

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

**HOUSE BILL 2436  
RATIFIED BILL**

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2007, TO AUTHORIZE INDEBTEDNESS FOR CAPITAL PROJECTS, AND TO MAKE VARIOUS TAX LAW AND FEE CHANGES.

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 as provided in G.S. 143C-1-2(b).

**TITLE**

**SECTION 1.2.** This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2008."

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

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2009, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2008-2009 fiscal year.

<b>Current Operations – General Fund</b>	<b>FY 2008-2009</b>
<b>EDUCATION</b>	
Community Colleges System Office	\$ 33,639,698
Department of Public Instruction	93,731,253
University of North Carolina – Board of Governors	
Appalachian State University	(175,179)
East Carolina University	
Academic Affairs	1,665,101
Health Affairs	0
Elizabeth City State University	0
Fayetteville State University	(250,409)
NC Agricultural and Technical University	(476,363)

North Carolina Central University	0
North Carolina School of the Arts	0
North Carolina State University	
Academic Affairs	(622,928)
Agricultural Extension	0
Agricultural Research	0
University of North Carolina at Asheville	(26,836)
University of North Carolina at Chapel Hill	
Academic Affairs	(589,752)
Health Affairs	(736,357)
Area Health Education Centers	0
University of North Carolina at Charlotte	(756,504)
University of North Carolina at Greensboro	0
University of North Carolina at Pembroke	(59,019)
University of North Carolina at Wilmington	(752,940)
Western Carolina University	(159,665)
Winston-Salem State University	0
General Administration	0
University Institutional Programs	74,741,366
Related Educational Programs	(44,990,000)
North Carolina School of Science and Mathematics	0
UNC Hospitals at Chapel Hill	0
<b>Total University of North Carolina – Board of Governors</b>	<b>\$ 26,810,515</b>

## **HEALTH AND HUMAN SERVICES**

Department of Health and Human Services	
Division of Central Management and Support	\$ (9,809,966)
Division of Aging and Adult Services	2,500,000
Division of Services for the Blind and Deaf/Hard of Hearing	75,000
Division of Child Development	(6,102,422)
Office of Education Services	698,940
Division of Health Service Regulation	822,028
Division of Medical Assistance	(210,822,007)
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	21,347,833
NC Health Choice	10,056,864
Division of Public Health	6,805,537
Division of Social Services	1,144,782
Division of Vocation Rehabilitation	(2,000,000)
<b>Total Health and Human Services</b>	<b>\$ (185,283,411)</b>

## **NATURAL AND ECONOMIC RESOURCES**

Department of Agriculture and Consumer Services	\$ 4,960,589
Department of Commerce	
Commerce	7,974,970
Commerce State-Aid	12,901,578
NC Biotechnology Center	3,844,166
Rural Economic Development Center	53,756,974
Department of Environment and Natural Resources	
Environment and Natural Resources	12,273,734
Clean Water Management Trust Fund	0

Department of Labor	901,392
<b>JUSTICE AND PUBLIC SAFETY</b>	
Department of Correction	\$ 289,817
Department of Crime Control and Public Safety	2,580,175
Judicial Department	(1,558,255)
Judicial Department – Indigent Defense	(435,057)
Department of Justice	(426,758)
Department of Juvenile Justice and Delinquency Prevention	20,194,280
<b>GENERAL GOVERNMENT</b>	
Department of Administration	\$ 1,277,048
Office of Administrative Hearings	313,544
Department of State Auditor	(283,938)
Office of State Controller	(110,940)
Department of Cultural Resources	
Cultural Resources	3,785,367
Roanoke Island Commission	(15,000)
State Board of Elections	582,934
General Assembly	(881,000)
Office of the Governor	
Office of the Governor	(84,205)
Office of State Budget and Management	15,242
OSBM – Reserve for Special Appropriations	16,950,000
Housing Finance Agency	12,000,000
Department of Insurance	
Insurance	633,492
Insurance – Volunteer Safety Workers' Compensation	(1,150,000)
Office of Lieutenant Governor	0
Department of Revenue	(1,415,864)
Department of Secretary of State	135,771
Department of State Treasurer	
State Treasurer	763,829
State Treasurer – Retirement for Fire and Rescue Squad Workers	1,027,851

**TRANSPORTATION**

Department of Transportation 0

**RESERVES, ADJUSTMENTS AND DEBT SERVICE**

Compensation Increases	\$ 368,844,588
Salary Adjustment Fund 2007-2009 Biennium	0
Teachers' & State Employees' Retirement Contributions	30,237,400
Hospitalization Reserve	(5,000,000)
Reserve for Eliminated Positions	0
Grant to Counties for Teachers' Personal Leave Day	5,000,000
Contingency and Emergency Fund	0
Information Technology Fund	0
Job Development Investment Grants Reserve	15,000,000
North Carolina Master Address Dataset	1,000,000
Criminal Justice Data Integration	5,000,000
Pending Gang Prevention Legislation (HB 274)	10,000,000
Task Force on Preventing Pesticide Exposure	357,055
Debt Service	
General Debt Service	(17,500,000)
Federal Reimbursement	0
<b>TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>\$ 532,638,834</b>

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** Section 2.2(a) of S.L. 2007-323 is repealed. The General Fund availability used in adjusting the 2008-2009 budget is shown below:

