultation with the House and Senate Appropriations Chairs, the Energy Policy Council shall approve the plan no later than March 1, 2008. With the exception of grants to be administered from funds specified in subsections (b), (c), and (d) of this section, the plan shall be approved prior to any new grants being awarded.

**SECTION 19.3.(b)** Of the funds appropriated in this act for the 2007-2008 fiscal year, the sum of five million dollars (\$5,000,000) shall be used to establish the Energy Efficiency Reserve. The Reserve shall be administered by the State Energy Office. The State Energy Office, in consultation with the State Construction Office, shall use the funds in the Energy Efficiency Reserve to provide funding for projects designed to make State, university, or community college facilities more energy

efficient. Projects eligible to make State, university, or community college facilities more energy efficient from remaining funds in the Energy Efficiency Reserve include:

- (1) Replacement of incandescent light bulbs with compact fluorescent light bulbs, installation of exit signs that employ light-emitting diode (LED) technology, the installation of occupancy sensors or optical sensors, and other lighting efficiency improvements.
- (2) For windows that need replacement, installation of more energy efficient windows.
- (3) Insulation improvements when practicable.
- (4) Replacement of inefficient or oversized heating, ventilation, and air conditioning (HVAC) systems when those systems are subject to replacement, and installation of programmable automation systems.
- (5) Installation of aerators in sink faucets that reduce the flow rate, and other water system projects that reduce water consumption.
- (6) Any other retrofit or replacement projects that make State, university, or community college facilities more energy efficient for which the incremental cost of the project will be equal to or less than the energy or water savings that result over a period of three years after completion.

Funds appropriated to the Reserve for the 2007-2008 fiscal year shall not revert and shall remain available until expended. The State Energy Office shall report to the House of Representatives and Senate Appropriations Committees on the use of the Reserve funds no later than May 1, 2008.

**SECTION 19.3.(c)** Of the funds appropriated in this act for the 2007-2008 fiscal year, the sum of six hundred thousand dollars (\$600,000) shall be used to administer the Utility Savings Initiative.

**SECTION 19.3.(d)** Of the funds appropriated in this act, the sum of one million three hundred eighty-two thousand five hundred dollars (\$1,382,500) for the 2007-2008 fiscal year and the sum of two million six hundred ninety thousand dollars (\$2,690,000) for the 2008-2009 fiscal year shall be used to fund the three university energy programs: The North Carolina A&T State University Center for Energy Research and Technology, the North Carolina State University Solar Center, and the Appalachian State University Energy Center. The grant funds shall be distributed to maintain the 2006-2007 fiscal year funding levels from grants awarded by the Energy Office. If grant funds are insufficient to maintain this funding level, funds shall be distributed based on the same proportion of 2006-2007 fiscal year funding.

**SECTION 19.3.(e)** The Office of State Budget and Management, in consultation with the Department of Administration and the Office of State Personnel, shall conduct a staffing analysis of the State Energy Office to determine appropriate staffing levels and job classifications based on the shift in the mission of the State Energy Office from grant making to a focus on energy efficiency in State buildings. Upon completion of the staffing analysis, the Office of State Budget and Management shall submit a final report outlining its findings to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by October 31, 2007.

The Department of Administration shall implement to the greatest extent possible the recommendations of the final report. It shall use internal staff resources whenever possible, instead of contractual services, to conduct energy efficiency audits of State buildings. The Department of Administration shall report to the House and Senate Chairs of the General Government Appropriations Committees on the status of its implementation of the OSBM Staffing Analysis report no later than May 1, 2008.

## **PART XX. OFFICE OF THE STATE CONTROLLER**

### **OVERPAYMENTS AUDIT**

**SECTION 20.1.(a)** During the 2007-2009 biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

**SECTION 20.1.(b)** For the 2007-2009 biennium, five hundred thousand dollars (\$500,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

**SECTION 20.1.(c)** All funds available in the Special Reserve Account 24172 on July 1 of each year of the 2007-2009 biennium are transferred to the General Fund on that date.

**SECTION 20.1.(d)** Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2008 Regular Session of the 2007 General Assembly.

**SECTION 20.1.(e)** The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account 24172 and the disbursement of that revenue.

## **PART XXI. DEPARTMENT OF CULTURAL RESOURCES**

### **GRASSROOTS ARTS PROGRAM FUNDING**

**SECTION 21.1.(a)** G.S. 143B-122 reads as rewritten:  
"§ 143B-122. Distribution of funds.

~~Funds~~ ~~Of the funds available under the Grassroots Arts Program~~ ~~Program, twenty percent (20%) of the total shall be distributed among the counties equally, and the remaining eighty percent (80%) shall be distributed among the counties on a per capita basis."~~

**SECTION 21.1.(b)** Any funds distributed by the Department of Cultural Resources under the Grassroots Arts Program for the 2000-2001 through 2006-2007 fiscal years are hereby ratified, validated, and confirmed.

### **GRANT-IN-AID FOR THE JEWISH HERITAGE FOUNDATION**

**SECTION 21.3.** Of the funds appropriated to the Department of Cultural Resources for the 2007-2008 fiscal year, the Department shall use two hundred fifty thousand dollars (\$250,000) for a grant-in-aid to the Jewish Heritage Foundation of North Carolina, a nonprofit corporation, to be used for the production of the film documentary, "Down Home: Jewish Life in North Carolina".

## **PART XXII. OFFICE OF THE GOVERNOR**

### **HOUSING FINANCE AGENCY SHALL CONTINUE AND EXPAND THE NORTH CAROLINA HOME PROTECTION PILOT PROGRAM AND LOAN FUND**

**SECTION 22.1.(a)** The North Carolina Housing Finance Agency shall continue, develop, implement, and administer a pilot program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina when the workers are in need of assistance to avoid losing their homes to foreclosure. The Agency shall do all of the following:

- (1) Develop and administer the North Carolina Home Protection Pilot Program and Loan Fund to ensure that workers in the counties selected for the Pilot have assistance to avoid losing their homes to foreclosure.

- (2) The Program shall include all counties that had greater than seven percent (7%) average unemployment in the 2004-2005 fiscal year.
- (3) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.
- (4) Develop and administer procedures by which property owners at risk of being foreclosed upon may qualify for assistance.
- (4) Designate, approve, and fund nonprofit counseling agencies in counties participating in the Program to be available to assist the Agency in implementing the provisions of this section, provide services such as direct mortgagee negotiations on behalf of unemployed workers, and process loan applications for the Agency.
- (5) Develop and fund enhanced methods by which workers may be notified of foreclosure mitigation services, may easily contact local nonprofit counseling agencies, and may apply for loans from the Agency.
- (6) No later than April 1, 2008, report to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on the effectiveness of the Program in accomplishing its purposes and provide any other information the Agency determines is pertinent or that the General Assembly requests.

**SECTION 22.1.(b)** As used in this section, the following definitions apply:

- (1) **Agency.** – The North Carolina Housing Finance Agency.
- (2) **Counseling agency.** – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.
- (3) **Mortgage.** – An obligation evidenced by a security document and secured by a lien upon real property located within North Carolina, including a deed of trust and land sale agreement. Mortgage also means an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located.
- (4) **Mortgagee.** – The owner of a beneficial interest in a mortgage loan, the servicer for the owner of a beneficial interest in a mortgage loan, or the trustee for a securitized trust that holds title to a beneficial interest in a mortgage loan.

**SECTION 22.1.(c)** Notwithstanding Chapters 23, 24, and 45 of the General Statutes or any other provision of law, upon the proper filing of an application for loan assistance by a mortgagor under this section, a mortgagee shall not do the following:

- (1) Accelerate the maturity of any mortgage obligation covered under this section.
- (2) Commence or continue any legal action, including mortgage foreclosure pursuant to Chapter 45 of the General Statutes, to recover the mortgage obligation.
- (3) Take possession of any security of the mortgagor for the mortgage obligation.
- (4) Procure or receive a deed in lieu of foreclosure.
- (5) Enter judgment by confession pursuant to a note accompanying a mortgage.
- (6) Proceed to enforce the mortgage obligation pursuant to applicable rules of civil procedure for a period of 120 days following the date of the mortgagor's properly filed application.

The provisions of this section shall not apply if the mortgagee receives notice from the Agency that the mortgagor's application has been denied.

If a mortgagee acts as proscribed in subdivisions (1) through (6) of this subsection, a mortgagor shall be entitled to injunctive relief without the necessity of

providing a bond. This relief shall be in addition to any defenses available under G.S. 45-21.16(d) and any other remedies at law or equity.

Upon the Agency's receipt of a properly filed mortgagor's application for loan assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee within five business days of the Agency's receipt of the application. The Agency shall also mail notice of the acceptance or denial of the mortgagor's application to the mortgagee within five days of the Agency's determination. Notice shall be deemed sufficient if sent to the last known address of the mortgagee.

**SECTION 22.1.(d)** Rule Making. – Solely with respect to the adoption of procedures for the pilot program by which property owners at risk of being foreclosed upon may qualify for assistance, the Agency is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of procedures, the Agency shall:

- (1) Publish the proposed procedures in the North Carolina Register at least 30 days prior to the adoption of the final procedures.
- (2) Accept oral and written comments on the proposed procedures.
- (3) Hold at least one public hearing on the proposed procedures.

**SECTION 22.1.(e)** Funds appropriated under this act to the Agency that are unexpended and unencumbered shall not revert but shall remain available to be used for the expansion of the program to additional counties as provided by this section.

**SECTION 22.1.(f)** This section applies only to the 2007-2008 fiscal year.

## **PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT**

### **MILITARY MORALE, RECREATION, AND WELFARE FUNDS**

**SECTION 23.1.** Funds appropriated in this act to the Office of State Budget and Management to the Reserve for the Military Morale, Recreation, and Welfare Fund and distributed to each military installation on a per capita basis shall be deposited in the Military Morale, Recreation, and Welfare Fund for each installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

### **LICENSING BOARD REPORTING REQUIREMENT**

**SECTION 23.2.** G.S. 93B-2(b) reads as rewritten:

"(b) Each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous 12-month period."

### **STUDY OF THE WORKERS' COMPENSATION PROGRAM IN STATE AGENCIES**

**SECTION 23.3.** The Office of State Budget and Management, in consultation with the Office of State Personnel and the Office of State Controller, shall conduct a study of the Workers' Compensation Program in State agencies and institutions to determine if the third-party administration of the program continues to be the most effective mode of administration; to determine if the current method of funding is still the most effective method; to determine whether excess coverage policies are needed; and to identify any other operational inefficiencies in program operations that might exist. The Office of State Budget and Management shall submit a final report outlining the related findings and recommendations for improvements to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by March 1, 2008.

## **MODIFY STATE FIRE PROTECTION GRANT FUND**

**SECTION 23.4.(a)** Effective July 1, 2007, 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)~~ ~~up to four million one hundred eighty thousand dollars (\$4,180,000)~~ from the General Fund, ~~one hundred fifty thousand dollars (\$150,000)~~ ~~one hundred fifty-eight thousand dollars (\$158,000)~~ from the Highway Fund, and ~~nine hundred seventy thousand dollars (\$970,000)~~ ~~one million three hundred forty-five thousand dollars (\$1,345,000)~~ 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."

**SECTION 23.4.(b)** Effective July 1, 2008, G.S. 58-85A-1(c), as amended by subsection (a) of this section, reads as rewritten:

"(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund ~~up to four million one hundred eighty thousand dollars (\$4,180,000)~~ ~~three million eight hundred eighty thousand dollars (\$3,880,000)~~ from the General Fund, one hundred fifty-eight thousand dollars (\$158,000) from the Highway Fund, and one million three hundred forty-five thousand dollars (\$1,345,000) 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 XXIV. DEPARTMENT OF REVENUE**

### **WHITE GOODS DISPOSAL TAX PROGRAM**

**SECTION 24.1.** G.S. 105-187.24 reads as rewritten:

#### **"§ 105-187.24. Use of tax proceeds.**

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed ~~two hundred twenty five thousand dollars (\$225,000)~~ ~~four hundred twenty-five thousand dollars (\$425,000)~~ a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received

under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

## **SCRAP TIRE DISPOSAL TAX PROGRAM**

### **SECTION 24.2.** G.S. 105-187.19(a) reads as rewritten:

"(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed ~~two hundred twenty five thousand dollars (\$225,000)~~ four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department."

## **EITC REQUIREMENTS**

**SECTION 24.3.(a)** The Department of Revenue shall include language in its printed booklets for the individual income tax return that identifies the availability of the State and federal earned income tax credit.

**SECTION 24.3.(b)** In order to better ensure taxpayers receive the tax benefits for which they qualify, software companies producing computer programs for tax calculation should design all tax calculation software, other than forms library products, to automatically compute an individual's eligibility for the State and federal earned income tax credit when (i) the taxpayer is a North Carolina resident and (ii) the taxpayer is preparing both the federal and North Carolina individual income tax returns with the tax calculation software.

**SECTION 24.3.(c)** This section is effective for taxable years beginning on or after January 1, 2007.

## **TRANSFER REVENUE HEARINGS POSITIONS TO DOA**

**SECTION 24.4.** The positions of one Assistant Secretary and one associated support position, presently assigned to the Department of Revenue for the purpose of hearing appeals on the cases, are transferred to the Department of Administration by a Type I transfer as defined by G.S. 143A-6.

## **PART XXV. STATE BOARD OF ELECTIONS**

### **STATE BOARD OF ELECTIONS MOE AND HAVA FUND USE**

**SECTION 25.1.(a)** The State Board of Elections shall use funds in the Maintenance of Effort Reserve as follows:

- (1) \$1,500,000 nonrecurring in fiscal year 2007-2008 and \$500,000 nonrecurring in fiscal year 2008-2009 to rebuild the State Elections Information Management System (SEIMS).
- (2) \$100,000 recurring in fiscal year 2007-2008 for the required training for all county boards of elections staff on voting equipment operating procedures.
- (3) \$427,500 recurring in fiscal year 2007-2008 to centralize ballot coding in North Carolina to provide oversight, ensure accuracy of election preparation, and reduce errors with ballot styles.
- (4) \$150,000 recurring in fiscal year 2007-2008 to hire 20 additional election technicians across the State to deal with technical problems that arise on a 2008 Election Day in which a federal election is on the ballot.

**SECTION 25.1.(b)** The State Board of Elections shall use funds in the Election Fund under G.S. 163-82.28 (HAVA funds) as follows:

- (1) \$2,525,000 nonrecurring in fiscal year 2007-2008 and \$2,525,000 nonrecurring in fiscal year 2008-2009 for maintenance performed on voting equipment.

(2) \$750,000 nonrecurring in fiscal year 2007-2008 and \$1,750,000 nonrecurring in fiscal year 2008-2009 provided for additional one-stop absentee voting (early voting) sites for the 2008 first primary and general election if a federal election is on the ballot.

**SECTION 25.1.(c)** Section 1 of S.L. 2007-144 is repealed.

## **PART XXVI. DEPARTMENT OF THE STATE TREASURER**

### **FUNDS FOR AUDITING STATE EMPLOYEE SERVICE RECORDS; REPORTING REQUIREMENTS**

**SECTION 26.1.(a)** Of the funds appropriated in this act to the Department of State Treasurer, Retirement Systems Division, the sum of one million two hundred thousand dollars (\$1,200,000) for the 2007-2008 fiscal year shall be used to contract for the auditing of State employee service records. The Retirement Systems Division shall submit an interim report on the number of State employee service records verified to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division no later than April 30, 2008.

**SECTION 26.1.(b)** The Department of State Treasurer, Retirement Systems Division, shall report quarterly beginning October 31, 2007, on all contracts by funding sources and on the use of lapsed salary savings to the Joint Legislative Commission on Governmental Operations, the Chairs of the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology and to the Fiscal Research Division.

## **PART XXVII. DEPARTMENT OF TRANSPORTATION**

### **ONE-STOP SHOPS FOR DRIVERS LICENSES AND REGISTRATION PLATES**

**SECTION 27.1.** The Department of Transportation, Division of Motor Vehicles, is prohibited from opening drivers license issuance and vehicle registration issuance and renewal One-Stop Shops until the General Assembly has considered and appropriated funds for the purpose of One-Stop Shops.

The Department of Transportation shall develop a business plan that thoroughly outlines the operational plans of a combined function center, a detailed budget for each proposed location, and any identified savings gleaned from the combined services. In addition, the Division of Motor Vehicles shall conduct an analysis on the anticipated number of transactions and the impact to independent tag agents in those areas. The report is due to the Joint Legislative Transportation Oversight Committee, the Joint Appropriations Subcommittee for Transportation, and the Fiscal Research Division by March 15, 2008.

### **CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 27.2.(a)** The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2009-2010	\$1,818.3 million
For Fiscal Year 2010-2011	\$1,830.7 million
For Fiscal Year 2011-2012	\$1,841.2 million
For Fiscal Year 2012-2013	\$1,854.0 million

**SECTION 27.2.(b)** The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2009-2010	\$1,154.1 million
For Fiscal Year 2010-2011	\$1,170.9 million
For Fiscal Year 2011-2012	\$1,187.5 million
For Fiscal Year 2012-2013	\$1,205.1 million

## **FUNDS FOR ECONOMIC DEVELOPMENT, SPOT SAFETY, AND TRANSPORTATION IMPROVEMENT PROGRAM PROJECTS**

**SECTION 27.3.** Of the funds appropriated by this act to the Department of Transportation in fiscal year 2007-2008, fourteen million dollars (\$14,000,000) shall be allocated equally among the 14 Highway Divisions for economic development transportation projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. Funds in each Division not needed for economic development projects shall be used on spot safety needs to enhance safety, reduce congestion, improve traffic flow, reduce accidents, and for system preservation. Funds not identified for economic development and spot safety projects prior to December 31, 2007, may be used on Transportation Improvement Program projects. Any funds allocated to the 14 Highway Divisions for economic development, spot safety, and transportation improvement programs pursuant to this section, or any previous certified budget, that is not allotted by June 30, 2009, shall be reallocated equally among the 14 Highway Divisions for use in the 2009-2011 biennium under the same criteria listed in this section. The Secretary of Transportation shall not prevent or delay the implementation of any projects approved by the Board of Transportation pursuant to this section.

## **CONSOLIDATION OF RURAL FUNDING PROGRAMS BY THE DEPARTMENT OF TRANSPORTATION'S PUBLIC TRANSPORTATION DIVISION**

**SECTION 27.4.** The Department of Transportation, Public Transportation Division, may consolidate its rural funding programs for vehicles, technology, and facilities into one large capital program. The Division shall have the flexibility to transfer funding from the consolidated capital program to the operating programs, based on the ability to leverage additional federal funds to meet the capital needs of rural transportation systems. The Department shall report on the use of funds and effectiveness of the provisions of this section to the Joint Appropriations Subcommittee on Transportation and the Fiscal Research Division by March 15, 2008.

## **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

**SECTION 27.5.** Of the funds appropriated in this act to the Department of Transportation:

- (1) Twenty-one million dollars (\$21,000,000) shall be allocated in each fiscal year for small construction projects recommended by the member of the Board of Transportation representing the Division in which the project is to be constructed in consultation with the Division Engineer and approved by the Board of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.
- (2) Fifteen million dollars (\$15,000,000) in fiscal year 2007-2008 and fifteen million dollars (\$15,000,000) in fiscal year 2008-2009 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

## **FUNDS FOR UNSAFE OR OBSOLETE FIELD FACILITIES**

**SECTION 27.6.** Of the funds appropriated in this act to the Department of Transportation, the Department may use funds not to exceed seventy-five hundredths of one percent (.75%) for maintenance and construction programs for major repair, renovation, or replacement of its field facilities that fail to meet safety standards or that are obsolete for current or future use. Prior to expending these funds, the Department shall submit its proposed budget for these expenditures to the Senate Appropriations Subcommittee on Transportation, the House of Representatives Appropriations Subcommittee on Transportation, and the Joint Legislative Transportation Oversight Committee each year.