	<b>FY 2008-2009</b>
Unappropriated Balance from FY 2007-08, S.L. 2007-323	\$ 270,504,098
Net Adjustment – S.L. 2007-540	(1,000,000)
Adjustment from Estimated to Actual 2007-2008	
Beginning Unreserved Balance	47,867,864
Projected Reversions from FY 2007-2008	170,000,000
Projected Overcollections from FY 2007-2008	88,700,000
Less: Credit to Repairs and Renovation Reserve Account	69,839,238
<b>Beginning Unreserved Fund Balance</b>	<b>\$ 506,232,724</b>
<b>Revenues Based on Existing Tax Structure</b>	<b>\$ 19,903,800,000</b>
<b>Nontax Revenues</b>	
Investment Income	\$ 247,300,000
Judicial Fees	204,800,000
Disproportionate Share	100,000,000
Insurance	62,900,000
Other Nontax Revenues	160,600,000
Highway Trust Fund Transfer	172,500,000
Highway Fund Transfer	17,600,000
<b>Subtotal Nontax Revenues</b>	<b>\$ 965,700,000</b>
<b>Total General Fund Availability</b>	<b>\$ 21,375,732,724</b>
<b>Adjustments to Availability: 2008 Session</b>	
Adjustments for Economic Uncertainty	\$ (45,000,000)
Extend Sunset for State Ports Tax Credit	(1,000,000)
Extend Credit for Research & Development	(1,000,000)

Modify Estate Tax Law	(2,000,000)
Exempt Disaster Assistance Debit Sales	(500,000)
Sales Tax Holiday for Certain Energy Star Rated Appliances	(1,400,000)
Extend Sunset for Small Business Employee Health Benefits Tax Credit	(8,500,000)
State Sales Tax Exemption for Baked Goods Sold By Artisan Bakeries	(1,600,000)
Small Businesses Protection Act	(2,200,000)
Excise Tax on Machinery Refurbishers	(300,000)
Expand Film Industry Credit and Extend Sunset	(100,000)
Expand Renewable Energy Tax Credit	(100,000)
Reserve for Tax Relief	(700,000)
Health Care Facility Construction Project Fee	
Service Regulation Fee Increase	822,028
Adjust Fee Receipts for Asbestos Hazard Management Program	71,615
Adjust Securities Filing Fee	1,993,500
Reduce Transfer to Highway Trust Fund	(25,000,000)
Transfer from Disaster Relief Reserve (Western NC Disasters)	26,000,000
Transfer from NC Rx Unexpended Balance	3,500,000
Transfer from Tobacco Trust Fund	5,000,000
Transfer from Health & Wellness Trust Fund	5,000,000
Transfer from Coaching Scholarship Fund	267,000
Transfer from Principal Fellows Trust Fund	1,000,000
Transfer from NC Community College System Computer Information System (CIS) Fund Balance	4,500,000
Transfer from Focused Industrial Training Unexpended Balance	783,246
Transfer from Disproportionate Share Reserve	19,300,000
Adjust Transfer from Insurance Regulatory Fund	633,492
Adjust Transfer from Treasurer's Office	763,829
<b>Subtotal Adjustments to Availability: 2008 Session</b>	<b>\$ (19,765,290)</b>
<b>Revised General Fund Availability for 2008-2009 Fiscal Year</b>	<b>\$ 21,355,967,434</b>
<b>Less: Total General Fund Appropriations for 2008-2009 Fiscal Year</b>	<b>\$ (21,355,967,434)</b>
<b>Unappropriated Balance Remaining</b>	<b>0</b>

**SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer sixty nine million eight hundred thirty nine thousand two hundred thirty-eight dollars (\$69,839,238) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2008. This subsection becomes effective June 30, 2008.

**SECTION 2.2.(c)** Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2008-2009 fiscal year to be used in accordance with G.S. 143C-4-3.

**SECTION 2.2.(c1)** Notwithstanding G.S. 143C-4-2, the State Controller shall not transfer any funds from the unreserved fund balance to the Savings Reserve Account on June 30, 2008.

**SECTION 2.2.(d)** Section 2.2.(d) of S.L. 2007-323 reads as rewritten.

**"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)~~ one hundred forty-five million dollars (\$145,000,000)."

**SECTION 2.2.(e)** Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust, the sum of five million dollars (\$5,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2008-2009 fiscal year. These funds shall be transferred on or after April 30, 2009.

**SECTION 2.2.(f)** Notwithstanding G.S. 143C-9-3, of the funds credited to the Health Trust Account, the sum of five million dollars (\$5,000,000) that would otherwise be deposited in the Fund Reserve shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2008-2009 fiscal year.

**SECTION 2.2.(g)** On July 1, 2008, the State Controller shall transfer twenty-six million dollars (\$26,000,000) from the Disaster Reserve Fund to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2008-2009 fiscal year.

**SECTION 2.2.(h)** On July 1, 2008, the State Controller shall transfer nineteen million three hundred thousand dollars (\$19,300,000) from the Disproportionate Share Receipt Reserve, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2008-2009 fiscal year.

**SECTION 2.2.(i)** Transfers of additional availability in the amount of ten million fifty thousand two hundred forty-six dollars (\$10,050,246) are made to the General Fund pursuant to Sections 8.9, 9.1, 9.4, and 10.1 of this act.

**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 adjusted for the fiscal year ending June 30, 2009, according to the following schedule. Amounts set out in brackets are reductions from Highway Fund Appropriations for the 2008-2009 fiscal year.

	<b>2008-2009</b>
Department of Transportation Administration	(\$9,583,308)
Repairs and Renovations	9,084,221
Division of Highways Administration	0
Construction	1,807,592
Maintenance	24,542,804
Planning and Research	0
OSHA Program	0
Ferry Operations	1,000,000
Public Transportation	0
Airports	0
Railroads	1,000,000
Governor's Highway Safety Program	0

Division of Motor Vehicles	245,266
State Aid to Municipalities	1,807,592
Transfers to Other State Agencies	431,491
Reserve for Compensation Increases	14,762,342
Reserve for Teachers' and State Employees' Retirement Contribution	1,462,000
<b>TOTAL</b>	<b>\$46,560,000</b>

**HIGHWAY FUND AVAILABILITY STATEMENT**

**SECTION 3.2.** Section 3.2 of S.L. 2007-323 is repealed. The Highway Fund availability used in adjusting the 2008-2009 fiscal year budget is shown below:

<b>Highway Fund Availability Statement</b>	<b>2008-2009</b>
Unappropriated Balance From Previous Year	0
Beginning Fund Balance	35,000,000
Estimated Revenue	1,822,550,000
Total Highway Fund Availability	\$1,857,550,000

**PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

**HIGHWAY TRUST FUND**

**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 adjusted for the fiscal year ending June 30, 2009, according to the following schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2008-2009 fiscal year.

<b>Current Operations – Highway Trust Fund</b>	<b>2008-2009</b>
Intrastate System	(40,691,943)
Urban Loops	(16,454,126)
Aid to Municipalities	(4,269,533)
Secondary Roads	(7,687,965)
Program Administration	3,627,360
Transfer to General Fund	(25,143,793)
North Carolina Turnpike Authority	25,000,000
<b>Total</b>	<b>(\$65,620,000)</b>

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

**SECTION 4.2.** Section 4.2 of S.L. 2007-323 is repealed. The Highway Trust Fund availability used in adjusting the 2008-2009 fiscal year budget is shown below:

<b>Highway Trust Fund Availability</b>	<b>\$1,073,160,000</b>
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**PART V. OTHER AVAILABILITY AND APPROPRIATIONS**

**CIVIL PENALTIES AND FORFEITURES/FUND AVAILABILITY AND APPROPRIATION**

**SECTION 5.1.(a)** Section 5.1(a) of S.L. 2007-323 reads as rewritten:

**"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	<del>FY 2007-2008</del>	FY 2008-2009
Department of Revenue	\$63,000,000	<del>\$63,000,000</del>	\$90,738,000
Department of Transportation	\$15,000,000	<del>\$15,000,000</del>	\$22,000,000
Employment Security Commission	\$ 3,000,000	<del>\$3,000,000</del>	\$4,200,000
Department of Insurance	\$ 1,000,000	<del>\$1,000,000</del>	\$600,000
University of North Carolina	\$ 3,500,000	<del>\$3,500,000</del>	\$3,600,000
Other Agencies	\$10,000,000	<del>\$10,000,000</del>	\$10,900,000
Total Funds Available	\$95,500,000	<del>\$95,500,000</del>	\$132,038,000"

**SECTION 5.1.(b)** Section 5.1(b) of S.L. 2007-323 reads as rewritten:

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

	FY 2007-2008	<del>FY 2007-2008</del>	FY 2008-2009
School Technology Fund	\$18,000,000		\$18,000,000
State Public School Fund	\$77,500,000	<del>\$77,500,000</del>	\$114,038,000
Total Appropriation	\$95,500,000	<del>\$95,500,000</del>	\$132,038,000"

## **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 eighty-five million five hundred thousand dollars (\$385,500,000) for the 2008-2009 fiscal year.

**SECTION 5.2.(a1)** Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2007-2008 fiscal year exceed the amounts appropriated in the 2007-2008 fiscal year, the excess net revenue is also transferred from the State Lottery Fund to support appropriations made in this act for the 2008-2009 fiscal year.

**SECTION 5.2.(b)** Notwithstanding G.S. 18C-164(b), funds in the amount of nineteen million seven hundred fifty thousand dollars (\$19,750,000) shall be transferred from the Education Lottery Reserve Fund to the Education Lottery Fund to support appropriations made in this act. These funds shall be allocated for class size reduction. Any unexpended funds not needed for this purpose shall be transferred back to the Education Lottery Reserve Fund at the end of the 2008-2009 fiscal year.

**SECTION 5.2.(c)** Notwithstanding G.S. 18C-164(d), the following amounts are appropriated from the Education Lottery Fund for the 2008-2009 fiscal year:

(1) Class Size Reduction	\$127,864,291
(2) Prekindergarten Program	84,635,709
(3) Public School Building Capital Fund	154,200,000
(4) Scholarships for Needy Students	38,550,000
Total	\$405,250,000

**SECTION 5.2.(d)** The excess lottery revenues for the 2007-2008 fiscal year that are transferred from the State Lottery Fund pursuant to subsection (a1) of this section are appropriated from the Education Lottery Fund for the 2008-2009 fiscal year for the Public School Building Capital Fund.