## **MODIFY GLOBAL TRANSPARK DEBT**

**SECTION 27.7.** G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144, Section 2 of S.L. 2005-201, and Section 28.17 of S.L. 2005-276 reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

..."

(ii) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than October 1, 2007-2009. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

...."

## **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS**

**SECTION 27.9.(a)** The Department of Transportation may continue the productivity pilot programs in the road oil, bridge inspection and pavement markings units implemented under Section 29.3 of S.L. 2003-284 and Section 28.9 of S.L. 2005-276. The Department of Transportation may expend up to one-half of one percent (0.50%) of the budget allocation for these programs for employee incentive payments to maintain the increased efficiency and productivity under these programs.

**SECTION 27.9.(b)** The Department of Transportation may establish up to two additional pilot programs to test incentive pay for employees as a means of increasing and maintaining efficiency and productivity.

These programs may be selected by the Department of Transportation. Up to one-half of one percent (0.50%) of the budget allocation for these programs may be used to provide employee incentive payments.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs. Pilot programs implemented under this subsection shall last no more than two years.

**SECTION 27.9.(c)** The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs developed under this section at least 30 days prior to their implementation.

## **DIVISION OF MOTOR VEHICLES LICENSE PLATE RECALL PROGRAM**

**SECTION 27.11.(a)** Of the funds appropriated from the Highway Fund to the Department of Transportation under this act, the Division of Motor Vehicles may expend the sum of two hundred eighty-two thousand one hundred ninety-nine dollars (\$282,199) for fiscal year 2007-2008 and the sum of ninety-nine thousand dollars (\$99,000) for fiscal year 2008-2009 to recall vehicle license plates. The Division shall develop a schedule by which approximately 94,000 of the oldest license plates are recalled annually for the next five years. Each fiscal year after 2008-2009, the General Assembly intends to appropriate from the Highway Fund to the Department of Transportation the sum of ninety-nine thousand dollars (\$99,000) in recurring funds for the Division to implement a continuous license plate recall program.

**SECTION 27.11.(b)** The Division shall report to the Joint Appropriations Subcommittee on Transportation and the Fiscal Research Division no later than May 1, 2008, on the progress of the vehicle license plate recall schedule and the implementation of the continuous license plate recall program.

## **PHASE OUT TRANSFERS FROM THE HIGHWAY FUND AND THE HIGHWAY TRUST FUND TO THE GENERAL FUND AND OTHER STATE AGENCIES**

**SECTION 27.12.** It is the intent of the General Assembly to phase out funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and to other State agencies over a five-year period of time. The funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and to other State agencies would be reduced to fifty percent (50%) of the current funds transfers, effective July 1, 2009. The funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and other State agencies would be reduced an additional fifty percent (50%) of the amount being transferred on June 30, 2011, effective July 1, 2011. The funds transfers from the Highway Fund and the Highway Trust Fund to the General Fund and other State agencies would be eliminated completely, effective July 1, 2013.

## **BEAVER DAMAGE CONTROL PROGRAM FUNDS**

**SECTION 27.13.** Of funds available to the Department of Transportation for maintenance, the sum of three hundred thirty thousand dollars (\$330,000) for the 2007-2008 fiscal year and the sum of three hundred thirty thousand dollars (\$330,000) for the 2008-2009 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

## **DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED CONTRACTS**

**SECTION 27.14.** The Department of Transportation may implement up to two performance-based contracts for routine maintenance and operations, exclusive of resurfacing. Selection of firms to perform this work shall be made using a best-value

procurement process. Prior to any advertisement for a proposed project, the Department shall report to the Joint Legislative Transportation Oversight Committee on the contractor selection criteria to be used.

## **ENSURE PROPERTY AND FUNDS GO TO STATE HIGHWAY FUND**

**SECTION 27.15.** G.S. 136-16 reads as rewritten:

**"§ 136-16. Funds and property converted to State Highway Fund.**

Except as otherwise provided, all funds and property collected by the Department of Transportation Transportation, including the proceeds from the sale of real property originally purchased with funds from the State Highway Fund, shall be paid or converted into the State Highway Fund."

## **DIVISION OF MOTOR VEHICLES TO REPORT CLOSINGS OF DRIVERS LICENSE OFFICES AND REOPEN THE DRIVERS LICENSE OFFICE IN TABOR CITY**

**SECTION 27.16.** The Division of Motor Vehicles shall report the closing of any drivers license office to the Joint Legislative Transportation Oversight Committee at least 60 days before the closure. The report shall contain the location of the office by city and county, the number of customers served in that office in the preceding 12 months, the cost of operating the office to be closed, the reasons for the closure, where the customers will be directed for service after the closure, and the Division's intent to provide displaced customers with future service. Of the funds appropriated to the Department of Transportation, Division of Motor Vehicles, the Division shall reopen and operate a full-time drivers license office in Tabor City, Columbus County.

## **INCREASE ADMINISTRATIVE APPROPRIATION FOR THE HIGHWAY TRUST FUND**

**SECTION 27.17.** G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four percent (4%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section for the 2003-2004 fiscal year and year, three and eight-tenths percent (3.8%) through fiscal year 2006-2007, and four and two-tenths percent (4.2%) thereafter, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.
- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt

service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

## **DEPARTMENT OF TRANSPORTATION TO MAINTAIN DIVISION BUDGETS**

**SECTION 27.18.** The Department of Transportation shall not reduce any of the 14 Highway Divisions' funding to adjust the administrative budget of the Department to cover the costs of repaving Interstate 40 between Highway 751 and Highway 147 in Durham County as required by this act. The Department shall prepare a budget plan to reduce administrative budgets and present the plan to the Office of State Budget and Management for approval. The reductions will be taken from administrative budgets of Central Administration of the Department, Division of Motor Vehicles, and other central Divisions, excluding the 14 Highway Divisions' administrative and operations budgets.

The Department shall report its detailed budget plan for administrative reductions to cover the cost of repaving Interstate 40 between Highway 751 and Highway 147 in Durham County to the Joint Legislative Transportation Oversight Committee no later than October 1, 2007.

## **VIPER BUILD OUT FUNDS**

**SECTION 27.19.** Of the funds appropriated, for fiscal year 2007-2008, to the State Highway Patrol by this act, the State Highway Patrol may use up to ten million dollars (\$10,000,000) to continue the build out of the Voice Interoperability Plan for Emergency Responders (VIPER) system. The State Highway Patrol shall report any expenditure made for the build out of the VIPER system, and any planned expenditures for the continued build out of the VIPER system, to the Joint Legislative Transportation Oversight Committee and the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than March 31, 2008.

## **PART XXVIII. SALARIES AND BENEFITS**

### **GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES**

**SECTION 28.1.(a)** Effective July 1, 2007, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be one hundred thirty thousand six hundred twenty nine dollars (\$130,629) one hundred thirty-five thousand eight hundred fifty-four dollars (\$135,854) annually, payable monthly."

**SECTION 28.1.(b)** Effective July 1, 2007, the annual salaries for the members of the Council of State, payable monthly, for the 2007-2008 and 2008-2009 fiscal years are:

Council of State  
Lieutenant Governor  
Attorney General

Annual Salary  
\$119,901  
119,901

Secretary of State	119,901
State Treasurer	119,901
State Auditor	119,901
Superintendent of Public Instruction	119,901
Agriculture Commissioner	119,901
Insurance Commissioner	119,901
Labor Commissioner	119,901

### **NONELECTED DEPARTMENT HEAD/SALARY INCREASES**

**SECTION 28.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2007-2008 and 2008-2009 fiscal years are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$117,142
Secretary of Correction	117,142
Secretary of Crime Control and Public Safety	117,142
Secretary of Cultural Resources	117,142
Secretary of Commerce	117,142
Secretary of Environment and Natural Resources	117,142
Secretary of Health and Human Services	117,142
Secretary of Juvenile Justice and Delinquency Prevention	117,142
Secretary of Revenue	117,142
Secretary of Transportation	117,142

### **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

**SECTION 28.3.** The annual salaries, payable monthly, for the 2007-2008 and 2008-2009 fiscal years for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$ 106,621
State Controller	149,216
Commissioner of Motor Vehicles	106,621
Commissioner of Banks	119,901
Chairman, Employment Security Commission	133,161
State Personnel Director	117,142
Chairman, Parole Commission	97,358
Members of the Parole Commission	44,942
Chairman, Utilities Commission	133,531
Members of the Utilities Commission	119,901
Executive Director, Agency for Public Telecommunications	89,884
Director, Museum of Art	109,252
Executive Director, North Carolina Agricultural Finance Authority	103,781
State Chief Information Officer	149,126

### **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

**SECTION 28.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the 2007-2008 and 2008-2009 fiscal years are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$ 137,160
Associate Justice, Supreme Court	133,576
Chief Judge, Court of Appeals	130,236
Judge, Court of Appeals	128,011
Judge, Senior Regular Resident Superior Court	124,532

Judge, Superior Court	121,053
Chief Judge, District Court	109,923
Judge, District Court	106,445
District Attorney	116,112
Administrative Officer of the Courts	123,346
Assistant Administrative Officer of the Courts	112,665
Public Defender	116,112

**SECTION 28.4.(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-nine thousand forty-seven dollars (\$69,047), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-six thousand eighty-two dollars (\$36,082), effective July 1, 2007.

**SECTION 28.4.(c)** Effective July 1, 2007, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%).

**SECTION 28.4.(d)** Effective July 1, 2007, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by four percent (4.0%).

## **CLERK OF SUPERIOR COURT/SALARY INCREASES**

**SECTION 28.5.** Effective July 1, 2007, 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	\$77,112 <u>\$80,196</u>
100,000 to 149,999	86,532 <u>89,993</u>
150,000 to 249,999	95,954 <u>99,792</u>
250,000 and above	105,378.109,593.

~~The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:~~

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

## **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

**SECTION 28.6.** Effective July 1, 2007, 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
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Minimum	<u>\$29,925</u>	<u>\$31,122</u>
Maximum	<u>51,251</u>	<u>53,301</u>

Deputy Clerks	Annual Salary
Minimum	<u>\$25,758</u>
Maximum	<u>39,862.</u> <u>41,456.</u> "

## MAGISTRATES' SALARY INCREASES

**SECTION 28.7.(a)** Effective July 1, 2007, G.S. 7A-171.1(a) reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

- (1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	<u>\$30,320</u> <u>\$31,533</u>
Step 1	<u>33,101</u> <u>34,425</u>
Step 2	<u>36,126</u> <u>37,571</u>
Step 3	<u>39,429</u> <u>41,006</u>
Step 4	<u>43,046</u> <u>44,768</u>
Step 5	<u>47,122</u> <u>49,007</u>
Step 6	<u>51,692.</u> <u>53,760.</u>

- (2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.
- (3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4."

**SECTION 28.7.(b)** Effective July 1, 2007, G.S. 7A-171.1(a1)(1) reads as rewritten:

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

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

Less than 1 year of service	\$24,450	\$25,428
1 or more but less than 3 years of service	25,572	26,595
3 or more but less than 5 years of service	27,831	28,944

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

## **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

**SECTION 28.8.** Effective July 1, 2007, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~ninety seven thousand four hundred two dollars (\$97,402)~~ one hundred one thousand two hundred ninety-eight dollars (\$101,298) payable monthly. Each principal clerk shall also receive such additional compensation as approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, respectively, for additional employment duties beyond those provided by the rules of their House. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

## **SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES**

**SECTION 28.9.** Effective July 1, 2007, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~three hundred forty five dollars (\$345.00)~~ three hundred fifty-nine dollars (\$359.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

## **LEGISLATIVE EMPLOYEES/SALARY INCREASES**

**SECTION 28.10.** Effective July 1, 2007, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2006-2007 by four percent (4.0%). Nothing in this act limits any of the provisions of G.S. 120-32.

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

**SECTION 28.11.(a)** The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of four percent (4.0%) including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all community college employees supported by State funds.

**SECTION 28.11.(b)** The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an additional annual salary increase of one percent (1.0%) for Community College faculty and professional staff, including funds for the employer's retirement and social security contributions, supported by State funds.

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

**SECTION 28.12.(a)** Effective July 1, 2007, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of five percent (5%) for faculty. The percentage annual salary increase of five percent (5%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors may use a portion of the annual salary increase provided by this section to improve competitive national peer rankings for faculty.

**SECTION 28.12.(b)** Effective July 1, 2007, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, including funds for the employer's retirement and social security contributions, to provide to employees of The University of North Carolina, other than teachers of the North Carolina School of Science and Mathematics, whose salaries are supported by State funds and who are exempt from the State Personnel Act (EPA) an annual salary increase of four percent (4.0%) for nonfaculty. The percentage annual salary increase of four percent (4.0%) authorized by this section shall be made on an aggregated average basis, according to the rules adopted by the Board of Governors of The University of North Carolina and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

**SECTION 28.12.(c)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009, to provide an average annual salary increase of five percent (5%) but at least an annual increase of one thousand two hundred forty dollars (\$1,240), including funds for the employer's retirement and social security contributions, commencing July 1, 2007, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

## **STATE AGENCY TEACHERS' COMPENSATION**

**SECTION 28.13.** Funds in the Reserve for Compensation Increases shall be used for experience step increases for employees of schools operated by the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.

## **MOST STATE EMPLOYEES/SALARY INCREASES**

**SECTION 28.14.(a)** The salaries in effect June 30, 2007, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund, shall be increased, effective July 1, 2007, by four percent (4%).

**SECTION 28.14.(b)** Except as otherwise provided in this act, the fiscal year 2007-2008 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor and set by the General Assembly shall be increased by four percent (4%), effective July 1, 2007.

**SECTION 28.14.(c)** The salaries in effect for fiscal year 2007-2008 for all permanent part-time State employees shall be increased, effective July 1, 2007, by the four percent (4%) salary increase provided for permanent full-time employees covered under this part.

**SECTION 28.14.(d)** The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase, effective July 1, 2007, in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

**SECTION 28.14.(e)** Within regular State Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the four percent (4%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2007.

#### **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

**SECTION 28.15.(a)** Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

**SECTION 28.15.(b)** The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

**SECTION 28.15.(c)** The salary increases provided in this act are to be effective July 1, 2007, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2007.

Payroll checks issued to employees after July 1, 2007, which represent payment of services provided prior to July 1, 2007, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

**SECTION 28.15.(d)** The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2007-2008 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

**SECTION 28.15.(e)** Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

**SECTION 28.15.(f)** Permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the four percent (4.0%) annual increase provided by this act.

#### **CERTAIN SALARIES SET BY GENERAL ASSEMBLY**

**SECTION 28.15A.** G.S. 7A-65(a) reads as rewritten:

"(a) The annual salary of:

(1) District attorneys shall be the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district

~~court judge, as provided by law, as provided in the Current Operations Appropriations Act.~~

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

## **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARIES**

**SECTION 28.15B.** For the 2007-2008 and 2008-2009 fiscal years, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

## **SALARY ADJUSTMENT FUND**

**SECTION 28.18.(a)** Any remaining appropriations in the General Fund Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the General Fund Salary Adjustment Fund to support salary adjustments for positions supported by the General Fund. Any remaining appropriations in the Highway Fund Reserves and Transfers authorized for employee salary increases not required for that purpose may be used to supplement the Highway Fund Salary Adjustment Fund to support salary adjustments for positions supported by the Highway Fund.

**SECTION 28.18.(b)** Funds appropriated or otherwise transferred to the General Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund by this act or any other provision of law shall be used to fund agency requests for the following purposes:

- (1) Salary range revisions, special minimum rates, grade to band transfers and geographic site differential adjustments to provide competitive salary rates for affected job classifications/groups in response to changes in labor market rates as documented through data collection and analysis according to accepted human resource professional practices and standards.
- (2) Reallocation of positions to higher level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

The terms 'salary range revision' and 'reallocation' as used in this section shall conform to the definitions of those terms as previously contained in the State Personnel Manual and adopted by the State Personnel Commission effective immediately prior to November 1, 2005. Funds shall only be used for salary adjustments that are in compliance with State Personnel Commission policies. Funding shall first be provided to the earliest actions approved on or before July 1, 2007, by the State Personnel Commission or the Office of State Personnel and shall not be used for other purposes including, but not limited to, in-range adjustments, career progression adjustments, or other adjustments as these terms may be defined by State personnel policy.

**SECTION 28.18.(c)** The Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations prior to transferring any salary adjustment funds for any State agency.

**SECTION 28.18.(d)** The Director of the Budget may:

- (1) Transfer to General Fund budget codes from the General Fund Salary Adjustment Fund amounts required to support salary adjustments

authorized by this section with the oldest of the pending adjustments to be funded first.

(2) Transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts required to support salary adjustments authorized by this section.

**SECTION 28.18.(e)** The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

**SECTION 28.18.(f)** Employees subject to the State Personnel Act in The University of North Carolina System are eligible for funding authorized in subsection (a) of this section and for the purposes outlined in subsection (b) of this section.

## **JUDICIAL BRANCH LONGEVITY**

**SECTION 28.18A.(a)** G.S. 7A-10(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, the Chief Justice and each of the Associate Justices shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service, service, and twenty-four percent (24%) after 25 years of service.~~ "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission. Service shall also mean service as a district attorney or as a clerk of superior court."

**SECTION 28.18A.(b)** G.S. 7A-18(b) reads as rewritten:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the Court of Appeals shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service, service, and twenty-four percent (24%) after 25 years of service.~~ "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission. Service shall also mean service as a district attorney or as a clerk of superior court."

**SECTION 28.18A.(c)** G.S. 7A-44(b) reads as rewritten:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the superior court, regular or special, shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service, service, and twenty-four percent (24%) after 25 years of service.~~ "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court."

**SECTION 28.18A.(d)** G.S. 7A-65 reads as rewritten:

## **"§ 7A-65. Compensation and allowances of district attorneys and assistant district attorneys.**

(a) The annual salary of:

(1) District attorneys shall be the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law,

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally.

(b) Repealed by Session Laws 1985, c. 689, s. 2.

(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service~~, ~~and twenty-four percent (24%) after 25 years of service~~. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a justice or judge of the General Court of Justice, clerk of superior court, assistant district attorney, public defender, appellate defender, or assistant public or appellate defender.

(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service~~, ~~and twenty-four percent (24%) after 25 years of service~~. "Service" means service as an assistant district attorney, district attorney, resource prosecutor, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court. For purposes of this subsection, "resource prosecutor" means a former assistant district attorney who has left the employment of the district attorney's office to serve in a specific, time-limited position with the Conference of District Attorneys."

**SECTION 28.18A.(e)** G.S. 7A-101(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the clerk's annual salary payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service~~, ~~and twenty-four percent (24%) after 25 years of service~~. Service shall mean service in the elective position of clerk of superior court, as an assistant clerk of court and as a supervisor of clerks of superior court with the Administrative Office of the Courts and shall not include service as a deputy or acting clerk. Service shall also mean service as a justice, judge, or magistrate of the General Court of Justice or as a district attorney."

**SECTION 28.18A.(f)** G.S. 7A-144(b) reads as rewritten:

"(b) Notwithstanding merit, longevity and other increment raises paid to regular State employees, a judge of the district court shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service~~, ~~and twenty-four percent (24%) after 25 years of service~~. "Service" means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission or as director or assistant director of the Administrative Office of the Courts. Service shall also mean service as a district attorney or as a clerk of superior court."

**SECTION 28.18A.(g)** G.S. 7A-498.7 reads as rewritten:

**"§ 7A-498.7. Public Defender Offices.**

(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

<u>Defender District</u>	<u>Counties</u>
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-44.1 that includes the county or counties of the defender district for which the public defender is being appointed.

(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service.~~ "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(d) Subject to standards adopted by the Commission, the day-to-day operation and administration of public defender offices shall be the responsibility of the public defender in charge of the office. The public defender shall keep appropriate records and make periodic reports, as requested, to the Director of the Office of Indigent Defense Services on matters related to the operation of the office.

(e) The Office of Indigent Defense Services shall procure office equipment and supplies for the public defender, and provide secretarial and library support from State funds appropriated to the public defender's office for this purpose.

(f) Each public defender is entitled to assistant public defenders, investigators, and other staff, full-time or part-time, as may be authorized by the Commission. Assistants, investigators, and other staff are appointed by the public defender and serve at the pleasure of the public defender. Average and minimum compensation of assistants shall be as provided in the biennial Current Operations Appropriations Act. The actual salaries of assistants shall be set by the public defender in charge of the office, subject to approval by the Commission. The Commission shall fix the compensation of investigators. Assistants and investigators shall perform such duties as may be assigned by the public defender.

(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, ~~and nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service.~~ "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(h) The term of office of public defender appointed under this section is four years. A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney.

(i) A public defender may apply to the Director of the Office of Indigent Defense Services to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(j) The Director of the Office of Indigent Defense Services may provide assistance requested pursuant to subsection (i) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(k) The terms of any contract entered into with local governments pursuant to subsection (i) of this section shall be fixed by the Director of the Office of Indigent Defense Services in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Office of Indigent Defense Services to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Office of Indigent Defense Services to maintain positions or services initially provided for under this section."

## **CAREER BANDING/CONTINUATION**

**SECTION 28.18B.** Notwithstanding any other provision of law, the State Personnel Commission, the Office of State Personnel, State agencies as to their defined critical occupational groups limited to nursing, engineering, library, fiscal, and pharmacy positions, and The University of North Carolina as to its employees subject to the State Personnel Act shall begin or continue the development and implementation of career banding, effective July 1, 2007.

The Office of State Personnel shall provide quarterly updates on career banding to the Joint Legislative Commission on Governmental Operations.

The Office of State Personnel shall consult with the Joint Legislative Commission on Governmental Operations prior to the State Personnel Commission's review and approval of career banding for major occupational groups with significant labor market changes.

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

**SECTION 28.19.(a)** Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employer who hires or has hired a retiree as an employee shall enroll the retiree in the active group and pay the cost for the hospital-medical benefits if that retiree is employed in a position that would require the employer to pay hospital-medical benefits if the individual had not been retired.

**SECTION 28.19.(b)** Effective July 1, 2007, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2007-2008 fiscal year are: (i) seven and eighty-three hundredths percent (7.83%) – Teachers and State Employees; (ii) twelve and eighty-three hundredths percent (12.83%) – State Law Enforcement Officers; (iii) eleven and forty-six hundredths percent (11.46%) – University Employees' Optional Retirement System; (iv) eleven and forty-six hundredths percent (11.46%) – Community College Optional Retirement Program; (v) seventeen and thirty-one hundredths percent (17.31%) – Consolidated Judicial Retirement System; and (vi) four and ten hundredths percent (4.10%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ten hundredths percent (4.10%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 28.19.(c)** Effective July 1, 2008, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2008-2009 fiscal year are: (i) seven and eighty-three hundredths percent (7.83%) – Teachers and State Employees; (ii) twelve and eighty-three hundredths percent (12.83%) – State Law Enforcement Officers; (iii) eleven and forty-six hundredths percent (11.46%) – University Employees' Optional Retirement System; (iv) eleven and forty-six hundredths percent (11.46%) – Community College Optional Retirement Program; (v) seventeen and thirty-one hundredths percent (17.31%) – Consolidated Judicial Retirement System; and (vi) four and ten hundredths percent (4.10%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ten hundredths percent (4.10%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death

Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 28.19.(d)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Indemnity Plan are: (i) Medicare-eligible employees and retirees – three thousand one hundred eighty-five dollars (\$3,185) and (ii) non-Medicare-eligible employees and retirees – four thousand one hundred eighty-three dollars (\$4,183).

**SECTION 28.19.(e)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan's Preferred Provider Options Program are: (i) Medicare-eligible employees and retirees – three thousand eighty-five dollars (\$3,085) and (ii) non-Medicare-eligible employees and retirees – four thousand fifty-two dollars (\$4,052).

**SECTION 28.19.(f)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2008-2009 fiscal year to the State Health Plan for Teachers and State Employees (Plan), including optional plans and programs under the Plan are: (i) Medicare-eligible employees and retirees – three thousand one hundred sixty-five dollars (\$3,165) and (ii) non-Medicare-eligible employees and retirees – four thousand one hundred fifty-seven dollars (\$4,157).

#### **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

**SECTION 28.20.(a)** G.S. 135-5 is amended by adding a new subsection to read:

"(qqq) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

**SECTION 28.20.(b)** G.S. 135-65 is amended by adding a new subsection to read:

"(bb) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

**SECTION 28.20.(c)** G.S. 120-4.22A is amended by adding a new subsection to read:

"(v) In accordance with subsection (a) of this section, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2007, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the

Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2007, and June 30, 2007."

**INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

**SECTION 28.21.** G.S. 58-86-55 reads as rewritten:

**"§ 58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred sixty-five dollars (\$165.00)~~ one hundred sixty-seven dollars (\$167.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2006, July 1, 2007,~~ receive a pension of ~~one hundred sixty-five dollars (\$165.00)~~ one hundred sixty-seven dollars (\$167.00) per month.

Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred sixty-five dollars (\$165.00)~~ one hundred sixty-seven dollars (\$167.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of ~~Article 4~~Article 4A of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of ~~Article 4~~Article 4A of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

## **ENHANCE BENEFITS PAYABLE THROUGH THE NATIONAL GUARD PENSION FUND**

### **SECTION 28.21A.** G.S. 127A-40(a) reads as rewritten:

"(a) Every member and former member of the North Carolina national guard who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of eighty dollars (\$80.00) ninety-five dollars (\$95.00) per month for 20 years' creditable military service with an additional eight dollars (\$8.00) nine dollars fifty cents (\$9.50) per month for each additional year of such service; provided, however, that the total pension shall not exceed one hundred sixty dollars (\$160.00) one hundred ninety dollars (\$190.00) per month. The requirements for such pension are that each member shall:

- (1) Have served and qualified for at least 20 years' creditable military service, including national guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.
- (2) Have at least 15 years of the aforementioned service as a member of the North Carolina national guard.
- (3) Have received an honorable discharge from the North Carolina national guard."

## **INCLUDE PUBLIC DEFENDERS AS MEMBERS OF THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM**

### **SECTION 28.21B.(a)** G.S. 135-50(b) reads as rewritten:

"(b) The purpose of this Article is to improve the administration of justice by attracting and retaining the most highly qualified talent available within the State to the positions of justice and judge, district attorney and solicitor, public defender, and clerk of superior court, within the General Court of Justice."

### **SECTION 28.21B.(b)** G.S. 135-51 reads as rewritten:

#### **"§ 135-51. Scope.**

(a) This Article provides consolidated retirement benefits for all justices and judges, district attorneys, and solicitors who are serving on January 1, 1974, and who become such thereafter; and for all clerks of superior court who are so serving on January 1, 1975, and who become such thereafter. after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that date.

(b) For justices and judges of the appellate and superior court divisions of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

For district attorneys and judges of the district court of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

For clerks of superior court of the General Court of Justice who so served prior to January 1, 1975, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, shall be determined solely in accordance with the provisions of this Article."

### **SECTION 28.21B.(c)** G.S. 135-53 reads as rewritten:

#### **"§ 135-53. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Accumulated contributions" with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-68 since he last became a member and credited to his account in the annuity savings fund, plus any amount standing to his credit pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus any amounts credited to his account pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular interest on all such amounts computed as provided in G.S. 135-7(b).
- (2) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the bases of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.
- (2a) "Average final compensation" shall mean the average annual compensation of a member during the 48 consecutive calendar months of membership service producing the highest such average.
- (3) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.
- (4) "Board of Trustees" shall mean the Board of Trustees established by G.S. 135-6.
- (4a) "Clerk of superior court" shall mean the clerk of superior court provided for in G.S. 7A-100(a).
- (5) "Compensation" shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge, or district attorney, or clerk of superior ~~court, court, or public defender~~.
- (6) "Creditable service" shall mean for any member the total of his prior service plus his membership service.
- (6a) "District attorney" shall mean the district attorney or solicitor provided for in G.S. 7A-60.
- (7) "Filing" when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.
- (8) "Final compensation" shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.
- (9) "Judge" shall mean any justice or judge of the General Court of Justice and the administrative officer of the courts.
- (10) "Medical board" shall mean the board of physicians provided for in G.S. 135-6.
- (11) "Member" shall mean any person included in the membership of the Retirement System as provided in this Article.
- (12) "Membership service" shall mean service as a judge, district attorney, ~~or clerk of superior court, or public defender~~ rendered while a member of the Retirement System.
- (13) "Previous system" shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such Article or Articles were formerly applicable to the member, and in the case of judges of the district court division, ~~and~~ district attorney, ~~public defender, and~~ clerk of superior court of the General Court of Justice, the Teachers' and State Employees' Retirement System.
- (14) "Prior service" shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-56.

- (14a) "Public defender" means a public defender provided for in G.S. 7A-498.7, the appellate defender provided for in G.S. 7A-498.8, the capital defender, and the juvenile defender.
- (15) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).
- (16) "Retirement" shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.
- (17) "Retirement allowance" shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.
- (18) "Retirement System" shall mean the "Consolidated Judicial Retirement System" of North Carolina, as established in this Article.
- (19) "Year" as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees."

**SECTION 28.21B.(d) G.S. 135-54 reads as rewritten:**

**"§ 135-54. Name and date of establishment.**

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges, district attorneys, public defenders, and clerks of superior court of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the "Consolidated Judicial Retirement System of North Carolina," and by such name all of its business shall be transacted."

**SECTION 28.21B.(e) G.S. 135-55 reads as rewritten:**

**"§ 135-55. Membership.**

- (a) The membership of the Retirement System shall consist of:
  - (1) All judges and district attorneys in office on January 1, 1974;
  - (2) All persons who become judges and district attorneys or reenter service as judges and district attorneys after January 1, 1974;
  - (3) All clerks of superior court in office on January 1, 1975; and
  - (4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, 1975. 1975;
  - (5) All public defenders in office on July 1, 2007; and
  - (6) All persons who become public defenders or reenter service as public defenders after July 1, 2007.
- (b) The membership of any person in the Retirement System shall cease upon:
  - (1) The withdrawal of his accumulated contributions after he is no longer a judge, district attorney attorney, public defender, or clerk of superior court, or
  - (2) His retirement under the provisions of the Retirement System, or
  - (3) His death."

**SECTION 28.21B.(f) G.S. 135-58(a4) reads as rewritten:**

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance

payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

- (1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

**SECTION 28.21B.(g)** G.S. 135-58 is amended by adding a new subsection to read:

"(a5) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

- (1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service

rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, or public defender;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

**SECTION 28.21B.(h)** G.S. 135-56 is amended by adding a new subsection to read:

"(h) On and after July 1, 2007, the creditable service of a member who was a public defender and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as a public defender that was creditable in the previous system immediately prior to July 1, 2007. The accumulated contributions, creditable service, and reserves, if any, of a member as a public defender shall be transferred from the previous system to this System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the district court division of the General Court of Justice."

## **STATE HEALTH PLAN CHANGES EFFECTIVE FOR FISCAL YEAR 2007-2008**

**SECTION 28.22.(a)** The Teachers' and State Employees' Comprehensive Major Medical Plan (Plan) shall provide for an annual enrollment period in the Indemnity Plan and optional PPO program for the July 1, 2007, to June 30, 2008, Plan year. Plan member changes to coverage type or selection of benefit coverage under the Indemnity Plan or optional PPO program during an enrollment period shall become effective October 1, 2007. At least 45 days prior to October 1, 2007, the Plan shall provide to all Plan members sufficient information on premiums, cost-sharing, and benefits to enable the Plan member or other eligible participant to make an enrollment election effective October 1, 2007. As used in this subsection, the term "Plan member" includes active employees, retired employees, and other eligible participants with respect to the Indemnity Plan and the optional PPO program.

**SECTION 28.22.(a1)** G.S. 135-39.5B(b) reads as rewritten:

"(b) The Executive Administrator and Board of Trustees may, after consulting with the Committee on Employee Hospital and Medical Benefits, adopt an arrangement for an optional hospital and medical benefits program other than the one specified in subsection (a) of this section. The optional program may include one that is purchased or underwritten by the State and may be a PPO or other type optional program. Optional programs under this section are not subject to benefits and cost-sharing requirements under G.S. 135-40.1(2) and G.S. 135-40.5 G.S. 135-40.4 through G.S. 135-40.9, except that if a pharmacy benefit is not provided under the optional program, the pharmacy benefit under G.S. 135-40.5(g) shall apply. The Executive Administrator and Board of

Trustees may set premium rates for coverage under an optional program on a partially contributory basis, provided that the amounts of State funds contributed for coverage on a partially contributory basis shall not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the optional program coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed for purchased optional programs shall not exceed the amount of a purchased optional program's cost for Employee Only coverage. Contracts for an optional program under this subsection are not subject to Article 3 of Chapter 143 of the General Statutes. In no instance shall benefits be paid under Part 3 of this Article for persons enrolled in an optional prepaid hospital and medical benefits program authorized under this subsection on and after the effective date of enrollment in the optional prepaid plan, except in cases of continuous hospital confinement approved by the Executive Administrator."

**SECTION 28.22.(b)** G.S. 135-40.1(2) reads as rewritten:

"(2) Deductible. – Deductible shall mean an amount of covered expenses during a fiscal year which must be incurred after which benefits (subject to the deductible) becomes payable. The deductible for an employee, retired employee and/or his or her dependents shall be ~~three hundred fifty dollars (\$350.00)~~four hundred fifty dollars (\$450.00) for each fiscal year.

The deductible applies separately to each covered individual in each fiscal year, subject to an aggregate maximum of ~~one thousand fifty dollars (\$1,050)~~one thousand three hundred fifty dollars (\$1,350) per employee and child(ren) or employee and family coverage contract in any fiscal year.

If two or more family members are injured in the same accident only one deductible is required for charges related to that accident during the benefit period."

**SECTION 28.22.(c)** G.S. 135-40.4 reads as rewritten:

**"§ 135-40.4. Benefits in general.**

(a) In the event a covered person, as a result of accidental bodily injury, disease or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts described in G.S. 135-40.5 through G.S. 135-40.9.

The Plan is divided into two parts. The first part includes certain benefits which are not subject to a deductible or coinsurance. The second part is a comprehensive plan and includes those benefits which are subject to both a ~~three hundred fifty dollar (\$350.00)~~four hundred fifty dollar (\$450.00) deductible for each covered individual to an aggregate maximum of ~~one thousand fifty dollars (\$1,050)~~one thousand three hundred fifty dollars (\$1,350) per employee and child(ren) or employee and family coverage contract and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the second part.

Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may contract with providers of institutional and professional medical care and services to established preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors or other medical providers, an optional program contract authorized under G.S. 135-39.5B(b), or a pharmacy benefit manager and the Plan shall not be a public record under Chapter 132 of the General Statutes for a period of thirty months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and

implementation of the preferred provider contracts and networks contracts, networks, and optional plans or programs authorized under G.S. 135-39.5B(b) are not subject to the requirements of Chapter 143 of the General Statutes, provided that for any hospital preferred provider network all hospitals will have an opportunity to contract with the Plan if they meet the contract requirements. The Executive Administrator and Board of Trustees shall, under the provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely basis and shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating the preferred provider contracts. The Executive Administrator and Board of Trustees shall implement a refined diagnostic-related grouping or diagnostic-related grouping-based reimbursement system for hospitals as soon as practicable, but no later than January 1, 1995.

(b) As used in this section the term "preferred provider contracts or networks" includes, but is not limited to, a refined diagnostic-related grouping or diagnostic-related grouping-based system of reimbursement for hospitals."

**SECTION 28.22.(d)** G.S. 135-40.5(g) reads as rewritten:

"(g) Prescription Drugs. – The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are to be determined by the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars (\$10.00) for each generic prescription, twenty five dollars (\$25.00) thirty dollars (\$30.00) for each preferred branded prescription, and forty dollars (\$40.00) for each preferred branded prescription with a generic equivalent drug, and fifty dollars (\$50.00) for each nonpreferred branded or generic prescription. These co-payments apply to the Plan's optional programs.

Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member. The Plan and its pharmacy benefit manager shall not provide coverage for growth hormone and weight loss drugs and antifungal drugs for the treatment of nail fungus and botulinum toxin without approval in advance by the pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator and pharmacy benefit manager shall be an open formulary. Plan members shall not be assessed more than two thousand five hundred dollars (\$2,500) per person per fiscal year in copayments required by this subsection."

**SECTION 28.22.(e)** The first paragraph of G.S. 135-40.6 reads as rewritten:

"The benefits provided in this section are subject to a deductible of three hundred fifty dollars (\$350.00) four hundred fifty dollars (\$450.00) per covered individual to an aggregate maximum of one thousand fifty dollars (\$1,050) one thousand three hundred fifty dollars (\$1,350) per employee and child(ren) or employee and family coverage contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan and twenty percent (20%) by the covered individual up to a maximum of two thousand

dollars (\$2,000) out-of-pocket per fiscal year. The aggregate maximum out-of-pocket required of individuals covered by this section shall not be more than six thousand dollars (\$6,000) per employee and child(ren) or employee and family coverage contract per fiscal year."

**SECTION 28.22.(f)** G.S. 135-40.7B is amended by adding the following new subsection to read:

"(f) For purposes of this section, the word "Plan" includes all optional programs or plans in effect under the Teachers' and State Employees' Comprehensive Major Medical Plan and its successor Plans."

**SECTION 28.22.(g)** G.S. 135-40.8(c3) reads as rewritten:

"(c3) Notwithstanding any other provision of this Article, the Plan does not pay for the first fifteen dollars (\$15.00) twenty-five dollars (\$25.00) of allowable charges for each home, office, or skilled nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b., G.S. 135-40.6(4), G.S. 135-40.6(8)i., j., k., n., r., and s., and G.S. 135-40.5(e). The co-payment assessed by this subsection shall be assessed only once per person per provider per day and shall not apply to laboratory, pathology, and radiology services, or to charges for injected medications. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs."

**SECTION 28.22.(h)** G.S. 135-39.5B is amended by adding the following new subsections to read:

**"§ 135-39.5B. Optional plans.**

...  
(c) Chemical dependency and mental health benefits under G.S. 135-40.7B apply to the optional program adopted under subsection (b) of this section.