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

**SECTION 5.3.** Section 5.3 of S.L. 2007-323 reads as rewritten:

**"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:

**FY 2007-2008    FY 2008-2009**

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
<u>Reversions</u>	<u>0</u>	<u>\$800,000</u>
<b>Total Funds Available</b>	<b>\$19,640,000</b>	<b><u>\$18,430,000</u></b> <b><u>\$19,230,000</u></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 <u>\$9,451,778</u>
Information Technology Projects	\$4,497,165	<u>\$4,497,165</u> <u>\$4,129,362</u>
BEACON/Data Integration Funds	\$5,000,000	\$5,000,000
<b>Total</b>	<b>\$18,950,000</b>	<b><u>\$17,650,000</u></b> <b><u>\$18,581,140</u></b>

"SECTION 5.3.(c) The State shall not enter into any information technology enterprise agreements without obtaining written agreements from participating State agencies regarding apportionment of funding. State agencies agreeing to participate (i) must ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract and (ii) must transfer the funds agreed upon to the Office of Information Technology Services in sufficient time for ITS to meet contract requirements.

"SECTION 5.3.(d) The Office of State Budget and Management shall identify the sum of eight hundred thousand dollars (\$800,000) in year-end reversions from State agencies to support Information Technology Fund programs and operations."

## **PART VI. GENERAL PROVISIONS**

### **APPROPRIATION OF CASH BALANCES**

**SECTION 6.1.** Section 6.1 of S.L. 2007-323 reads as rewritten:

~~"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~~State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated and authorized as provided in G.S. 143C-1-2 for the 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.

- (1a) For all budget codes listed in the "Governor's Recommended Budget for Governmental and Proprietary Funds and Selected Component Units 2008-2009" but not covered by subdivisions (2) and (3) of this subsection, as adjusted by the General Assembly in this act.
- (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.

## **BUDGET CODE CONSOLIDATIONS**

**SECTION 6.3.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive

budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

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

**SECTION 6.4.** 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.

**AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS**

**SECTION 6.6.** Notwithstanding any other provision of law, a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of receipt-supported positions specified in this act without prior consultation with the Joint Legislative Commission on Governmental Operations.

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

**SECTION 6.7.(a)** It is the intent of the General Assembly to establish a process to periodically and systematically review the funds, agencies, divisions, and programs financed by State government. This process shall be known as the Continuation Review Program. The Continuation Review Program is intended to assist the General Assembly in determining whether to continue, reduce, or eliminate funding for the State's funds, agencies, divisions, and programs subject to continuation review.

**SECTION 6.7.(b)** The Appropriations Committees of the House of Representatives and the Senate 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 subject to continuation review regarding the expected content and format of the reports required by this section. No later than December 1, 2008, the following agencies shall report to the Fiscal Research Division:

- (1) Tarheel Challenge Academy – Department of Crime Control and Public Safety.
- (2) Spot Safety Program – Department of Transportation.
- (3) Safety Inspection Program – Department of Commerce.
- (4) Military Business Center – Community College System.
- (5) Purchase of Medical Care Services Program – Department of Health and Human Services.
- (6) Parking Office – Department of Administration.
- (7) Forest Development Fund – Department of Environment and Natural Resources.

**SECTION 6.7.(c)** The continuation review reports required in this section shall include the following information:

- (1) A description of the fund, agency, division, or program mission, goals, and objectives.
- (2) The statutory objectives for the fund, agency, division, or program and the problem or need addressed.

- (3) The extent to which the fund, agency, division, or program's objectives have been achieved.
- (4) The fund, agency, division, or program's functions or programs performed without specific statutory authority.
- (5) The performance measures for each fund, agency, division, or program and the process by which the performance measures determine efficiency and effectiveness.
- (6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
- (7) The consequences of discontinuing funding.
- (8) Recommendations for improving services or reducing costs or duplication.
- (9) The identification of policy issues that should be brought to the attention of the General Assembly.
- (10) Other information necessary to fully support the General Assembly's Continuation Review Program along with any information included in instructions from the Fiscal Research Division.

**SECTION 6.7.(d)** State departments and agencies identified in subsection (b) of this section shall submit a final report to the General Assembly by March 1, 2009.

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

**SECTION 6.8.** 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) Military Morale, Welfare, and Recreation Fund.
- (3) "More at Four" for children of deployed military personnel.
- (4) Traumatic Brain Injury (TBI) Services.
- (5) Fayetteville Tech 3-D Technology Project.
- (6) National Guard Pension Fund.
- (7) National Guard Tuition Assistance Program.
- (8) National Guard Armory Rehabilitations.
- (9) Master Planning for Future Armory Needs.
- (10) Land Buffers and Latrines for Camp Butner.
- (11) Property Tax Homestead Exemption for Disabled Veterans.
- (12) North Carolina State Veterans Park.
- (13) Museum of the Marine.

#### **FEDERAL AND OTHER RECEIPTS FROM PENDING GRANT AWARDS**

**SECTION 6.9.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget, spend funds received from grants awarded subsequent to the enactment of this act, provided the applications for the grants were made prior to May 14, 2008. The Office of State Budget and Management shall work with the recipient State agencies to budget grants award according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a permanent

or time-limited basis. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to expending any funds received from grant awards. Funds received from such grants are hereby appropriated and shall be incorporated into the certified budget of the recipient State agency.