(d) Optional programs adopted under subsection (b) of this section shall not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy."

**SECTION 28.22.(i)** G.S. 135-39.5 is amended by adding the following new subdivision to read:

"(28) It is the intent of the General Assembly that active employees and retired employees covered under the Plan and its successor Plan shall have several opportunities in each fiscal year to attend presentations conducted by Plan management staff providing detailed information about benefits, limitations, premiums, co-payments, and other pertinent Plan matters. To this end, beginning in 2007 and annually thereafter, the Plan's management staff shall conduct multiple presentations each year to Plan members and association groups representing active and retired employees across all geographic regions of the State. Regional meetings shall be held in locations that afford reasonably convenient access to Plan members. The presentations shall be designed not only to present information about the Plan but also to hear and respond to Plan members' questions and concerns."

**SECTION 28.22.(j)** To ensure a smooth and effective transition of the administration of the NC Health Choice Program, enacted under Part 8 of Article 2 of Chapter 108A of the General Statutes, and administered under Part 5 of Article 3 of Chapter 135 of the General Statutes, the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan and the Department of Health and Human Services, Division of Medical Assistance, shall meet to discuss the administration of NC Health Choice in view of the implementation of the State Health Plan for Teachers and State Employees effective July 1, 2008. These meetings shall address all issues that may arise regarding the administration of NC Health Choice under the State Health Plan, including provider payment rates and collection of applicable premiums and co-payments. The Executive Administrator and the

Department shall report to the Committee on Employee Hospital and Medical Benefits not later than February 1, 2008, with recommendations on statutory or other changes necessary to ensure effective administration of NC Health Choice.

**SECTION 28.22.(k)** The Committee on Employee Hospital and Medical Benefits, established under G.S. 135-38, shall convene one or more meetings to review current law as it applies to the Teachers' and State Employees' Comprehensive Major Medical Plan (Indemnity Plan) and to the State Health Plan for Teachers and State Employees (PPO and optional programs). The purpose of the review is to determine changes that need to be made to Article 3 of Chapter 135 of the General Statutes in order to smoothly and effectively transition health care coverage from the Indemnity Plan to the PPO and all optional plans or programs offered under the PPO. Not later than May 1, 2008, the Committee shall report its recommendations to the 2007 General Assembly, Regular Session 2008, and shall at that time provide copies of the report and recommendations to the cochairs of the House of Representatives Committee on Appropriations and the cochairs of the Senate Committee on Appropriations.

### **STATE HEALTH PLAN CHANGES EFFECTIVE BEGINNING WITH THE 2008-2009 FISCAL YEAR**

**SECTION 28.22A.(a)** Effective July 1, 2008, G.S. 135-39.5B, 135-40.4, 135-40.5(e), 135-40.6, 135-40.8, and 135-40.9 are repealed.

**SECTION 28.22A.(b)** Effective July 1, 2008, G.S. 135-39(a) and (a1) read as rewritten:

"(a) There is hereby established the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees.

(a1) The Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees shall consist of nine members."

**SECTION 28.22A.(c)** Effective July 1, 2008, G.S. 135-37 reads as rewritten:

#### **"§ 135-37. Confidentiality. Confidentiality of information and medical records; provider contracts.**

(a) Any information as herein described in this section which is in the possession of the Executive Administrator and the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees or its Claims Processor under the Teachers' and State Employees' Comprehensive Major Medical Plan. Plan or the Predecessor Plan shall be confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning a plan participant. Provided, however, such information may be released to the State Auditor, or to the Attorney General, or to the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and responsibilities, or to such persons or organizations as may be designated and approved by the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. Plan, but any information so released shall remain confidential as stated above and any party obtaining such information shall assume the same level of responsibility for maintaining such confidentiality as that of the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees.

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may

contract with providers of institutional and professional medical care and services to establish preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors, or other medical providers, or a pharmacy benefit manager and the Plan, or contracts pertaining to the provision of any medical benefit offered under the Plan, including its optional plans or programs, shall not be a public record under Chapter 132 of the General Statutes for a period of 30 months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of the preferred provider contracts, networks, and optional plans or programs as authorized under G.S. 135-40 are not subject to the requirements of Chapter 143 of the General Statutes. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating the preferred provider contracts."

**SECTION 28.22A.(d)** Effective July 1, 2008, G.S. 135-39.10 reads as rewritten:

**"§ 135-39.10. Meaning of "Executive Administrator and Board of Trustees".**

Whenever in this Article the words "Executive Administrator and Board of Trustees" appear, they mean that the Executive Administrator shall have the power, duty, right, responsibility, privilege or other function mentioned, after consulting with the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees.

**SECTION 28.22A.(e)** Effective July 1, 2008, the title of Part 3 of Article 3 of Chapter 135 of the General Statutes reads as rewritten:

"Part 3. Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees."

**SECTION 28.22A.(f)** Effective July 1, 2008, G.S. 135-40(a) and (a1) read as rewritten:

**"§ 135-40. Undertaking.**

(a) The State of North Carolina undertakes to make available a Comprehensive Major Medical State Health Plan (hereinafter called the "Plan") exclusively for the benefit of its employees, retired employees and certain of their dependents which will pay benefits in accordance with the terms hereof. The Plan shall have all the powers and privileges of a corporation and shall be known as the Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees. The Executive Administrator and Board of Trustees shall carry out their duties and responsibilities as fiduciaries for the Plan. The Plan shall be a comprehensive benefit plan that includes noncontributory coverage and may be an optional PPO or other type optional benefit plan. Chemical dependency and mental health benefits under G.S. 135-40.7B apply to the Plan and all optional benefit plans offered under an optional PPO or other type of optional benefit plan.

(a1) The State of North Carolina deems it to be in the public interest for North Carolina firemen, rescue squad workers, and members of the national guard, and certain of their dependents, who are not eligible for any other type of comprehensive group health insurance or other comprehensive group health benefits, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months, to be given the opportunity to participate in the benefits provided by the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan. State Health Plan for Teachers and State Employees. Coverage under the Plan shall be voluntary for eligible firemen, rescue squad workers, and members of the

national guard who elect participation in the Plan for themselves and their eligible dependents."

**SECTION 28.22A.(g)** Effective July 1, 2008, subdivisions (8), (13a), and (14) of G.S. 135-40.1 read as rewritten:

**"§ 135-40.1. General definitions.**

As used in Parts 2 and 3 of this Article, the following terms have the meaning specified as follows:

- ...
  - (8) Health Benefits Representative. – The employee designated by the employing unit to administer the Comprehensive Major Medical Plan State Health Plan for Teachers and State Employees for the unit and its employees. The HBR is responsible for enrolling new employees, reporting changes, explaining benefits, reconciling group statements and remitting group fees. The State Retirement System is the Health Benefits Representative for retired members.
  - ...
    - (13a) Plan. – The Teachers' and State Employees' Comprehensive Major Medical Plan State Health Plan for Teachers and State Employees.
    - (14) Predecessor Plan. – The Hospital and Medical Benefits for the Teachers' and State Employees' Retirement System of the State of North Carolina, Carolina, or the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, as applicable."

**SECTION 28.22A.(g1)** Effective July 1, 2008, G.S. 135-40.2 is amended by adding the following new subsection to read:

"(a4) The Executive Administrator and Board of Trustees may in addition to noncontributory coverage offer optional coverage on a partially contributory basis and may set premium rates for the optional coverage on a partially contributory basis. The amount of State funds contributed for optional coverage on a partially contributory basis shall not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. The amount of State funds contributed shall not exceed the Plan's cost for Employee Only coverage. The Executive Administrator and Board of Trustees shall not impose a partially contributory premium until after it has consulted on the premium and the optional coverage design with the Committee on Employee Hospital and Medical Benefits."

**SECTION 28.22A.(h)** Effective July 1, 2008, G.S. 135-40.3(d) reads as rewritten:

"(d) Types of Coverage Available. – There are three types of coverage which an employee or retiree may elect.

- (1) Employee Only. – Covers enrolled employees only. Maternity benefits are provided to employee only.
- (2) Employee and Child(ren). – Covers enrolled employee and all eligible dependent children. Maternity benefits are provided to the employee only.
- (3) Employee and Family. – Covers employee and spouse, and all eligible dependent children. Maternity benefits are provided to employee or enrolled spouse.
- (4), (5) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 5(b).
- (4a) Employee and spouse. – Covers employee and spouse only. Maternity benefits are provided to the employee or the employee's enrolled spouse."

**SECTION 28.22A.(i)** Effective July 1, 2008, G.S. 135-42(a) reads as rewritten:

"(a) The State of North Carolina undertakes to make available a health insurance program for children (hereinafter called the "Program") to provide comprehensive acute medical care to low-income, uninsured children who are residents of this State and who meet the eligibility requirements established for the Program under Part 8 of Article 2 of Chapter 108A of the General Statutes. The Executive Administrator and Board of Trustees of the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan~~ (hereinafter called the "Plan") ~~State Health Plan for Teachers and State Employees~~ shall administer the Program under this Part and shall carry out their duties and responsibilities in accordance with Parts 2 and 3 of this Article and with applicable provisions of Part 8 of Article 2 of Chapter 108A. The ~~Plan's self insured indemnity program~~ ~~Plan~~ shall not incur any financial obligations for the Program in excess of the amount of funds that the ~~Plan's self insured indemnity program~~ ~~Plan~~ receives for the Program."

**SECTION 28.22A.(j)** Effective July 1, 2008, G.S. 135-40.7 is amended by designating the first paragraph as subsection (b) and inserting before subsection (b) the following new subsection to read:

"(a) ~~The Plan and optional plans or programs shall not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy.~~"

**SECTION 28.22A.(k)** Subsection (j) of this section expires June 30, 2009.

**SECTION 28.22A.(l)** G.S. 135-39.4A(f) reads as rewritten:

"(f) The Executive Administrator shall appoint the Deputy Executive Administrator and may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may designate managerial, professional, or policy-making positions as exempt from the State Personnel Act. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of his duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Claims Processor, with an optional hospital and medical benefit plan or ~~program authorized under G.S. 135-39.5B~~, ~~program authorized under G.S. 135-40~~, with a preferred provider of institutional or professional hospital and medical care, or with a pharmacy benefit manager shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits."

**SECTION 28.22A.(m)** G.S. 135-39.6A(c) reads as rewritten:

"(c) The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under Part 5 of this Article. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the ~~North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan~~ ~~Plan~~ as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care for children eligible for benefits provided under Part 5 of this Article."

**SECTION 28.22A.(n)** If on July 1, 2008, there are State employees or retired employees that are enrolled in the Teachers' and State Employees' Comprehensive Major Medical Plan (indemnity plan) on June 30, 2008, and that have not elected one of the optional PPO benefit plans available under the State Health Plan for Teachers and State Employees, then the Plan shall enroll those employees or retired employees in the Standard PPO Option, or its equivalent, effective July 1, 2008.

**SECTION 28.22A.(o)** Effective July 1, 2008, the Revisor of Statutes shall delete all statutory references to "Teachers' and State Employees' Comprehensive Major Medical Plan" and substitute therefore "State Health Plan for Teachers and State Employees."

## STATE HEALTH PLAN WELLNESS PILOT

**SECTION 28.22B.(a)** The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may use funds available in an amount not to exceed two hundred thousand dollars (\$200,000) for the 2007-2008 fiscal year to establish and implement one or more wellness pilot programs for State employees. The purpose of the pilot programs is to reduce health care costs and improve worker productivity through improved health status of the employee. The pilot programs shall be designed to encourage State employee enrollment in a structured fitness program that includes measurable benchmarks. The Executive Administrator shall select one or more pilot sites that represent different geographic regions of the State, taking into consideration sites that have the highest density of State employees.

**SECTION 28.22B.(b)** Not later than May 1, 2008, the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan shall report to the Committee on Employee Hospital and Medical Benefits on State employee participation levels in the wellness pilot programs and health outcomes resulting from the participation. The Executive Administrator shall also recommend in its report whether the pilot programs should be continued and expanded in other areas of the State in the 2008-2009 fiscal year.

## **RETIREE HEALTH BENEFIT FUND**

**SECTION 28.23.** G.S. 135-7(f) reads as rewritten:

"(f) Retiree Health Benefit Fund. – The Retiree Health Benefit Fund is established as a fund in which accumulated contributions from employers and any earnings on those contributions shall be used to provide health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter. The Retiree Health Benefit Fund shall be administered in accordance with the provisions of subsection (a) of this section. Employer contributions to the Fund are irrevocable. The assets of the Fund are dedicated to providing health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter and are not subject to the claims of creditors of the employers making contributions to the Fund. However, Fund assets may be used for reasonable expenses to administer the Fund, including costs to conduct required actuarial valuations of State-supported retired employees' health benefits under other post-employment benefit accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation."

## **PART XXIX. CAPITAL APPROPRIATIONS.**

### **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

**SECTION 29.1.** The appropriations made by the 2007 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

### **CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 29.2** There is appropriated from the General Fund for the 2007-2008 fiscal year the following amount for capital improvements:

<b>Capital Improvements – General Fund</b>	<b>2007-2008</b>
Department of Administration	
Deerfield Cottage Renovation	3,556,000
State Capital Visitors Center / Public Plaza / Underground	
Parking Facility Planning Funds	627,281

Department of Cultural Resources

NC Museum of History Chronology Exhibit – Phase I Horne Creek Farm – Visitors Center	6,322,900 442,100
Information Technology Services Secondary Data Center Equipment	8,000,000
Department of Correction North Carolina Correctional Institution for Women – Health Care Facility Planning and Site Development Funds Capital Planning Reserve for Prison Additions	5,000,000 3,497,557
Department of Crime Control and Public Safety Statewide Department Master Plan – Phase I Camp Butner Land Buffers	280,294 117,800
Department of Justice Western Justice Academy Firing Range	1,974,103
Department of Juvenile Justice and Delinquency Prevention Dillon Youth Development Center – Maintenance Building Five New Youth Development Centers Planning Funds	375,000 1,500,000
Department of Agriculture and Consumer Services Western Agricultural Center Facilities Eastern Agricultural Center Facilities Food and Drug Laboratory Chillers	5,000,000 3,000,000 690,865
Department of Commerce NC Ports Improvements	7,500,000
Department of Natural and Environmental Resources Green Square Project Division of Water Quality Modular Office NC Zoo Horticulture Storage Facility NC Zoo Plains Barns and Paddocks Division of Forestry Resources Ashe County Headquarters Division of Forestry Resources Buncombe County Headquarters Water Resources Development Projects	25,000,000 252,200 450,000 3,006,000 708,000 292,000 20,000,000
University of North Carolina System East Carolina University – School of Dentistry Facilities	25,000,000
Elizabeth City State University Education Building Planning Funds School of Aviation Planning Funds	2,000,000 500,000
North Carolina Agricultural and Technical University – General Classroom Planning and Site Development Funds	5,300,000
North Carolina Central University – Nursing Building Planning Funds	2,500,000
North Carolina School of Science and Mathematics – Discovery Center Planning Funds	3,337,000
North Carolina State University – Centennial Campus Library	

Planning and Utility Construction Funds	17,000,000
University of North Carolina at Chapel Hill School of Dentistry Addition Biomedical Research Imaging Center Planning Funds	25,000,000 8,000,000
University of North Carolina at Charlotte – Energy Production Infrastructure Center Planning and Site Development Funds	19,000,000
University of North Carolina at Greensboro – Education Building Planning Funds	2,500,000
Winston-Salem State University – Science and General Office Building Planning Funds	3,312,000
Improvements to 4-H Campuses	7,500,000
University of North Carolina Reserve for Land Acquisition	5,000,000
Millennium Campus – Nanoscience and Nanoengineering Building	5,000,000
Western Carolina University – Health and Gerontology Building	2,200,000
<b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$230,741,100</b>

#### **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

**SECTION 29.3.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

<b>Name of Project</b>	<b>2007-2008</b>
(1) Wilmington Harbor Deepening	\$ 4,333,000
(2) Manteo (Shallowbag) Bay	350,000
(3) Wilmington Harbor Maintenance	2,000,000
(4) Bogue Banks Shore Protection Study	125,000
(5) B. Everett Jordan Lake Water Supply Storage	100,000
(6) Princeville Flood Control	98,000
(7) Aquatic Plant Control, Statewide and Lake Gaston	200,000
(8) Belhaven Harbor Feasibility	120,000
(9) John H. Kerr Dam & Reservoir	520,000
(10) Currituck Sound Environmental Restoration Study	350,000
(11) Neuse River Basin Study	554,000
(12) Surf City/North Topsail Beach Study	50,000
(13) West Onslow Beach (Topsail Beach) Study	43,000
(14) Dare County Beaches (Bodie Island)	500,000
(15) North Carolina Beach and Inlet Management Plan	250,000
(16) Dredging Contingency Fund	3,937,000
(17) State – Local Projects	2,400,000
(18) Black River Restoration – Pender County	100,000
(19) Western N.C. Hurricane Damage Stream Restoration	1,200,000
(20) Planning Assistance to Communities	75,000
(21) Concord Stream Restoration – Cabarrus County	170,000
(22) Southern Shores Canal Dredging Phase 2	800,000
(23) Ararat River Restoration	550,000

(24)	Town of Williamston Drainage Improvement	600,000
(25)	Little Sugar Creek Stream Restoration Phase 7	575,000
<b>TOTALS</b>		<b>\$20,000,000</b>

**SECTION 29.3.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2007-2008 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2007-2008.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2008-2009 fiscal year.

**SECTION 29.3.(c)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

## PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

**SECTION 29.4.** The appropriations made by the 2007 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2007 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2007

General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

## **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

**SECTION 29.5.(a)** Of the funds in the Reserve for Repairs and Renovations for the 2007-2008 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

**SECTION 29.5.(b)** The Office of State Budget and Management and the University of North Carolina General Administration shall jointly study the allocation of funds in the Reserve for Repairs and Renovations set forth in subsection (a) of this section and shall recommend to the General Assembly changes to the current allocation if any are deemed necessary. The study shall include the following:

- (1) A review of the Department of Administration's Facilities Condition and Assessment Program.
- (2) A review and identification of State-owned buildings supported by the General Fund.
- (3) A review of the actual expenditures for repairs and renovations from allocated reserve funds.

The Office of State Budget and Management and the University of North Carolina General Administration shall submit a joint report to the Senate Appropriations and Base Budget Committee, the House Appropriations Committee, the House Appropriations Subcommittee on Capital, the Senate Finance Subcommittee on Capital and Infrastructure Financing, the Joint Legislative Oversight Committee on Capital Improvements, and the Fiscal Research Division. The report shall include the study findings and recommendations and shall be submitted no later than April 1, 2008.

**SECTION 29.5.(c)** Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section, the sum of three million nine hundred twenty-one thousand one hundred dollars (\$3,921,100) shall be used for repairs and renovations of facilities located on the grounds of the Palmer Memorial Institute State Historic Site.

**SECTION 29.5.(d)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in University residence halls. Such funds shall be allocated among the University's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.

- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports shall also include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

### **PLANT CONSERVATION PROGRAM FUNDS**

**SECTION 29.6.(a)** From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2007-2008 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of the plant conservation program preserves owned by the Department.

**SECTION 29.6.(b)** Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

### **STATE FAIRGROUNDS IMPROVEMENT FUNDS**

**SECTION 29.7.(a)** From funds received from the sale of utility easements on property allocated to the Department of Agriculture and Consumer Services in the vicinity of the State Fairgrounds in Raleigh that are deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of nine hundred seventy-five thousand dollars (\$975,000) for the 2007-2008 fiscal year shall be transferred to the Department to be used for planning and capital improvements to property at the State Fairgrounds.

**SECTION 29.7.(b)** Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

### **EASTERN NORTH CAROLINA AGRICULTURAL CENTER FUNDS**

**SECTION 29.8.(a)** Timber sales receipts received for the sale of timber harvested on the property on which the Eastern North Carolina Agricultural Center at Williamston is located shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account in the Department of Agriculture and Consumer Services as such funds become available and shall be used for the 2007-2008 fiscal year by the Department for capital improvements to the grounds and facilities at the Eastern North Carolina Agricultural Center.

**SECTION 29.8.(b)** Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

**TIME WARNER CABLE LEASE PROCEEDS**

**SECTION 29.9.(a)** The sum of two hundred twenty-five thousand dollars (\$225,000) in net proceeds received from Time Warner, Inc., by the Department of Environment and Natural Resources, Division of Forest Resources, for the lease of property located at 2600 Howard Road in Raleigh shall be transferred to the Department for deposit into a capital improvement account. Funds in this account for the 2007-2008 fiscal year may be used to construct an equipment storage building and related improvements.

**SECTION 29.9.(b)** Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

**TRANSFER OF STATE PROPERTY TO WAYNE COUNTY**

**SECTION 29.11.** The State-owned property in Wayne County that is bordered on the north by SR 581, on the west by the DART-Cherry Facility/Programs, on the south by Cherry Hospital Cemetery, and on the west by property owned by APV North America, Inc., is hereby transferred to Wayne County. The transfer under this section shall be evidenced by a deed executed in accordance with G.S. 146-75 and registered in accordance with G.S. 146-77. The deed shall provide that the State retains a possibility of reverter and that, in the event that Wayne County does not substantially commence construction of a community agricultural center on the site within five years of the execution of the deed, the property shall revert to the State.

**DISPOSITION OF PROCEEDS FROM SALE OF FORMER BUNCOMBE COUNTY HEADQUARTERS PARCEL**

**SECTION 29.11A.(a)** All proceeds from the pending sale of the former Buncombe County Headquarters parcel, located at 5 Brown Road, Asheville, North Carolina, by the Department of Environment and Natural Resources, Division of Forest Resources, shall be transferred to the Department for deposit into a capital improvement account. These proceeds shall be used to construct an office, equipment storage building, and other improvements related to a new Buncombe County Headquarters facility. These proceeds shall not be subject to the service charge payable to the State Land Fund pursuant to G.S. 146-30.

**SECTION 29.11A.(b)** Funds transferred pursuant to subsection (a) of this section are hereby appropriated.

**SPECIAL INDEBTEDNESS PROJECTS**

**SECTION 29.13.(a)** The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

- (1) In the maximum aggregate principal amount of thirty-four million dollars (\$34,000,000) to finance the capital facility costs of completing a new educational building at Appalachian State University. No more than a maximum aggregate amount of three million dollars (\$3,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.
- (2) In the maximum aggregate principal amount of twenty-two million five hundred eighty-seven thousand dollars (\$22,587,000) to finance the capital facility costs of completing a new Science and Technology

Complex at Fayetteville State University. No more than a maximum aggregate amount of five million dollars (\$5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(3) In the maximum aggregate principal amount of twenty-four million nine hundred twenty thousand dollars (\$24,920,000) to finance the capital facility costs of completing a new library at the North Carolina School of the Arts. No more than a maximum aggregate amount of one million seven hundred seventy-five thousand six hundred dollars (\$1,775,600) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of fourteen million three hundred seventy-three thousand six hundred dollars (\$14,373,600) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(4) In the maximum aggregate principal amount of thirty-eight million dollars (\$38,000,000) to finance the capital facility costs of completing the Randall B. Terry Companion Animal Hospital at North Carolina State University. No more than a maximum aggregate amount of twenty-eight million five hundred thousand dollars (\$28,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(5) In the maximum aggregate principal amount of thirty-four million dollars (\$34,000,000) to finance the capital facility costs of completing an addition to Engineering Building III in the School of Engineering at North Carolina State University. No more than a maximum aggregate amount of eight million five hundred thousand dollars (\$8,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of twenty-five million five hundred thousand dollars (\$25,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(6) In the maximum aggregate principal amount of eight million six hundred eighty-seven thousand dollars (\$8,687,000) to finance the capital facility costs of renovating Rhoades Hall at the University of North Carolina at Asheville.

(7) In the maximum aggregate principal amount of one hundred nineteen million six hundred eight thousand two hundred twenty-five dollars (\$119,608,225) to finance the capital facility costs of a Genomics Science Building at the University of North Carolina at Chapel Hill. No more than a maximum aggregate amount of thirty-one million dollars (\$31,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of eighty-six million dollars (\$86,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(8) In the maximum aggregate principal amount of nineteen million dollars (\$19,000,000) to finance the capital facility costs of completing a Nursing and Allied Health Building at the University of North Carolina at Pembroke. No more than a maximum aggregate amount of five million dollars (\$5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(9) In the maximum aggregate principal amount of thirty-four million five hundred twenty-five thousand dollars (\$34,525,000) to finance the capital facility costs of completing a new teaching laboratory at the University of North Carolina at Wilmington. No more than a

maximum aggregate amount of two million five hundred thousand dollars (\$2,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of eight million six hundred thirty-one thousand two hundred fifty dollars (\$8,631,250) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(10) In the maximum aggregate principal amount of forty-one million six hundred five thousand dollars (\$41,605,000) to finance the capital facility costs of completing a new Health and Gerontological Building at Western Carolina University. No more than a maximum aggregate amount of eighteen million eight hundred two thousand five hundred dollars (\$18,802,500) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(11) In the maximum aggregate principal amount of eighteen million seven hundred eight thousand dollars (\$18,708,000) to finance the capital facility costs of completing a new student activities center at Winston-Salem State University. No more than a maximum aggregate amount of two million dollars (\$2,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of five million dollars (\$5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(12) In the maximum aggregate principal amount of fifty-three million dollars (\$53,000,000) to finance the capital facility costs of completing a Nanoscience Building to be used jointly by the University of North Carolina at Greensboro and North Carolina Agricultural and Technical State University. No more than a maximum aggregate amount of twenty-five million dollars (\$25,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(13) In the maximum aggregate principal amount of thirty-two million five hundred thousand dollars (\$32,500,000) to finance the capital facility costs for completing the Coastal Studies Institute. No more than a maximum aggregate amount of eight million dollars (\$8,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of twenty-three million dollars (\$23,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

(14) In the maximum aggregate principal amount of nineteen million eight hundred sixteen thousand five hundred dollars (\$19,816,500) to finance the capital facility costs of a medium security facility at the Scotland Correctional Institution. No more than a maximum aggregate amount of five million dollars (\$5,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(15) In the maximum aggregate principal amount of thirteen million one hundred ninety-one thousand three hundred dollars (\$13,191,300) to finance the capital facility costs of a minimum security facility at the Alexander Correctional Institution. No more than a maximum aggregate amount of six million five hundred ninety-five thousand six hundred fifty dollars (\$6,595,650) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008.

(16) In the maximum aggregate principal amount of thirty-five million dollars (\$35,000,000) to finance the capital facility costs of a new education and visitors center at Tryon Palace Historic Sites and Gardens. No more than a maximum aggregate amount of five million dollars (\$5,000,000) of special indebtedness may be issued or incurred

under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of twenty-five million dollars (\$25,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

**SECTION 29.13.(b)** This section is effective when it becomes law.

## **LAND FOR TOMORROW AND WATERFRONT ACCESS AND MARINE INDUSTRY FUND**

**SECTION 29.14.(a)** Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount of one hundred twenty million dollars (\$120,000,000) to be used as provided in this section to finance the cost of land acquisitions, waterfront properties, and the development of facilities for the purposes of providing and improving public and commercial waterfront access. Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

**SECTION 29.14.(b)** Maximum Amount. – Of the special indebtedness authorized by this section, no more than the applicable maximum principal amount listed in this subsection may be issued for each stated purpose:

- (1) State Park Land Acquisition. – A maximum amount of fifty million dollars (\$50,000,000) to be used to finance the cost of land acquisitions for the expansion of the State Park System and Mountains to Sea Trail.
- (2) Natural Heritage Land Acquisition. – A maximum amount of fifty million dollars (\$50,000,000) to be used to finance the cost of land acquisitions to conserve ecological diversity of the State pursuant to G.S. 113-77.9.
- (3) Waterfront Access and Marine Industry Fund. – A maximum of twenty million dollars (\$20,000,000) to be used to acquire waterfront properties or develop facilities for the purposes of providing public and commercial waterfront access and improving and developing the same.

**SECTION 29.14.(c)** State Park Land Acquisition. – The specific land acquisitions for which the special indebtedness for State Park Land Acquisition may be used are to be identified by the North Carolina Parks and Recreation Authority for the purpose of expanding the State Park System and Mountains to Sea Trail pursuant to G.S. 113-44.15, notwithstanding subsection (b) of that section. Land acquisitions shall support the conservation priorities set out by the One North Carolina Naturally Program.

**SECTION 29.14.(d)** Natural Heritage Land Acquisition. – The specific land acquisitions for which the special indebtedness for Natural Heritage Land Acquisition may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9. Land acquisitions shall represent the ecological diversity of the State and support the conservation priorities set out by the One North Carolina Naturally Program.

**SECTION 29.14.(e)** Waterfront Access and Marine Industry Fund. – The Director of the Division of Marine Fisheries shall establish a program by which the special indebtedness for Waterfront Access and the Marine Industry Fund may be used. The Director may consult with representatives of the commercial fishing industry and other marine industries and with State, local, or nonprofit agencies that have expertise in waterfront access issues and property acquisitions. The Director may establish a committee to review potential property acquisitions and capital and infrastructure improvements.

Prior to the expenditure of any funds, the Division shall report to the Joint Legislative Committee on Seafood and Aquaculture. The Division also shall report to

the Joint Legislative Committee on Seafood and Aquaculture on the use of these funds on a quarterly basis until the funding expires.

**SECTION 29.14.(f)** G.S. 113-44.15(d) reads as rewritten:

"(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this ~~section~~section and for waterfront access. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

**SECTION 29.14.(g)** G.S. 113-77.9(b3) reads as rewritten:

"(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to ~~fifty percent (50%)~~sixty percent (60%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

## **PART XXX. FEES**

### **EROSION AND SEDIMENTATION CONTROL PLAN FEE INCREASE**

**SECTION 30.1.(a)** G.S. 113A-54.2(a) reads as rewritten:

"(a) ~~The Commission may establish a fee schedule for the review and approval of erosion and sedimentation control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities. An application fee may not exceed fifty dollars (\$50.00) or sixty-five dollars (\$65.00) per acre of disturbed land shown on an erosion and sedimentation control plan or of land actually disturbed during the life of the project.~~project shall be charged for the review of an erosion and sedimentation control plan under this Article."

**SECTION 30.1.(b)** This section becomes effective August 1, 2007, and applies to applications submitted on or after that date.

### **MINING PERMIT APPLICATION FEES**

**SECTION 30.2.(a)** G.S. 74-54.1 reads as rewritten:

**"§ 74-54.1. Permit fees.**

(a) ~~The Commission may establish a~~The fee schedule for the processing of permit applications and permit renewals and ~~modifications.~~modifications is as follows:

	<u>0-25 acres</u>	<u>26+ acres</u>
<u>New Permit Applications</u>	<u>\$3,750.00</u>	<u>\$5,000.00</u>

<u>Permit Modifications</u>	<u>\$750.00</u>	<u>\$1,000.00</u>
<u>Permit Renewals</u>	<u>\$750.00</u>	<u>\$1,000.00</u>
<u>Transfers</u>	<u>\$100.00</u>	<u>\$100.00</u>

~~The fees may vary on the basis of the acreage, size, and nature of the proposed or permitted operations or modifications. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance activities and safeguards to prevent unusual fee assessments that would impose a serious economic burden on an individual applicant or a class of applicants.~~

~~(b) The total amount of permit fees collected for any fiscal year may not exceed one third of the total personnel and administrative costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance costs in the prior fiscal year. A fee for an application for a new permit may not exceed two thousand five hundred dollars (\$2,500), and a fee for an application to renew or modify a permit may not exceed five hundred dollars (\$500.00). The Mining Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Mining Account and shall be applied to the costs of administering this Article.~~

~~(c) The Department shall annually report on or before 1 September to the Environmental Review Commission, the Fiscal Research Division, and the Mining Commission on the cost of implementing this Article. The report shall include the fees established, collected, and disbursed under this section and any other information requested by the General Assembly or the Commission."~~

**SECTION 30.2.(b)** This section becomes effective August 1, 2007, and applies to applications submitted on or after that date.

## **WATER QUALITY PERMIT FEES**

**SECTION 30.3.(a)** G.S. 143-215.3D reads as rewritten:  
**"§ 143-215.3D. Fee schedule for water quality permits.**

- (a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –
  - (1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential ~~shall be two thousand eight hundred sixty five dollars (\$2,865)~~is three thousand four hundred forty dollars (\$3,440).
  - (2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies ~~shall be seven hundred fifteen dollars (\$715.00)~~is eight hundred sixty dollars (\$860.00).
  - (3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence ~~shall be fifty dollars (\$50.00)~~is sixty dollars (\$60.00).
  - (4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater ~~shall be eighty dollars (\$80.00)~~is one hundred dollars (\$100.00).

- (5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit ~~shall be three hundred dollars (\$300.00)~~is three hundred sixty dollars (\$360.00).
- (6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land ~~shall be one thousand ninety dollars (\$1,090)~~is one thousand three hundred ten dollars (\$1,310).
- (7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land ~~shall be six hundred seventy five dollars (\$675.00)~~is eight hundred ten dollars (\$810.00).
- (8) Animal Waste Management Systems. – The annual fee for animal waste management systems ~~shall be~~is as set out in G.S. 143-215.10G.

(b) Application fee for new discharge and nondischarge permits. – An application for a new permit of the type set out in subsection (a) of this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the application fee ~~will~~shall be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Application and annual fees for consent special orders. –

- (1) Major Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (1) or (6) of subsection (a) of this section, the initial project fee ~~shall be~~is four hundred dollars (\$400.00) and the annual fee ~~shall be~~is five hundred dollars (\$500.00). These fees ~~shall be~~are in addition to the annual fee due under subsection (a) of this section.
- (2) Minor Consent Special Orders. – If the Commission enters into a consent special order, assurance of voluntary compliance, or similar document pursuant to G.S. 143-215.2 for an activity subject to an annual fee under subdivision (2) or (7) of subsection (a) of this section, the initial project fee ~~shall be~~is four hundred dollars (\$400.00) and the annual fee ~~shall be~~is two hundred fifty dollars (\$250.00). These fees ~~shall be~~are in addition to the annual fee due under subsection (a) of this section.

(d) Fee for major permit modifications. – An application for a major modification of a permit of the type set out in subsection (a) of this section shall be accompanied by an application fee equal to thirty percent (30%) of the annual fee applicable to that permit. A major modification of a permit is any modification that would allow an increase in the volume or pollutant load of the discharge or nondischarge or that would result in a significant relocation of the point of discharge, as determined by the Commission. This fee ~~shall be~~is in addition to the fees due under subsections (a) and (c) of this section. If the application is denied, the application fee shall not be refunded.

(e) Other fees under this Article. –

- (1) Sewer System Extension Permits. – The application fee for a permit for the construction of a new sewer system or for the extension of an existing sewer system ~~shall be four hundred dollars (\$400.00)~~is four hundred eighty dollars (\$480.00).
- (2) State Stormwater Permits. – The application fee for a permit regulating stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 ~~shall be four hundred twenty dollars (\$420.00)~~is five hundred five dollars (\$505.00).
- (3) Major Water Quality Certifications. – The fee for a water quality certification involving one acre or more of wetland fill or 150 feet or

more of stream impact shall be four hundred seventy five dollars (\$475.00).is five hundred seventy dollars (\$570.00).

(4) Minor Water Quality Certifications. – The fee for a water quality certification involving less than one acre of wetland fill or less than 150 feet of stream impact shall be two hundred dollars (\$200.00).is two hundred forty dollars (\$240.00).

(5) Permit for Land Application of Petroleum Contaminated Soils. – The fee for a permit to apply petroleum contaminated soil to land shall be four hundred dollars (\$400.00).is four hundred eighty dollars (\$480.00).

(6) Fee Nonrefundable. – If an application for a permit or a certification described in this subsection is denied, the application or certification fee shall not be refunded.

(7) Limit Water Quality Certification Fee Required for CAMA Permit. – An applicant for a permit under Article 7 of Chapter 113A of the General Statutes for which a water quality certification is required shall pay a fee established by the Secretary. The Secretary shall not establish a fee that exceeds the greater of the fee for a permit under Article 7 of Chapter 113A of the General Statutes or the fee for a water quality certification under subdivision (3) or (4) of this subsection.

(f) Local Government Fee Authority Not Impaired. – This section shall not be construed to limit any authority that a unit of local government may have pursuant to any other provision of law to assess or collect a fee for the review of an application for a permit, the review of a mitigation plan, or the inspection of a site or a facility under any local program that is approved by the Commission under this Article."

**SECTION 30.3.(b) G.S. 143-215.10G reads as rewritten:**

**"§ 143-215.10G. Fees for animal waste management systems.**

(a) The Department shall charge an annual permit fee to an animal operation that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

(1) For a system with a design capacity of 38,500 or more and less than 100,000 pounds steady state live weight, fifty dollars (\$50.00).sixty dollars (\$60.00).

(2) For a system with a design capacity of 100,000 or more and less than 800,000 pounds steady state live weight, one hundred fifty dollars (\$150.00).one hundred eighty dollars (\$180.00).

(3) For a system with a design capacity of 800,000 pounds or more steady state live weight, three hundred dollars (\$300.00).three hundred sixty dollars (\$360.00).

(a1) The Department shall charge an annual permit fee to a dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system according to the following schedule:

(1) For a system with a permitted capacity of less than 25,000 laying chickens, less than 37,500 nonlaying chickens, or less than 16,500 turkeys, fifty dollars (\$50.00).sixty dollars (\$60.00).

(2) For a system with a permitted capacity of 25,000 or more but less than 200,000 laying chickens, 37,500 or more but less than 290,000 nonlaying chickens, 16,500 or more but less than 133,000 turkeys, one hundred fifty dollars (\$150.00).one hundred eighty dollars (\$180.00).

(3) For a system with a permitted capacity of more than 200,000 laying chickens, more than 290,000 nonlaying chickens, or more than 133,000 turkeys, three hundred dollars (\$300.00).three hundred sixty dollars (\$360.00).

(b) An application for a new permit under this section shall be accompanied by an initial application fee equal to the annual fee for that permit. If a permit is issued, the

application fee ~~will shall~~ be applied as the annual fee for the first year that the permit is in effect. If the application is denied, the application fee shall not be refunded.

(c) Fees collected under this section shall be credited to the Water and Air Quality Account. The Department shall use fees collected pursuant to this section to cover the costs of administering this Part."