## **STATE HOUSING SUPPORT**

**SECTION 6.9A.** The General Assembly finds that homeownership is the primary means by which families and individuals of low and moderate incomes build wealth. The General Assembly further finds that homeownership and a healthy housing market are essential to the health and economic vitality of North Carolina. To help stabilize the housing market, the General Assembly provides in excess of fourteen million dollars (\$14,000,000) in funding for and support of the following initiatives:

- (1) \$1,000,000 in nonrecurring funds from the State Banking Commission for counseling services to assist homeowners at risk of foreclosure.
- (2) \$2,000,000 in recurring funds for the Housing Trust Fund, located in the Housing Finance Agency, to provide affordable housing to low-income citizens.
- (3) \$7,000,000 in nonrecurring funds for the Housing Trust Fund, located in the Housing Finance Agency, to provide additional independent- and supportive-living apartments for persons with disabilities.
- (4) \$1,000,000 in recurring funds to the Department of Health and Human Services for operating cost subsidies for independent- and supportive-living apartments for individuals with disabilities.
- (5) \$3,000,000 in recurring funds for the Home Protection Program, located in the Housing Finance Agency, to provide counseling services and mortgage assistance to citizens who are at risk of foreclosure due to job loss.
- (6) \$200,000 in recurring funds to the North Carolina State Bar to provide legal assistance to low-income consumers in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping low-income consumers avoid foreclosure and home loss. Of these funds, \$100,000 recurring is provided to the Land Loss Prevention Project and \$100,000 recurring is provided to the Financial Protection Law Center.
- (7) Amends G.S. 7A-474.3(b) to allow the use of a portion of the estimated \$1,700,000 in increased revenue generated by Section 30.8 (a)(4) of S.L. 2007-323, to provide access to legal assistance to homeowners in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping consumers avoid foreclosure and home loss.

## **IMPROVE DISASTER RECOVERY AND BUSINESS CONTINUITY**

**SECTION 6.10.(a)** The State Chief Information Officer (CIO) shall utilize the business and disaster recovery plans submitted under G.S. 147-33.89 and any other information at the CIO's disposal to determine whether State agencies have made adequate preparations for backing up critical applications.

**SECTION 6.10.(b)** In cases where backup is not sufficient to minimize any disruptions in critical State services caused by natural or man-made disasters, the State CIO, in conjunction with the agencies and the Office of State Budget and Management, shall develop plans to utilize the Western Data Center for providing backup.

**SECTION 6.10.(c)** By December 1, 2008, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on the number of

critical State applications without adequate backup, the State agencies utilizing the applications, and the plans for providing adequate backup.

**SECTION 6.10.(d)** This section does not apply to the General Assembly, to the Judicial Department, or to The University of North Carolina and its constituent institutions.

### **MULTIYEAR CONTRACTS FOR INFORMATION TECHNOLOGY**

**SECTION 6.11.(a)** Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services (ITS) may procure information technology goods and services for periods not exceeding three years where the terms require payment of all or a portion of the purchase price at the beginning of the agreement. All of the following conditions must be met before payment for these agreements may be disbursed:

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

**SECTION 6.11.(b)** The Office of State Budget and Management (OSBM) shall ensure that the savings from any authorized agreement will be included in the ITS calculation of rates before OSBM annually approves the proposed rates.

**SECTION 6.11.(c)** The Office of Information Technology Services shall report to the Office of State Budget and Management on any State agency budget impacts resulting from the multiyear contracts.

**SECTION 6.11.(d)** By January 1, 2009, then quarterly thereafter, the Office of Information Technology Services shall submit a written report of any authorizations granted under this section to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division.

### **DOCUMENT MANAGEMENT/DIGITAL SIGNATURE PILOT**

**SECTION 6.12.(a)** Funds. – Of the funds appropriated to the Office of Information Technology Services (ITS) for the 2008-2009 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be used to pilot a statewide electronic document management system that will include a digital signature capability. ITS shall identify a State agency for the pilot, which shall develop the following program requirements:

- (1) Creation of a uniform and consistent set of policies and procedures for managing and preserving electronic records through their life cycle in an efficient, effective, and economical manner.
- (2) Development, establishment, and promotion of statewide electronic records management training and certification programs.
- (3) Promotion of the use of public records in digital format.
- (4) Development of statewide procurement standards for the electronic records infrastructure.
- (5) Provision of guidance and assistance to all customers on issues relating to public records in digital formats including, but not limited to, e-mail, e-commerce, electronic signature encryption, filings, public Web pages, metadata, and system documentation.

**SECTION 6.12.(b)** By April 1, 2009, the Office of Information Technology Services shall submit a written report to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division on the status and effectiveness of the electronic document management pilot.

**STATE GEOGRAPHIC INFORMATION/CONSOLIDATION IMPLEMENTATION**

**SECTION 6.13.** The State Chief Information Officer (SCIO), the Office of State Budget and Management (OSBM), and the Geographic Information Coordinating Council (GICC) shall develop a detailed plan to implement the recommendations contained in the Geographic Information System Study mandated by Section 6.13 of S.L. 2007-323. The implementation plan shall include, at a minimum, details relating to all of the following:

- (1) The current and future costs of unconsolidated State agency GIS efforts and an estimate of savings to be realized by the consolidation of GIS efforts.
- (2) A cost estimate for implementing the consolidation plan, with specific costs associated with each study report recommendation and the amount of any additional funding requirements to accomplish the consolidation and transfer.
- (3) An accounting of funds, furniture, equipment, and other operational resources to be transferred from the Department of Environment and Natural Resources (DENR) to the SCIO to support the Center for Geographic Information and Analysis (CGIA) and the GICC.
- (4) A description of personnel positions to be (i) transferred from DENR to SCIO and the sources and amount of funding associated with each position and (ii) eliminated due to the consolidation, if any.
- (5) Any new positions required and the costs associated with each new position.
- (6) Projects that can be consolidated as part of the plan implementation and the State agencies or contractors, or both, responsible for each of those projects.
- (7) A time line for implementation, including specific benchmarks.

By December 1, 2008, this detailed implementation plan shall be submitted to the Chairs of the House and Senate Appropriations Committees and to the Fiscal Research Division of the Legislative Services Office.

**SINGLE ELECTRONIC MAIL SYSTEM**

**SECTION 6.14.(a)** The State Chief Information Officer shall develop a detailed plan providing for the transition of all State agencies, departments, and institutions to a single statewide electronic mail system by January 1, 2010. This plan shall be developed in consultation with each organization not currently using the Office of Information Technology Services electronic mail system and shall specifically address any issues identified by these organizations.

**SECTION 6.14.(b)** The plan shall be presented to the Joint Legislative Oversight Committee on Information Technology by November 1, 2008, and may be implemented after consultation with the Committee.

**SECTION 6.14.(c)** In preparing the Governor's proposed budget for 2009-2011, the Office of State Budget and Management may utilize the plan required under subsection (b) of this section.

**SECTION 6.14.(d)** This section shall not apply to the General Assembly, the Judicial Department, or The University of North Carolina and its constituent institutions. These agencies may utilize the electronic mail service operated by the Office in accordance with the statutes, policies, and rules of the Office.

## **CRIMINAL JUSTICE DATA INTEGRATION PILOT PROGRAM**

**SECTION 6.15.(a)** The General Assembly finds that the State's Uniform Crime Reporting technology is based on procedures developed in the 1930s and a design plan developed in the late 1980s. Based on recent unfortunate events, it is abundantly clear that the State must establish a framework for sharing critical information, and the framework must be implemented as soon as possible. With improved access to timely, complete, and accurate information, the members of the General Assembly, leadership in State and local law enforcement agencies, law enforcement officers, and everyone working in the criminal justice system can enhance their ability to make decisions on behalf of the people of the State, with fewer decisions based on instinct or guesswork.

The General Assembly further finds that the April 2008 Beacon Report on a Strategic Plan for Data Integration recommends the development and implementation of a Crime Reporting Re-Design Project, a statewide crime analysis system designed to save time, save money, and save lives.

**SECTION 6.15.(b)** The Office of the State Controller, in cooperation with the State Chief Information Officer, and under the governance of the BEACON Project Steering Committee, shall by May 1, 2009, develop and implement a Criminal Justice Data Integration Pilot Program in Wake County in cooperation and communication with the advisory committee established pursuant to subsection (c) of this section and the leadership of State and local agencies. This pilot program shall integrate and provide up-to-date criminal information in a centralized location via a secure connection for use by State and local government. The pilot program vendor shall be selected by October 1, 2008.

While it is the intent that this initiative provide a broad new 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 authorized persons.

**SECTION 6.15.(c)** The Advisory Committee to the Criminal Justice Data Integration Pilot program is hereby established. The Advisory Committee shall consist of the following members:

- (1) The District Attorney for Prosecutorial District 10, who shall serve as chair.
- (2) The senior resident superior court judge for Superior Court Districts 10A through 10D.
- (3) A Wake County magistrate designated by the senior resident superior court judge.
- (4) The Clerk of Superior Court of Wake County.
- (5) The sheriff of Wake County.
- (6) The judicial district manager for District 10 of the Division of Community Corrections.
- (7) The chief court counselor for District Court District 10.
- (8) The president of Duke University and the chancellor of The University of North Carolina, or their designees.

**SECTION 6.15.(d)** The Advisory Committee, the Department of Justice, the Administrative Office of the Courts, the Department of Juvenile Justice and Delinquency Prevention, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Transportation, and local law enforcement agencies shall fully cooperate with the Office of the State Controller and the State Chief Information Officer, under the guidance of the BEACON Steering Committee, to identify the informational needs, develop a plan of action, provide access to data, and implement secure integrated applications for information sharing of criminal justice and corrections data.

**SECTION 6.15.(e)** Of the funds appropriated in this act, the sum of five million dollars (\$5,000,000) may be used to support the Criminal Justice Data



Integration Pilot Program. Other funds available to BEACON may also be used for this purpose.

The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.

**SECTION 6.15.(f)** The Office of the State Controller, with the support of the Advisory Committee and the State Chief Information Officer, shall provide a written report of the plan's implementation progress to the House of Representatives and Senate Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division on a quarterly basis beginning October 1, 2008.

## **BEACON DATA INTEGRATION**

**SECTION 6.16.(a)** The Office of the State Controller, in cooperation with the State Chief Information Officer, shall begin implementation of the Beacon Strategic Plan for Data Integration, issued in April 2008. This plan shall be implemented under the governance of the BEACON Project Steering Committee and in conjunction with leadership in appropriate State agencies and with the support and cooperation of the Office of State Budget and Management.

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 6.16.(b)** The State Controller shall serve as the Chairman of the BEACON Project Steering Committee. The other members of the committee shall be the State Chief Information Officer, the State Treasurer, the Attorney General, the Secretary of Correction, the Administrative Officer of the Courts, the State Budget Officer, and the Chief Financial Officer of the Department of Transportation.