**SECTION 30.3.(c)** G.S. 90A-42 reads as rewritten:

**"§ 90A-42. Fees.**

(a) The Commission, in establishing procedures for implementing the requirements of this Article, shall impose the following schedule of fees:

- (1) Examination including Certificate, \$85.00;
- (2) Temporary Certificate, \$200.00;
- (3) Temporary Certification Renewal, \$300.00;
- (4) Conditional Certificate, \$75.00;
- (5) Repealed by Session Laws 1987, c. 582, s. 3.
- (6) Reciprocity Certificate, \$100.00;
- (6a) Voluntary Conversion Certificate, \$50.00;
- (7) Annual Renewal, ~~\$35.00~~\$50.00;
- (8) Replacement of Certificate, \$20.00;
- (9) Late Payment of Annual Renewal, \$50.00 penalty in addition to all current and past due annual renewal fees plus one hundred dollars (\$100.00) penalty per year for each year for which annual renewal fees were not paid prior to the current year; and
- (10) Mailing List Charges – The Commission may provide mailing lists of certified water pollution control system operators and of water pollution control system operators to persons who request such lists. The charge for such lists shall be twenty-five dollars (\$25.00) for each such list provided.

(b) The Water Pollution Control System Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Account and applied to the costs of administering this Article."

**SECTION 30.3.(d)** This section becomes effective August 1, 2007.

**CERTIFICATE OF NEED FEE INCREASES TO MEET STATUTORY OBLIGATIONS**

**SECTION 30.4.(a)** G.S. 131E-177(9) reads as rewritten:

~~"(9) Establish and collect Collect fees for submitting applications for certificates of need. The fee schedule established should generate sufficient revenue to offset the entire cost of the certificate of need program. This fee may not exceed seventeen thousand five hundred dollars (\$17,500) and may not be less than two thousand dollars (\$2,000). Fees collected under this subdivision shall be credited to the General Fund as nontax revenue."~~

**SECTION 30.4.(b)** G.S. 131E-182(c) reads as rewritten:

~~"(c) An application fee is imposed on an applicant for a certificate of need. An applicant must submit the fee with the application. All fees established by the Department for submitting an application for a certificate of need are due when the application is submitted. These fees are The fee is not refundable, regardless of whether a certificate of need is issued. Fees collected under this section shall be credited to the General Fund as nontax revenue. The application fee is five thousand dollars (\$5,000) plus an amount equal to three-tenths of one percent (.3%) of the amount of the capital expenditure proposed in the application that exceeds one million dollars (\$1,000,000). In no event may the fee exceed fifty thousand dollars (\$50,000)."~~

**SECTION 30.4.(c)** This section becomes effective October 1, 2007, and applies to applications submitted on or after that date.

## **HEALTH CARE FACILITY CONSTRUCTION PROJECT FEE INCREASES TO MEET STATUTORY OBLIGATIONS**

**SECTION 30.5.(a) G.S. 131E-267 reads as rewritten:**

**"§ 131E-267. Fees for departmental review of licensed health care facility or  
Medical Care Commission bond-financed construction projects.**

(a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and basis as provided in this section. In no event may a fee imposed under this section shall not exceed twenty five thousand dollars (\$25,000) two hundred thousand dollars (\$200,000) for any single project:project. The first seven hundred twelve thousand six hundred twenty-six dollars (\$712,626) in fees collected under this section shall remain in the Division of Health Service Regulation. Additional fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

### **Institutional Project**

	<b>Project Fee</b>
Hospitals	\$300.00 plus \$0.20/square foot of project space
Nursing Homes	\$250.00 plus \$0.16/square foot of project space
Ambulatory Surgical Facility	\$200.00 plus \$0.16/square foot of project space
Psychiatric Hospital	\$200.00 plus \$0.16/square foot of project space
Adult Care Home 7 or more beds	\$175.00 plus \$0.10/square foot of project space

(b) The fee imposed for the review of a hospital construction project varies depending upon the square footage of the project:

<b>Over</b>	<b>Up To</b>	<b>Project Fee</b>
-0-	5,000	\$750.00 plus \$0.25 per square foot
5,000	10,000	\$1,500 plus \$0.40 per square foot
10,000	20,000	\$2,000 plus \$0.50 per square foot
20,000	NA	\$3,000 plus \$0.75 per square foot

(c) The fee imposed for the review of a nursing home construction project varies depending upon the square footage of the project:

<b>Over</b>	<b>Up To</b>	<b>Project Fee</b>
-0-	2,000	\$250.00 plus \$0.15 per square foot
2,000	NA	\$250.00 plus \$0.16 per square foot

(d) The fee imposed for the review of an ambulatory surgical facility construction project varies depending upon the square footage of the project:

<b>Over</b>	<b>Up To</b>	<b>Project Fee</b>
-0-	2,000	\$200.00 plus \$0.15 per square foot
2,000	NA	\$250.00 plus \$0.20 per square foot

(e) The fee imposed for the review of a psychiatric hospital construction project varies depending upon the square footage of the project:

<b>Over</b>	<b>Up To</b>	<b>Project Fee</b>
-0-	5,000	\$200.00 plus \$0.16 per square foot
5,000	10,000	\$200.00 plus \$0.25 per square foot
10,000	20,000	\$300.00 plus \$0.45 per square foot
20,000	NA	\$400.00 plus \$0.45 per square foot

(f) The fee imposed for the review of an adult care home construction project varies depending upon the square footage of the project:

<b>Over</b>	<b>Up To</b>	<b>Project Fee</b>
-0-	2,000	\$175.00 plus \$0.10 per square foot
2,000	NA	\$175.00 plus \$0.20 per square foot

(g) The fee imposed for the review of the following residential construction projects is:

<b>Residential Project</b>	<b>Project Fee</b>
Family Care Homes	\$175.00 <u>\$200.00</u> flat fee
ICF/MR Group Homes	\$275.00 <u>\$300.00</u> flat fee
Group Homes: 1-3 beds	\$100.00 flat fee
Group Homes: 4-6 beds	\$175.00 <u>\$200.00</u> flat fee
Group Homes: 7-9 beds	\$225.00 <u>\$250.00</u> flat fee
Other residential:	
More than 9 beds	\$225.00 plus \$0.075/square foot of project space.
More than 9 beds	\$250.00 plus \$0.75 per square foot of project space."

**SECTION 30.5.(b)** This section becomes effective October 1, 2007, and applies to applications for review submitted on or after that date.

## CHANGE CORPORATE ANNUAL REPORT FEES

**SECTION 30.6.(a)** G.S. 55-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
(1) Articles of incorporation	\$125.00
(2) Application for reserved name	30.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Corporation's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected corporation	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of incorporation	50.00
(11) Restated articles of incorporation with amendment of articles	10.00
(12) Articles of merger or share exchange	50.00
(12a) Articles of conversion (other than articles of conversion included as part of another document)	50.00
(13) Articles of dissolution	30.00
(14) Articles of revocation of dissolution	10.00
(15) Certificate of administrative dissolution	No fee
(16) Application for reinstatement following administrative dissolution	100.00
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	250.00
(20) Application for amended certificate of authority	75.00
(21) Application for certificate of withdrawal	25.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Annual report (paper)	20.00 <u>25.00</u>
(23a) Annual report (electronic)	18.00
(24) Articles of correction	10.00
(25) Application for certificate of existence or authorization (paper)	15.00
(25a) Application for certificate of existence or authorization (electronic)	10.00
(26) Any other document required or permitted to be filed by this Chapter	10.00
(27) Repealed by Session Laws 2001-358, s. 6(b), effective January 1, 2002."	

**SECTION 30.6.(b)** G.S. 105-122.1 reads as rewritten:

**"§ 105-122.1. Credit for additional annual report fees paid by limited liability companies subject to franchise tax.**

A limited liability company subject to tax under this Article is allowed a credit against the tax imposed by this Article equal to the difference between the annual report fee for corporations under ~~G.S. 55-1-22~~ G.S. 55-1-22(a)(23) and the annual report fee for limited liability companies under G.S. 57C-1-22(a). The credit allowed by this section may not exceed the amount of tax imposed by this Article for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

**SECTION 30.6.(c)** Subsection (a) of this section becomes effective September 1, 2007, and applies to annual reports filed on or after that date. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2007. The remainder of this section is effective when it becomes law.

## **INCREASE COURT FEES AND AMEND THE ACCESS TO CIVIL JUSTICE ACT**

### **SECTION 30.8.(a)** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

(3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty

cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e).

(3a) For the supplemental pension benefits of sheriffs, the sum of one dollar twenty-five cents (\$1.25) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.

(4) For support of the General Court of Justice, the sum of ~~eighty five dollars and fifty cents (\$85.50)~~ ~~ninety-five dollars and fifty cents (\$95.50)~~ in the district court, including cases before a magistrate, and the sum of ~~ninety two dollars and fifty cents (\$92.50)~~ ~~one hundred two dollars and fifty cents (\$102.50)~~ in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~ ~~two dollars and five cents (\$2.05)~~ of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

(5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

(6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer. ~~one hundred dollars (\$100.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146.~~ Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee. ~~This fee shall be remitted to the State Treasurer.~~

(7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior

court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation under subdivision (7) of this subsection. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

**SECTION 30.8.(b)** G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen dollars (\$16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of ~~seventy nine dollars (\$79.00)~~ninety-three dollars (\$93.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional two hundred dollars (\$200.00) shall be paid upon its assignment, and the sum of ~~sixty four dollars (\$64.00)~~seventy-three dollars (\$73.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~fifty three dollars (\$53.00)~~sixty-three dollars (\$63.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

**SECTION 30.8.(c)** G.S. 7A-306(a) reads as rewritten:

"(a) In every special proceeding in the superior court, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice the sum of forty dollars (\$40.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one

hundred dollars (\$100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars (\$200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~<sup>two dollars and five cents (\$2.05)</sup> of each forty-dollar (\$40.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

**SECTION 30.8.(d)** G.S. 7A-307(a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of ~~forty dollars (\$40.00)~~<sup>fifty dollars (\$50.00)</sup>, plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars (\$6,000). Gross estate shall include the fair market value of all personality when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of ~~one dollar and five cents (\$1.05)~~<sup>two dollars and five cents (\$2.05)</sup> of each ~~forty-dollar (\$40.00)~~<sup>fifty-dollar (\$50.00)</sup> General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.
- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on personality received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account.
- (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

- (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36A-23.1 if there is no requirement in the trust that accountings be filed with the clerk.
- (3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars (\$20.00)."

**SECTION 30.8.(e)** G.S. 7A-308(a)(1) reads as rewritten:

- "(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (1) Foreclosure under power of sale in deed of trust or mortgage .... ~~\$60.00~~\$75.00  
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than ~~three hundred dollars (\$300.00)~~, ~~five hundred dollars (\$500.00)~~, a maximum ~~three hundred dollar (\$300.00)~~ ~~five hundred-dollar (\$500.00)~~ fee will be collected."

**SECTION 30.8.(f)** G.S. 7A-308(a)(17) reads as rewritten:

- "(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20 ..... ~~10.00~~15.00"

**SECTION 30.8.(g)** G.S. 7A-474.1 reads as rewritten:

**"§ 7A-474.1. Legislative findings and purpose.**

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for indigent persons in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through ~~five geographically based field the established legal services programs in this State."~~

**SECTION 30.8.(h)** G.S. 7A-474.2(4) reads as rewritten:

**"§ 7A-474.2. Definitions.**

The following definitions shall apply throughout this Article, unless the context otherwise requires:

- (4) ~~"Geographically based field "Established legal services programs"~~ means the following not-for-profit corporations using State funds to serve the counties listed: Legal Services of the Southern Piedmont, serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties; Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; ~~North Central Legal Assistance Program, serving Durham, Franklin, Granville, Person, Vance, and Warren Counties;~~ Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Services ~~Aid~~ of North Carolina, ~~serving 83 counties in North Carolina; a statewide program;~~ or any successor entity or entities of the named organizations, or, should any of the

named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area."

**SECTION 30.8.(i) G.S. 7A-474.4 reads as rewritten:**

**"§ 7A-474.4. Funds.**

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the ~~geographically based field~~ established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the ~~five geographically based field~~ established legal services programs based upon the eligible client population in each ~~area program, area~~, with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, ~~based upon the eligible client population in each area program~~ Counties; Legal Aid Society of Northwest North Carolina receiving half of the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; and Legal Services of Southern Piedmont receiving half of the allocation for Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties. The North Carolina State Bar shall not use any of these funds for its administrative costs."

**SECTION 30.8.(j) G.S. 7A-474.5 reads as rewritten:**

**"§ 7A-474.5. Records and reports.**

The ~~geographically based field~~ established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar."

**SECTION 30.8.(k) G.S. 84-4.1(7) reads as rewritten:**

**"§ 84-4.1. Limited practice of out-of-state attorneys.**

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of and in good standing in that state, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the proceeding. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

...

(7) A fee in the amount of ~~one hundred twenty-five dollars (\$125.00)~~, ~~two hundred twenty-five dollars (\$225.00)~~, of which ~~one hundred dollars (\$100.00)~~ ~~two hundred dollars (\$200.00)~~ shall be remitted to the State Treasurer for support of the General Court of Justice and twenty-five dollars (\$25.00) shall be transmitted to the North Carolina State Bar to regulate the practice of out-of-state attorneys as provided in this section.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application."

**SECTION 30.8.(l)** Subsection (a) of this section becomes effective August 1, 2007, and applies to all costs assessed or collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a) of this section, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs are specified in that notice. Subsections (b), (c), (d), (e), (f), and (k) of this section become effective August 1, 2007, and apply to all costs assessed or collected on or after that date. The remainder of this section becomes effective July 1, 2007.

**COLLECTION OF OUTSTANDING FINES AND FEES BY THE COURTS**

**SECTION 30.9.(a)** G.S. 7A-321 reads as rewritten:  
**"§ 7A-321. Collection of offender fines and fees assessed by the court.**

(a) The Judicial Department may, in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the fines, fees, and costs owed to the courts by offenders.

(b) In attempting to collect the fines, fees, and costs owed by offenders not sentenced to supervised probation, the Department may:

- (1) Assess a collection assistance fee if an amount due remains unpaid for 30 days after the time period allotted by the court. The amount of the collection assistance fee shall not exceed the average cost of collecting the debt or twenty percent (20%) of the amount past due, whichever is less.
- (2) Enter into contracts with a collection agency or agencies to collect unpaid fines, fees, and costs owed by offenders not sentenced to supervised probation.
- (3) Intercept tax refund checks under Chapter 105A of the General Statutes, the Setoff Debt Collection Act.

(c) Should the Judicial Department use any method listed in subdivision (b)(1) or (2) of this section to collect fines, fees, and costs owed by offenders not sentenced to supervised probation, the department may not charge any additional cost of collection pursuant to G.S. 115C-437.

**SECTION 30.9.(b)** This section becomes effective August 1, 2007, and applies to cases adjudicated on or after that date.

**INCREASE AND CLARIFY CERTAIN COURT COSTS**

**SECTION 30.10.(a)** G.S. 7A-305 is amended by adding a new subsection to read:

"(a1) Costs apply to any and all additional and subsequent actions filed by amendment to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment to the action is also brought under Chapter 50B of the General Statutes."

**SECTION 30.10.(b)** G.S. 7A-307(a)(2a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

...  
(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on personality received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.  
..."

**SECTION 30.10.(c)** G.S. 7A-308(a)(12) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

...	
(12) Preparation of copies	
—first page <u>(of each document copied)</u> .....	2.00
— each additional page or fraction thereof.....	.25

...."

**SECTION 30.10.(d)** G.S. 7A-317 reads as rewritten:

**"§ 7A-317. Counties and municipalities not required to advance certain fees.**

Counties and municipalities are not required to advance costs for the facilities fee, the General Court of Justice fee, the miscellaneous fees enumerated in G.S. 7A-308, or the civil process fees enumerated in G.S. 7A-311."

**SECTION 30.10.(e)** G.S. 20-16.5(j) reads as rewritten:

"(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of fifty dollars (\$50.00) one hundred dollars (\$100.00) as costs for the action before the person's license may be returned under subsection (h). The (h) of this section. Fifty percent (50%) of the costs collected under this section shall be credited to the General Fund. Fifty percent (50%)Twenty-five percent (25%) of the costs collected under this section shall be used to fund a statewide chemical alcohol testing program administered by the Injury Control Section of the Department of Health and Human Services. The remaining twenty-five percent (25%) of the costs collected under this section shall be remitted to the county for the sole purpose of reimbursing the county for jail expenses incurred due to enforcement of the impaired driving laws."

**SECTION 30.10.(f)** G.S. 130A-106(b) is repealed.

**SECTION 30.10.(g)** G.S. 130A-107(d) is repealed.

**SECTION 30.10.(h)** Subsection (d) of this act becomes effective July 1, 2008. The remainder of this act becomes effective August 1, 2007, and applies to all costs assessed or collected on or after that date.

## **ESTABLISH PROCESSING FEE FOR LIMITED DRIVING PRIVILEGE**

**SECTION 30.11.(a)** G.S. 7A-305 is amended by adding a new subsection to read:

"(a3) An application or a petition for a limited driving privilege under Chapter 20 of the General Statutes is subject to the court costs assessed under subsection (a) of this section plus an additional processing fee of one hundred dollars (\$100.00). The additional fee shall be remitted to the State Treasurer and used for support of the General Court of Justice."

**SECTION 30.11.(b)** Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-20.2. Processing fee for limited driving privilege.**

Upon the issuance of a limited driving privilege by a court under this Chapter, the applicant or petitioner must pay, in addition to any other costs associated with obtaining the privilege, the processing fee imposed under G.S. 7A-305(a3). The applicant or petitioner shall pay this fee to the clerk of superior court in the county in which the limited driving privilege is issued. The failure to pay this fee shall render the privilege invalid.

**SECTION 30.11.(c)** If Senate Bill 758, 2007 General Assembly, becomes law, then Section 2 of Senate Bill 758 is repealed.

**SECTION 30.11.(d)** If Senate Bill 758, 2007 General Assembly, becomes law, then G.S. 20-20.1(d), as enacted by that act, reads as rewritten:

"(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in

district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. ~~The costs required under G.S. 7A-305(a) and (a3) apply to a petition filed under this section.~~ The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division."

**SECTION 30.11.(e)** Subsections (a) and (b) of this section become effective August 1, 2007, and apply to costs assessed or collected on or after that date. Subsections (c) and (d) of this section become effective December 1, 2007. The remainder of this section is effective when it becomes law.

## PART XXXI. TAX LAW CHANGES

### IRC UPDATE

**SECTION 31.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...  
(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2006, January 1, 2007~~, including any provisions enacted as of that date which become effective either before or after that date."

**SECTION 31.1.(b)** Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 1, 2006, that increase North Carolina taxable income for the 2006 taxable year become effective for taxable years beginning on or after January 1, 2007.

**SECTION 31.1.(c)** This section is effective when it becomes law.

### MAINTAIN CURRENT SALES TAX RATE

**SECTION 31.2.(a)** Subsections 24.1(c), (e), (g), and (i) of S.L. 2006-66 are repealed.

**SECTION 31.2.(b)** Section 24.1(j) of S.L. 2006-66, as amended by Section 9(a) of S.L. 2007-145, reads as rewritten:

~~"**SECTION 24.1.(j)** Subsection (b) of this section becomes effective December 1, 2006, and applies to sales made on or after that date. Subsections (d), (f), and (h) of this section become effective January 1, 2007, and apply to taxes collected on or after that date. Subsection (e) of this section becomes effective August 1, 2007, and applies to sales made on or after that date. Subsections (e), (g), and (i) of this section become effective August 1, 2007, and apply to taxes collected on or after that date.~~ The remainder of this section is effective when it becomes law."