**SECTION 6.16.(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 2008-2009 fiscal year shall be used for BEACON data integration as provided by subsection (a) of this section. Funds to support this activity shall also be the unexpended balance from the funds appropriated for BEACON/Data Integration Funds in Section 5.3(b) of S.L. 2007-323. The Office of the State Controller, with the support of the Office of State Budget and Management, shall identify and make all efforts to secure any matching funds or other resources to assist in funding this initiative.

**SECTION 6.16.(d)** 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 establish a Business Intelligence Competency Center (BICC), a collaborative organization comprised of both technical and business stakeholders, to support and manage the business need for analytics through the development of standards and best practices.
- (4) To engage a vendor to implement the Strategic Implementation Plan as required herein.
- (5) To conduct integration activities as approved by the BEACON Project Steering Committee. The State Chief Information Officer shall use current enterprise licensing to implement these integration activities.

**SECTION 6.16.(e)** Prior to the convening of the 2009 General Assembly, 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, 2008, and April 1, 2009, 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 6.16.(f)** Neither the implementation 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.

## **PART VII. PUBLIC SCHOOLS**

### **CHILDREN WITH DISABILITIES**

**SECTION 7.1.** The State Board of Education shall allocate funds for children with disabilities on the basis of three thousand three hundred eighty-six dollars and eighty-four cents (\$3,386.84) per child for a maximum of 172,079 children for the 2008-2009 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 2008-2009 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 7.2.** The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of one thousand one hundred thirty-seven dollars and nineteen cents (\$1,137.19) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2008-2009 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 59,063 children for the 2008-2009 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.

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

**SECTION 7.3.(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 2007-2008 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.

The State Board of Education shall limit the amount expended for this program to the average expenditure for this program over the last 11 years, which is ninety-four million three hundred twenty-five thousand six hundred twelve dollars (\$94,325,612).

**SECTION 7.3.(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, 2009, on any restructuring of the program pursuant to this section.

#### **NORTH CAROLINA VIRTUAL PUBLIC SCHOOL**

**SECTION 7.4.(a)** Section 7.20(d) of S.L. 2007-323 reads as rewritten:

**"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~~2009-2010 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.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by December 15, 2008, on its implementation of this section.

Funds appropriated for NCVPS shall not revert at the end of the 2007-2008 fiscal year but shall remain available for expenditure in the 2008-2009 fiscal year."

**SECTION 7.4.(b)** If the State Board of Education finds that it is appropriate to do so, the State Board may use funds appropriated for NCVPS to create up to 15 full-time positions to support the continued implementation of NCVPS.

**SECTION 7.4.(c)** Subsection (a) of this section becomes effective June 30, 2008.

#### **LEARN AND EARN ONLINE CARRYFORWARD**

**SECTION 7.5.(a)** Funds appropriated for Learn and Earn Online that are unexpended or unencumbered at the end of each fiscal year shall not revert, but shall remain available for expenditure.

**SECTION 7.5.(b)** This section becomes effective June 30, 2008.

#### **SCHOOL CONNECTIVITY INITIATIVE**

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

**SECTION 7.6.(b)** Of the funds allocated for the School Connectivity Initiative, the sum of two hundred fifty thousand dollars (\$250,000) may be used to sustain the Education E-Learning Portal.

**SECTION 7.6.(c)** Funds allocated to the School Connectivity Initiative shall carry forward to the next fiscal year until the project is fully implemented by June 30, 2010.

**SECTION 7.6.(d)** Subsection (c) of this section becomes effective June 30, 2008.

#### **ALLOTMENT FOR MENTORING SERVICES**

**SECTION 7.8.** The State Board of Education shall allot funds for mentoring services to local school administrative units based on the highest number of employees in the preceding three school years who (i) are paid with State, federal, or local funds and (ii) are either teachers paid on the first or second steps of the teacher salary schedule or instructional support personnel paid on the first step of the instructional support personnel salary schedule.

Local school administrative units shall use these funds to provide mentoring support to eligible employees in accordance with a plan approved by the State Board of Education. The plan shall include information on how all mentors in the local school administrative unit will be adequately trained to provide mentoring support.

#### **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

**SECTION 7.9.** Section 7.8(c) of S.L. 2007-323 reads as rewritten:

**"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~~; 19.9;
- (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~~; 1:19.4;
- (3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of ~~1:19.3~~; 1:19.1; 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."

#### **MODIFY LOW-WEALTH SCHOOL FUNDING FORMULA**

**SECTION 7.10.(a)** Local school administrative units shall receive the same amount of funds for the 2008-2009 fiscal year under the low-wealth supplemental formula that they received for the 2007-2008 fiscal year. This allotment shall be adjusted in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel enacted by the General Assembly for the 2007-2008 fiscal year.

**SECTION 7.10.(b)** The provisions of Section 7.6 of S.L. 2007-323 regarding the expenditure of funds shall apply to low-wealth funds received for the 2008-2009 fiscal year.

#### **ADDITIONAL LOTTERY FUNDS FOR SCHOOL BLDGS**

**SECTION 7.11.** Monies allocated to the Public School Building Capital Fund pursuant to Section 5.2(b) of this act shall be allocated as follows:

- (1) The sum of one hundred forty million dollars (\$140,000,000) shall be allocated pursuant to G.S. 115C-546.2(d);
- (2) The remainder shall be allocated on the basis of average daily membership to local school administrative units that did not qualify for funding for the 2008-2009 fiscal year pursuant to G.S. 115C-546.2(d)(2). The maximum allocation shall be the amount received by other units pursuant to G.S. 115C-546.2(d)(2) on the basis of per average daily membership.