**SECTION 31.2.(c)** This section is effective when it becomes law.

### EARNED INCOME TAX CREDIT

**SECTION 31.4.(a)** Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

#### **§ 105-151.31. Earned income tax credit.**

~~(a) Credit. – An individual who claims for the taxable year an earned income tax credit under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to three and one-half percent (3.5%) of the amount of credit the individual qualified for under section 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.~~

(b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. Section 3507 of the Code, Advance Payment of Earned Income Credit, does not apply to the credit allowed by this section. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013."

**SECTION 31.4.(b)** G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

- (1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.
- (2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
- (3) G.S. 105-151.18. Credit for the disabled.
- (4) G.S. 105-151.24. Credit for children.
- (5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
- (6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
- (7) G.S. 105-151.28. Credit for long-term care insurance.
- (8) G.S. 105-151.30. Credit for recycling oyster shells.
- (9) G.S. 105-151.31. Earned income tax credit."

**SECTION 31.4.(c)** This section is effective for taxable years beginning on or after January 1, 2008.

**REENACT LONG-TERM CARE CREDIT**

**SECTION 31.5.(a)** G.S. 105-151.28 is reenacted and reads as rewritten:

**"§ 105-151.28. Credit for premiums paid on long-term care insurance.**

(a) Credit. – An individual is A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this section is allowed, as a credit against the tax imposed by this Part, an amount equal to fifteen percent (15%) of the premium costs the individual taxpayer paid during the taxable year on a qualified long-term care insurance contract that offers coverage to either the individual, taxpayer, the individual's taxpayer's spouse, or a dependent for whom the individual taxpayer was allowed to deduct a personal exemption under section 151(c)(1)(A) of the Code for the taxable year. The credit allowed by this section may not exceed three hundred fifty dollars (\$350.00) for each qualified long-term care insurance contract for which a credit is claimed. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who claims the credit allowed by this subsection shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

<b>Filing Status</b>	<b>AGI</b>
<u>Married, filing jointly</u>	<u>\$100,000</u>
<u>Head of Household</u>	<u>80,000</u>
<u>Single</u>	<u>60,000</u>
<u>Married, filing separately</u>	<u>50,000</u>

(b) No Double Benefit. – No credit is allowed for payments that are deducted from, or not included in, the taxpayer's gross income for the taxable year. If the taxpayer claimed a deduction for health insurance costs of self-employed individuals under section 162(l) of the Code for the taxable year, the amount of credit otherwise allowed the taxpayer under this section is reduced by the applicable percentage provided in section 162(l) of the Code. If the taxpayer claimed a deduction for medical care

expenses under section 213 of the Code for the taxable year, the taxpayer is not allowed a credit under this section. A taxpayer who claims the credit allowed by this section must provide any information required by the Secretary to demonstrate that the amount paid for premiums for which the credit is claimed was not excluded from the taxpayer's gross income for the taxable year.

(c) Definition. – For purposes of this section, the term "qualified long-term care insurance contract" has the same meaning as defined in section 7702B of the Code.

(d) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2013."

**SECTION 31.5.(b)** G.S. 105-160.3(b)(7) is reenacted.

**SECTION 31.5.(c)** This section is effective for taxable years beginning on or after January 1, 2007.

## **ADOPTION TAX CREDIT**

**SECTION 31.6.(a)** Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read as follows:

### **"§ 105-151.32. Credit for adoption expenses.**

(a) Credit. – An individual who is allowed a federal adoption tax credit under section 23 of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to fifty percent (50%) of the amount of credit allowed under section 23 of the Code.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013.

**SECTION 31.6.(b)** G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

- (1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.
- (2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
- (3) G.S. 105-151.18. Credit for the disabled.
- (4) G.S. 105-151.24. Credit for children.
- (5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
- (6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
- (7) G.S. 105-151.28. Credit for long-term care insurance.
- (8) G.S. 105-151.30. Credit for recycling oyster shells.
- (10) G.S. 105-151.32. Credit for adoption expenses."

**SECTION 31.6.(c)** This section is effective for taxable years beginning on or after January 1, 2007.

## **PRIVILEGE TAX ON SOFTWARE PUBLISHERS' MACHINERY AND EQUIPMENT**

**SECTION 31.7.(a)** G.S. 105-187.51B(a) is amended by adding a new subdivision to read:

"(a) Tax. – A privilege tax is imposed on the following:

...

- (3) A software publishing company that is included in the industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

- a. Is capitalized by the company for tax purposes under the Code.
- b. Is used by the company in the research and development of tangible personal property.
- c. Would be considered mill machinery under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant."

**SECTION 31.7.(b)** This section becomes effective October 1, 2007, and applies to sales occurring on or after that date.

## **ENHANCE TAX CREDIT FOR RESEARCH AND DEVELOPMENT EXPENDITURES**

**SECTION 31.8.(a)** G.S. 105-129.55 reads as rewritten:

**"§ 105-129.55. Credit for North Carolina research and development.**

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this subsection. Only one credit is allowed under this subsection with respect to the same expenses. If more than one subdivision of this subsection applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of this subsection and the remainder qualifies under subdivision (3) of this subsection, the applicable percentages apply separately to each part of the expenses.

- (1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three and one-quarter percent (3%).(3.25%).
- (2) Low-tier research. – For expenses with respect to research performed in a development tier one area, the applicable percentage is three and one-quarter percent (3%).(3.25%).
- (3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

<b>Expenses Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$50 million	<u>1%1.25%</u>
\$50 million	\$200 million	<u>2%2.25%</u>
\$200 million	-	<u>3%3.25%</u>

(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to fifteen percent (15%)twenty percent (20%) of the expenses."

**SECTION 31.8.(b)** This section is effective for taxable years beginning on or after January 1, 2007.

## **MODIFY TAX CREDIT FOR CONSTRUCTING RENEWABLE FUEL FACILITIES**

**SECTION 31.9.(a)** G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars (\$400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars (\$400,000,000) in three or more facilities. The credit must be taken in seven equal

annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may ~~not~~ take any remaining installment of the ~~credit credit only to the extent allowed under subsection (b) of this section~~. The taxpayer may, however, take the portion of an installment ~~under this subsection~~ that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. ~~If a credit allowed under this subsection expires, a taxpayer is not eligible for a credit under subsection (b) of this section with respect to the same property. Notwithstanding the provisions of G.S. 105-129.17, a taxpayer may claim the credit allowed under this subsection against the income tax imposed under Article 4 of this Chapter only and the taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.~~

~~If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under G.S. 105-241.1(i), computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."~~

**SECTION 31.9.(b)** This section is effective for taxable years beginning on or after January 1, 2007.

#### **EXPAND SALES AND USE TAX REFUND FOR CERTAIN AIRCRAFT MANUFACTURERS**

**SECTION 31.10.(a)** G.S. 105-164.14(j)(3)b. reads as rewritten:

"(3) Industries. – This subsection applies to the following industries:

...  
b. Aircraft manufacturing. Aircraft manufacturing means ~~the manufacturing or assembling of complete aircraft aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination thereof."~~

**SECTION 31.10.(b)** This section becomes effective July 1, 2007, and applies to purchases made on or after that date.

#### **SET INSURANCE REGULATORY FEE**

**SECTION 31.12.(a)** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2007 calendar year.

**SECTION 31.12.(b)** This section is effective when it becomes law.

#### **SET REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 31.13.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2007.

**SECTION 31.13.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 31.13.(c)** This section becomes effective July 1, 2007.

**AMEND SALES TAX HOLIDAY**

**SECTION 31.14.(a)** G.S. 105-164.3 reads as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...  
(37b) School instructional material. – Defined in the Streamlined Agreement.

(37d) School supply. – An item that is commonly used by a student in the course of study and is considered a 'school supply', a 'school art supply', or 'school instructional material supply' or 'school art supply' under the Streamlined Agreement.

...."

**SECTION 31.14.(b)** G.S. 105-164.13C(a) reads as rewritten:

"(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01 A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- (2) School supplies with a sales price of one hundred dollars (\$100.00) or less per item.
- (2a) School instructional materials with a sales price of three hundred dollars (\$300.00) or less per item.
- (3) Computers with a sales price of three thousand five hundred dollars (\$3,500) or less per item.
- (3a) Computer supplies with a sales price of two hundred fifty dollars (\$250.00) or less per item.
- (4) Sport or recreational equipment with a sales price of fifty dollars (\$50.00) or less per item."

**SECTION 31.14.(c)** This section becomes effective October 1, 2007, and applies to sales made on or after that date.

**CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE FOR TWO YEARS**

**SECTION 31.15.(a)** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2007, through June 30, 2009, the variable wholesale component of the motor fuel excise tax rate may not exceed twelve and four-tenths cents (12.4¢) a gallon.

**SECTION 31.15.(b)** This section is effective when it becomes law.

**STATE ASSUME MEDICAID RESPONSIBILITIES**

**SECTION 31.16.1.(a)** Effective October 1, 2007, twenty-five percent (25%) of the nonfederal share of Medical Assistance Program costs and Medicare Part D clawback payments borne by the counties, excluding administrative costs, shall be borne by the State.

**SECTION 31.16.1.(b)** Effective July 1, 2008, fifty percent (50%) of the nonfederal share of Medical Assistance Program costs and Medicare Part D clawback payments borne by the counties, excluding administrative costs, shall be borne by the State.

**SECTION 31.16.1.(c)** Effective July 1, 2009, G.S. 108A-54 reads as rewritten:

**"§ 108A-54. Authorization of Medical Assistance Program.**

The Department is authorized and empowered to establish a Medical Assistance Medicaid Program in accordance with Title XIX of the federal Social Security Act. from federal, State and county appropriations and to adopt rules and regulations under which payments are to be made in accordance with the provisions of this Part. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. A county is responsible for the county's cost of administering the Program in that county. The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the state. If a portion of the nonfederal share is required from the counties, the boards of county commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance."

**SECTION 31.16.1.(d)** Subsection (a) of this section becomes effective October 1, 2007, and applies to Medicaid claims paid by the State on or after that date and ends with claims paid by the State through May 31, 2008. Subsection (b) of this section becomes effective June 1, 2008, and applies to Medicaid claims paid by the State on or after that date and ends with claims paid by the State through May 31, 2009. Subsection (c) of this section becomes effective June 1, 2009, and applies to Medicaid claims paid by the State on or after that date.

**SECTION 31.16.2.(a)** ADM Funding Adjustment. – Notwithstanding G.S. 115C-546.2(a), the amount that would otherwise be allocated to counties under that subsection for fiscal year 2007-2008 from the Public School Building Capital Fund is reduced as follows:

- (1) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 31.16.1.(a) of this act exceeds the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by sixty percent (60%) of the amount the county would receive based on its average daily membership.
- (2) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 31.16.1.(a) of this act does not exceed the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by an amount equal to sixty percent (60%) of the county's Medicaid payments that are assumed by the State for fiscal year 2007-2008.

**SECTION 31.16.2.(b)** Restriction. – In fiscal year 2007-2008, a county must use a portion of the revenue that is available to it, as a result of the assumption by the State of part of the county's Medicaid payments, for the purposes set out in G.S. 115C-546.2(b). The portion that must be used for these purposes is an amount equal to the difference between what the county would receive under G.S. 115C-546.2(a) based on its per average daily membership and the adjusted amount it receives under subsection (a) of this section.

**SECTION 31.16.2.(c)** County Hold Harmless. – If the amount of the county's Medicaid costs and Medicare Part D clawback payments assumed by the State for fiscal year 2007-2008, less the amount by which the county's ADM funding is reduced under subsection (a) of this section, does not equal or exceed five hundred thousand dollars (\$500,000), the State must reimburse the county for the difference, but not less than one hundred dollars (\$100.00).

The Secretary of the Department of Health and Human Services must certify to the Secretary of Revenue the amount of the county's Medicaid costs and Medicare Part D clawback payments assumed by the State under section 31.16.1.(a) of this act. To

obtain the revenue for the hold harmless distribution, the Secretary of Revenue must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the hold harmless payments.

The Secretary of Revenue must estimate a county's hold harmless amount and send the county ninety percent (90%) of the estimated amount with the sales tax distribution made under G.S. 105-472 for March of 2008. At the end of the 2007-2008 fiscal year, the Secretary must determine the county's actual hold harmless amount for the 2007-2008 fiscal year and send the remainder of the county's hold harmless amount to the county by August 15, 2008.

**SECTION 31.16.2.(d)** This section is effective when it becomes law. Subsections (a) and (b) of this section apply to allocations from the Public School Building Capital Fund for fiscal year 2007-2008.

**SECTION 31.16.3.(a)** Notwithstanding the provisions of Article 44 of Chapter 105 of the General Statutes that authorize one-half percent (1/2%) local sales and use taxes, the tax rate for a tax imposed under that Article for the period October 1, 2008, through September 30, 2009, is one-quarter percent (1/4%) rather than one-half percent (1/2%). A resolution enacted by a county under Article 44 before October 1, 2008, to levy one-half percent (1/2%) local sales and use tax is considered to be a resolution authorizing the levy of one-fourth percent (1/4%) local sales and use taxes under that Article, as amended by this section.

**SECTION 31.16.3.(b)** G.S. 105-520 reads as rewritten:

**"§ 105-520. Distribution of taxes.**

(a) Point of Origin. – The Secretary must, on a monthly basis, allocate to each taxing county ~~one-half of~~ the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate ~~one-half of~~ the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

(b) Per Capita. – The Secretary must, on a monthly basis, allocate the remaining ~~net proceeds of the tax collected under this Article among the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).~~

(c) Distribution Between Counties and Cities. – The Secretary must divide and distribute the funds allocated under this section each month between each taxing county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this subsection for a month if it is not entitled to a distribution under G.S. 105-501 for the same month."

**SECTION 31.16.3.(c)** G.S. 105-521 reads as rewritten:

**"§ 105-521. Transitional local government ~~hold harmless~~hold harmless for repealed reimbursements.**

(a) Definitions. – The following definitions apply in this section:

- (1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.
- (2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.
- (3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,

105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(3a) Replacement revenue. – The sum of the following:

- a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.
- b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before August 15, 2003, 2008, and every August 15 through August 15, 2012, the Secretary must multiply each local government's local sales tax share by the estimated amount of replacement revenue that all local governments ~~would be~~are expected to receive during the current fiscal year ~~under G.S. 105-520 if every county levied the tax under this Article for the year~~. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars (\$100.00).

~~On or before May 1, 2003, and every May 1 of each fiscal year through May 1, 2012, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount of replacement revenue that all local governments would be expected to receive during the upcoming fiscal year ~~under G.S. 105-520 if every county levied the tax under this Article for the fiscal year~~. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.~~

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 through January 31, 2013, the amount distributed under this section for the current fiscal year."

**SECTION 31.16.3.(d)** G.S. 105-472 is amended by adding a new subsection to read:

"(b1) County Reduction for City Hold Harmless. – The Secretary must reduce each county's monthly allocation under subsection (b) of this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

**SECTION 31.16.3.(e)** Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding a new paragraph at the end of that section to read:

"The Secretary of Revenue must reduce the amount distributable to Mecklenburg County under this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

**SECTION 31.16.3.(f)** Article 44 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

**"§ 105-522. City hold harmless for repealed local taxes.**

(a) Definitions. – The following definitions apply in this section:

- (1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.
- (2) Hold harmless amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(b) Requirement. – A county is required to hold the eligible municipalities in the county harmless from the repeal of the local sales and use taxes formerly imposed under this Article. The Secretary must add an eligible municipality's hold harmless amount to the amount distributed to the municipality under this Subchapter. To obtain the revenue for the hold harmless distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the municipalities in that county.

**"§ 105-523. County hold harmless for repealed local taxes.**

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least five hundred thousand dollars (\$500,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

(b) Definitions. – The following definitions apply in this section:

- (1) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less five hundred thousand dollars (\$500,000).
- (2) Repealed sales tax amount. – Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

(b) Requirement. – If a county's repealed sales tax amount for a fiscal year exceeds the county's hold harmless threshold for that fiscal year, the State is required to hold the county harmless for the difference by paying the amount of the difference to the county. The Secretary must withhold from sales and use tax collections under Article 5 of this Chapter the amount needed to make the hold harmless payments required by this section.

(c) Method. – The Secretary must estimate a county's repealed sales tax amount and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine the difference between a county's repealed sales tax amount and its hold harmless threshold for that year. The Secretary must send by August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of Human Resources must give the Secretary of Revenue the data needed to determine a county's hold harmless threshold."

**SECTION 31.16.3.(g)** For fiscal year 2008-2009, the repealed sales tax amount determined under G.S. 105-522 and G.S. 105-523, as enacted by this section, is calculated based on fifty percent (50%) of the amount distributed to a municipality or county under Article 40 of Chapter 105 of the General Statutes on or after October 2, 2008, less the amount distributed to the municipality or county on a per capita basis under repealed G.S. 105-520(b) in October, November, and December of 2008.

**SECTION 31.16.3.(h)** G.S. 105-164.4(a), as amended by Section 31.2 of this act, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four and one quarter percent (4.25%). four and one-half percent (4.5%).~~"

**SECTION 31.16.3.(i)** Section 105-269.14(b) reads as rewritten:

"(b) Distribution. – The Secretary must distribute a portion of the net use tax proceeds collected under this section to counties and cities. The portion to be distributed to all counties and cities is the total net use tax proceeds collected under this section multiplied by a fraction. The numerator of the fraction is the local use tax proceeds collected under this section. The denominator of the fraction is the total use tax proceeds collected under this section. The Secretary must distribute this portion to the counties and cities in proportion to their total distributions under Articles 39, 40, ~~42, 43, and 44~~ ~~42, and 43~~ of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this section."

**SECTION 31.16.3.(j)** Subsection (c) of this section becomes effective January 1, 2008. The remainder of this section becomes effective October 1, 2008. Subsections (a) and (h) of this section apply to sales occurring on or after that date. The remaining subsections apply to distributions for months beginning on or after that date.

**SECTION 31.16.4.(a)** G.S. 105-515, 105-516, 105-517, 105-518, 105-519, and 105-520 are repealed.

**SECTION 31.16.4.(b)** G.S. 105-501 reads as rewritten:

**"§ 105-501. Distribution of additional taxes.**

(a) Method. – The Secretary ~~shall, must~~, on a monthly basis, allocate ~~to each taxing county~~ the net proceeds of the additional one-half percent (1/2%) sales and use taxes ~~levied collected in that county~~ under this Article to the ~~taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer~~. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each ~~taxing county~~ shall then be divided among Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular ~~taxing county~~, the Secretary must allocate the net proceeds of these taxes among the ~~taxing counties~~ in proportion to the amount of taxes collected in each county under this Article in that month.

~~The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.~~

(b) Deductions. – In determining the net proceeds of the tax to be distributed, the Secretary ~~shall, must~~ deduct from the collections to be allocated an amount equal to one-twelfth of the costs during the preceding fiscal year of:

- (1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.
- (1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.
- (2) The Property Tax Commission.

- (3) The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.

- (4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission."

**SECTION 31.16.4.(c)** G.S. 105-522(a), as enacted by Section 31.16.3(f) of this act, reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

- (1) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

- (2) Hold harmless amount. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. If the difference is negative, the result increases the hold harmless amount."

**SECTION 31.16.4.(d)** G.S. 105-523(a), as enacted by Section 31.16.3(f) of this act, reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

- (1) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, plus five hundred thousand dollars (\$500,000).

- (2) Repealed sales tax amount. – The sum of the following:

a. Fifty percent (50%) of the amount of sales and use tax revenue distributed to a county under Article 40 of this Chapter, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B.

c. The amount determined under sub-subdivision a. of this subdivision subtracted from the amount determined under sub-subdivision b. of this subdivision. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis. If the difference is negative, the result increases the hold harmless amount."

**SECTION 31.16.4.(e)** For fiscal year 2009-2010, the repealed sales tax amount determined under G.S. 105-522(2)(a)(2)b, as enacted by this section, and

G.S. 105-523(a)(2)b, as enacted by this section, is calculated based on twenty-five percent (25%) of the amount distributed to a municipality or county under Article 39 of Chapter 105 of the General Statutes or Chapter 1096 of the 1967 Session Laws on or after October 1, 2009, less the amount distributed to the municipality or county on the basis of point of origin under repealed G.S. 105-520(a) in October, November, and December of 2009.

**SECTION 31.16.4.(f)** The title of Article 44 of Chapter 105 of the General Statutes reads as rewritten:

"Article 44.

~~"Third One Half Cent (1/2¢) Local Government Sales and Use Tax. Local Government Hold Harmless Provisions."~~

**SECTION 31.16.4.(g)** G.S. 105-164.4(a), as amended by Sections 31.2 and 31.16.3(h) of this act, reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and ~~one half percent (4.5%)~~<sup>three-quarters percent (4.75%)</sup>."

**SECTION 31.16.4.(h)** This section becomes effective October 1, 2009. Subsections (a) and (g) of this section apply to sales occurring on or after that date. Subsections (b), (c), and (d) of this section apply to distributions for months beginning on or after that date.

## LOCAL OPTION COUNTY TAXES

**SECTION 31.17.(a)** Chapter 105 of the General Statutes is amended by adding a new Subchapter to read:

### **SUBCHAPTER X. LOCAL OPTION COUNTY TAXES.**

"Article 60.

"Land Transfer Tax.

#### **§ 105-600. Short title.**

This Article is the County Land Transfer Tax Act.

#### **§ 105-601. Levy.**

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local land transfer tax on instruments conveying interests in real property located in the county, up to a rate of four-tenths percent (0.4%), in increments of one-tenth percent (0.1%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local land transfer tax in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST'

Real property transfer tax at the rate of up to [X] percent [X%] of value or consideration.'

(d) Resolution. – The board of county commissioners must, upon adoption of a resolution levying a tax under this Article, immediately deliver a certified copy of the resolution to the register of deeds of the county, accompanied by a certified statement from the county board of elections setting forth the results of the special election approving the tax in the county. Upon receipt of these documents, the register of deeds shall administer the tax in the county as provided in this Article.

(e) Limitation. – A tax levied under this Article may not be in effect in a county at the same time as a tax levied under Article 46 of this Chapter.

#### **§ 105-602. Scope of tax.**

(a) Scope. – A tax levied under this Article does not apply to transfers exempt pursuant to G.S. 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of this Chapter. The tax is in addition to the tax levied by Article 8E of this Chapter. A tax levied under this Article applies to transfers of interests in real property located within the county. If the property is located in two or more counties, a transfer of an interest in the property is taxable only by the county in which the greater part of the property, with respect to value, lies.

(b) Basis and Effective Date. – A tax levied under this Article applies to the consideration or value, whichever is greater, of the interest conveyed, including the value of any lien or encumbrance remaining on the property at the time of conveyance. The levy of the tax may become effective only on the first day of a calendar month set in the resolution levying the tax, which may not be earlier than the first day of the second succeeding calendar month after the date the resolution is adopted.

**§ 105-603. Administration and use.**

(a) Administration. – A tax levied under this Article is payable by the transferor of the interest. Except as otherwise provided in this Article, the provisions of G.S. 105-228.32 through G.S. 105-228.37 apply to a tax levied under this Article. The county must provide metering or similar equipment for the collection of the tax in lieu of the use of tax stamps.

(b) Use. – The proceeds of a tax levied under this Article may be used for any lawful purpose.

**§ 105-604. Repeal or reduction.**

A county may, by resolution, repeal or reduce the rate of a tax levied under this Article. Repeal or reduction of the tax must become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal or reduction resolution was adopted. Repeal of a land transfer tax, or reduction of its rate, under this Article does not affect a liability for a tax that attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction."

**SECTION 31.17.(b)** Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

**"Article 46.**

**"One-Quarter Cent (1/4¢) County Sales and Use Tax.**

**§ 105-535. Short title.**

This Article is the One-Quarter Cent (1/4¢) County Sales and Use Tax Act.

**§ 105-536. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

**§ 105-537. Levy.**

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent (0.25%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

' FOR     AGAINST'

Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other State and local sales and use taxes.'

(d) Limitation. – A tax levied under this Article may not be in effect in a county at the same time as a tax levied under Article 60 of this Chapter.

**§ 105-538. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B. The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county. Notwithstanding the provisions of G.S. 105-467(c), during the 2008 calendar year a tax levied under this Article may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 60 days' advance notice of the new tax levy."

**SECTION 31.17.(c)** G.S. 105-164.15A reads as rewritten:

**"§ 105-164.15A. Effective date of rate changes for services. services and items taxed at combined general rate.**

(a) Services. – The effective date of a rate change for a service taxable under this Article is administered as follows:

- (1) For a rate increase, the new rate applies to the first billing period that starts on or after the effective date. For a service billed after it is provided, the first billing period starts on the effective date. For a service billed before it is provided, the first billing period starts on the first day of the month after the effective date.
- (2) For a rate decrease, the new rate applies to bills rendered on or after the effective date.

(b) Combined Rate Items. – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is the effective date of any of the following:

- (1) The effective date of a change in the State general rate of tax set in G.S. 105-164.4.
- (2) For an increase in the authorization for local sales and use taxes, the date on which local sales and use taxes authorized by Subchapter VIII of this Chapter for every county become effective in the first county or group of counties to levy the authorized taxes.
- (3) For a repeal in the authorization for local sales and use taxes, the effective date of the repeal."

**SECTION 31.17.(d)** This section is effective when it becomes law.

**ALTERNATIVE FOR ADDRESSING A CORPORATION'S ATTEMPT TO AVOID STATE TAXES THROUGH THE USE OF A REIT**

**SECTION 31.18.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(19) The dividend paid deduction allowed under the Code to a captive REIT, as defined in G.S. 105-130.12."

**SECTION 31.18.(b)** G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(23) A dividend received from a captive REIT, as defined in G.S. 105-130.12."

**SECTION 31.18.(c)** G.S. 105-130.12 reads as rewritten:

**"§ 105-130.12. Regulated investment companies and real Real estate investment trusts.**

Any organization or trust which, in the opinion of the Secretary of Revenue of North Carolina, qualifies as either a "regulated investment company" under section 851 of the Code or as a "real estate investment trust" under section 856 of the Code and which files with the North Carolina Department of Revenue its election to be treated as a "regulated investment company," or as a "real estate investment trust" shall be taxed under this Part

~~upon only that part of its net income which is not distributed or declared for distribution to shareholders during the income year or by the time required by law for the filing of the return for the income year including the period of any extension of time granted for filing such return.~~

(a) Definitions. – The following definitions apply in this section:

- (1) Captive REIT. – A REIT whose shares or certificates of beneficial interest are not regularly traded on an established securities market and are owned or controlled, at any time during the last half of the tax year, by a person that is subject to tax under this Part and is not a REIT or a listed Australian property trust.
- (2) Own or control. – To own or control directly, indirectly, beneficially, or constructively more than fifty percent (50%) of the voting power or value of an entity. The attribution rules of section 318 of the Code, as modified by section 856(d)(5) of the Code, apply in determining ownership and control.
- (3) REIT. – A trust or another entity that qualifies as a real estate investment trust under section 856 of the Code.

(b) Tax. – The income of a REIT is taxable under this Part in accordance with the Code, unless the REIT is a captive REIT. A captive REIT is required to add to its federal taxable income the amount of a dividend paid deduction allowed under the Code, as provided in G.S. 105-130.5."

**SECTION 31.18.(d)** The Department of Revenue must report to the Revenue Laws Study Committee by May 1, 2009, on the amount of corporate income tax revenue generated in the 2007 taxable year by the addition to corporate income required by G.S. 105-130.5(a)(19), as enacted by this section. Based upon this report, the Revenue Laws Study Committee must determine the revenue-neutral corporate income tax rate and include this information in its report to the 2010 Session of the 2009 General Assembly.

**SECTION 31.18.(e)** This section does not affect the authority of the Department of Revenue under G.S. 105-130.6, G.S. 105-130.16, or any other statute to require a corporation to file a consolidated return or to determine the net income of a corporation properly attributable to this State. The General Assembly finds that an alternative method of addressing a corporation's attempt to use a real estate investment trust to shift income between entities and avoid State taxes is to require a captive REIT, as defined in G.S. 105-130.12 as amended by this section, to add to its federal taxable income the dividend paid deduction otherwise allowed under the Internal Revenue Code.

**SECTION 31.18.(f)** This section is effective for taxable years beginning on or after January 1, 2007.

## **ENHANCE 529 PLAN INCOME TAX DEDUCTION**

**SECTION 31.19.(a)** Section 27 of S.L. 2006-221 is repealed.

**SECTION 31.19.(b)** Section 24.12(b) of S.L. 2006-66 reads as rewritten:

**"SECTION 24.12.(b)** This section is effective for taxable years beginning on or after January 1, 2006, and is repealed for taxable years beginning on or after January 1, 2011.2006."

**SECTION 31.19.(c)** G.S. 105-134.6(d)(4) reads as rewritten:

**"(d) Other Adjustments.** – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

- ...
- (4) A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this subdivision may deduct from taxable income the amount, not to exceed seven hundred fifty dollars (\$750.00),two thousand five hundred dollars (\$2,500), contributed to an account in the Parental Savings Trust Fund of the

State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is ~~one thousand five hundred dollars (\$1,500)~~five thousand dollars (\$5,000).

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000"

**SECTION 31.19.(d)** Effective for taxable years beginning on or after January 1, 2012, G.S. 105-134.6(d)(4), as rewritten by subsection (c) of this section, reads as rewritten:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...  
(4) A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this subdivision may deduct from taxable income the amount, not to exceed two thousand five hundred dollars (\$2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars (\$5,000).

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of household	80,000
Single	60,000
Married, filing separately	50,000"

**SECTION 31.19.(e)** Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2007. The remainder of this section is effective when it becomes law.

## SALES TAX REFUND – RESEARCH SUPPLIES

**SECTION 31.20.(a)** G.S. 105-164.3 is amended by adding a new subdivision to read:

### "**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...  
(33a) Analytical services. – Testing laboratories that are included in national industry 541380 of NAICS or medical laboratories that are included in national industry 621511 of NAICS."

**SECTION 31.20.(b)** G.S. 105-164.14 is amended by adding a new subsection to read:

"(n) Analytical Services Supplies. – A taxpayer engaged in analytical services in this State is allowed a refund of fifty percent (50%) of the eligible amount of sales and use tax paid by it in this State on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use taxes paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year. A request for a refund must be in writing and must include any information and documentation that the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

**SECTION 31.20.(c)** Subsection (b) of this section becomes effective July 1, 2007, and applies to purchases made on or after that date. The remainder of this section is effective when it becomes law.

## **WORK OPPORTUNITY TAX CREDIT**

**SECTION 31.21.(a)** Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

### **"§ 105-129.16G. Work Opportunity Tax Credit.**

A taxpayer who is allowed a federal tax credit under Part IV, Subpart F of the Code for the taxable year is allowed a credit against the tax imposed by this Part. The credit is equal to six percent (6%) of the amount of credit allowed under the Code."

**SECTION 31.21.(b)** This section is effective for taxable years beginning on or after January 1, 2007.

## **DATA CENTER SALES TAX EXEMPTION**

**SECTION 31.22.(a)** G.S. 105-187.50 reads as rewritten:  
**"§ 105-187.50. Definitions.**

The definitions in G.S. 105-164.3 apply in this Article. In addition, the following definitions apply in this Article:

- (1) Concurrently maintainable. – Capable of having any capacity component or distribution element serviced or repaired on a planned basis without interrupting or impeding the performance of the computer equipment.
- (2) Eligible datacenter. – A facility that provides infrastructure for hosting or data processing services and satisfies each of the following conditions:
  - a. The facility's power and cooling systems are created and maintained to be concurrently maintainable and include redundant capacity components and multiple distribution paths serving the computer equipment at the facility. The facility must have multiple distribution paths serving the computer equipment; however, a single distribution path may serve the computer equipment at any one time.
  - b. The Secretary of Commerce has made a written determination of the following:
    1. For facilities that are located in a development tier one area at the time of application for the written determination, that at least one hundred fifty million dollars (\$150,000,000) in private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination thereof, within five years of the date on which the first qualifying improvement is made, regardless of any subsequent change in county development tier status.
    2. For facilities that are not located in a development tier one area at the time of application for the written determination, that at least three hundred million dollars (\$300,000,000) in private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination thereof, within five years of the date on which the first qualifying improvement is made, regardless of any subsequent change in county development tier status.
  - c. The facility satisfies the wage standard and health insurance requirements of G.S. 105-129.83.

- (3) Multiple distribution paths. – A series of distribution paths configured to ensure that failure on one distribution path does not interrupt or impede other distribution paths.
- (4) Redundant capacity components. – Components beyond those required to support the computer equipment."

**SECTION 31.22.(b)** Article 5F of Chapter 105 of the General Statutes is amended by adding a section to read:

**"§ 105-187.51C. Tax imposed on datacenter machinery and equipment.**

(a) Tax. – A privilege tax is imposed on an eligible datacenter, other than one as defined in G.S. 105-164.3(8e), that purchases machinery or equipment to be located and used at the datacenter that is capitalized for tax purposes under the Code and is used either:

- (1) For the provision of datacenter services, including equipment cooling systems for managing the performance of the datacenter property; hardware and software for distributed and mainframe computers and servers; data storage devices; network connectivity equipment and peripheral components and systems.
- (2) For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.

(b) Rate. – The tax is one percent (1%) of the sales price of the eligible equipment and machinery. The maximum tax is eighty dollars (\$80.00) per article.

(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is not timely made, then the rate provided under this section is forfeited. If the required level of investment is timely made but any eligible machinery and equipment is not located and used at an eligible datacenter, then the rate provided for that machinery and equipment under this subdivision is forfeited. A taxpayer that forfeits a rate under this subdivision is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the combined general rate from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a timely investment required by this section, then interest is computed from the date the sales or use tax would otherwise have been due. For all other forfeitures, interest is computed at the combined general rate from the time as of which the machinery or equipment was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this credit, the fact that payment of the privilege tax occurred in a period outside the statute of limitations provided under G.S. 105-266 shall not be considered. Interest shall not be computed against the amount of taxes offset by this credit. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236.

(d) Sunset. – This section expires for sales occurring on or after July 1, 2013."

**SECTION 31.22.(c)** This section becomes effective October 1, 2007, and applies to sales made on or after that date.

**TAX INCENTIVE FOR RAILROAD INTERMODAL FACILITY**

**SECTION 31.23.(a)** Chapter 105 of the General Statutes is amended by adding a new Article to read:

**"Article 3K.**

**"Tax Incentives for Railroad Intermodal Facilities.**

**"§ 105-129.95. Definitions.**

The following definitions apply in this Article:

- (1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, and equipping the facility.

In the case of property owned or leased by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code.

- (2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed thirty million dollars (\$30,000,000).
- (3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.
- (4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation.

**"§ 105-129.96. Credit for constructing a railroad intermodal facility.**

(a) Credit. – A taxpayer that constructs or leases an eligible railroad intermodal facility in this State and places it in service during the taxable year is allowed a tax credit equal to fifty percent (50%) of all amounts payable by the taxpayer towards the costs of construction or under the lease.

(b) Taxes Credited. – The credit provided in this section is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. The credit may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit must be claimed against the same tax.

**"§ 105-129.97. Substantiation.**

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Each taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

**"§ 105-129.98. Reports.**

The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer, for the 12-month period ending the preceding December 31:

- (1) The number of taxpayers that claimed a credit allowed in this Article.
- (2) The amount of each credit claimed and the taxes against which it was applied.
- (3) The total cost to the General Fund of the credits claimed.

**"§ 105-129.99. Sunset.**

This Article is repealed effective for taxable years beginning on or after January 1, 2038."

**SECTION 31.23.(b)** G.S. 105-164.3 is amended by adding a new subdivision to read:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

... (8f) Eligible railroad intermodal facility. – Defined in G.S. 105-129.95."

**SECTION 31.23.(c)** G.S. 105-164.13 is amended by adding a new subdivision to read:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

...

(56) Sales to the owner or lessee of an eligible railroad intermodal facility of intermodal cranes, intermodal hostler trucks, and railroad locomotives that reside on the premises of the facility and are used at the facility."

**SECTION 31.23.(d)** G.S. 105-164.14 is amended by adding a new subsection to read:

"(n) Eligible Railroad Intermodal Facilities. – The owner or lessee of an eligible railroad intermodal facility is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred."

**SECTION 31.23.(e)** Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2007, and applies to eligible railroad intermodal facilities placed into service on or after January 1, 2007. Subsections (b) through (d) of this section become effective January 1, 2007, and apply to sales made on or after that date. The remainder of this section is effective when it becomes law.

#### **FIREFIGHTER/RESCUE SQUAD TAX DEDUCTION**

**SECTION 31.24.(a)** G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...

(6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker may deduct from taxable income the sum of two hundred fifty dollars (\$250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:

- a. Eligible firefighter. – An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.
- b. Eligible rescue squad worker. – An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year."

**SECTION 31.24.(b)** This section is effective for taxable years beginning on or after January 1, 2007.

#### **PART XXXII. MISCELLANEOUS PROVISIONS**

##### **STATE BUDGET ACT APPLIES**

**SECTION 32.1.** The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

## **COMMITTEE REPORT**

**SECTION 32.2.(a)** The Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, dated July 27, 2007, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, or the former Executive Budget Act, Article 1 of Chapter 143 of the General Statutes, as appropriate, for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 32.2.(b)** The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2007-2009 fiscal biennium is a line-item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources, including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The Director of the Budget submitted the itemized budget requests to the General Assembly in February 2007, in the documents "The North Carolina State Budget Summary of Recommendations 2007-2009" and "The North Carolina State Budget 2007-2009 Recommended Operating Budget With Results-Based Information" volumes one through six. The beginning appropriation for the 2007-2008 fiscal year and the 2008-2009 fiscal year for the various departments, institutions, and other spending agencies of the State is referenced in Tables 3 and 4 of the Summary of Recommendations document as the recommended continuation budget.

**SECTION 32.2.(c)** The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

## **MOST TEXT APPLIES ONLY TO THE 2007-2009 FISCAL BIENNIAL**

**SECTION 32.3.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2007-2009 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2007-2009 fiscal biennium.

## **EFFECT OF HEADINGS**

**SECTION 32.4.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

## **SEVERABILITY CLAUSE**

**SECTION 32.5.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

## **EFFECTIVE DATE**

**SECTION 32.6.** Except as otherwise provided, this act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of July, 2007.

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Marc Basnight  
President Pro Tempore of the Senate

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Joe Hackney  
Speaker of the House of Representatives

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Michael F. Easley  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2007