#### **STUDY OF STUDENTS WITH DISABILITIES**

**SECTION 7.12.** The Department of Public Instruction shall analyze the participation of students with disabilities in Learn and Earn Early College High Schools, Redesigned High Schools, the North Carolina Virtual Public School, and North Carolina public high schools that are on block schedules. In conducting its analysis, the Department shall consider enrollment, graduation, and dropout rates for students with disabilities in these different programs. The Department shall report its findings and any recommendations to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Dropout Prevention and High School Graduation by March 15, 2009.

**FOCUSED ED. REFORM PROG. FUNDS DO NOT REVERT**

**SECTION 7.13.(a)** Funds appropriated for the Focused Education Reform Pilot Program that are unexpended and unencumbered at the end of each fiscal year shall not revert but shall remain available for expenditure for that purpose for the duration of the pilot program.

**SECTION 7.13.(b)** This section becomes effective June 30, 2008.

**REESTABLISH COMMITTEE ON DROPOUT PREVENTION**

**SECTION 7.14.(a)** Section 7.32(e) of S.L. 2007-323 reads as rewritten:

**"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.~~ The Committee shall terminate on December 31, 2010."

**SECTION 7.14.(b)** Committee. – The Committee on Dropout Prevention, as created in Section 7.32 of S.L. 2007-323, is reestablished to determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under this section, the amount of each grant, and eligible uses of the grant funding. When utilizing outside grant reviewers and raters, the Committee is encouraged to utilize individuals who represent public schools, universities, and community-based organizations.

The Committee shall continue to 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. The Department of Public Instruction shall contract with an independent consultant to serve as staff to the Committee, to provide technical assistance to the grant recipients for the length of the grant, and to assist the Committee in evaluating the impact of the grants awarded.

The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest. The Committee shall meet on the call of the cochairs provided that the Committee shall meet at least once every three months.

In the event of a vacancy on the Committee, the appointing authorities are encouraged to provide representation on the Committee from each of the eight educational districts as defined in G.S. 115C-65.

**SECTION 7.14.(c)** Dropout Prevention Grants. – The Committee shall select grant recipients as follows:

- (1) From applications received in the process outlined in Section 7.32(d) of S.L. 2007-323 and using the process for the review of grant applications in 2007, the Committee shall establish a new cutoff score and award grants to applicants that both meet the new cutoff score and did not previously receive funding under S.L. 2007-323. Priority for additional funding of grants awarded under S.L. 2007-323 shall be given to programs that would serve students in local schools that have a four-year cohort graduation rate of less than sixty-five percent (65%).

- (2) From the recipients of grants awarded under S.L. 2007-323, the Committee shall establish a process to award additional funds to those grantees.
- (3) Using the process outlined in Section 7.32(d) of S.L. 2007-323 consistent with subsection (d) of this section, the Committee may award grants to new applicants that did not apply for funding under that act.

**SECTION 7.14.(d)** Criteria for Dropout Prevention Grants. – The following criteria apply to all types of dropout prevention grants approved by the Committee:

- (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 and throughout the eight educational districts as defined in G.S. 115C-65. No more than three grants shall be awarded in any one county under this section in a single fiscal year.
- (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 section shall be based on best practices for helping at-risk students achieve successful academic progress, 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.
- (11) Priority for grants shall be given to programs that would serve students in local schools that have a four-year cohort graduation rate of less than sixty-five percent (65%) and that are from counties that did not receive funding under S.L. 2007-323. The Committee shall establish a grant rating cutoff score at such a level as to allow for consideration of all viable grants in this priority category. The Committee may require grantees to provide supplemental information in response to any prior reviewer comments.
- (12) The demonstrated need for a grant, level of collaboration, ability to increase attendance, persistence, academic success, ability to increase parental involvement, and graduation shall be given more weight than the quality of the written grant.

(13) Grants shall be made no later than November 1, 2008.

The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation and the Joint Legislative Education Oversight Committee on the grants awarded under this section by March 1, 2009.

**SECTION 7.14.(e)** Evaluation. – The Committee shall evaluate the impact of the dropout prevention grants awarded under S.L. 2007-323 and under this section. In evaluating the impact of the grants, the Committee shall consider:

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

The recipients of the dropout prevention grants awarded under S.L. 2007-323 shall report to the Committee on Dropout Prevention by January 31, 2009, and by September 30, 2009. The reports shall provide information to assist the Committee in conducting its evaluation. The reports shall include a statement that the recipients used grant funds for the purposes appropriated by the General Assembly and complied with applicable laws, regulations, and terms and conditions of the grant documents. The Committee shall make an interim report of the results of its evaluation of the grants awarded under S.L. 2007-323 by March 31, 2009, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall make a final report of the results of its evaluation of the grants awarded under S.L. 2007-323 by November 15, 2009, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee.

The recipients of the dropout prevention grants awarded under this section shall report to the Committee on Dropout Prevention by January 31, 2010, and by September 30, 2010. The reports shall provide information to assist the Committee in conducting its evaluation. The reports shall include a statement that the recipients used grant funds for the purposes appropriated by the General Assembly and complied with applicable laws, regulations, and terms and conditions of the grant documents. The Committee shall make an interim report of the results of its evaluation of the grants awarded under this section by March 31, 2010, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall make a final report of the results of its evaluation of the grants awarded under subsection (c) of this section by November 15, 2010, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee.

**SECTION 7.14.(f)** Dropout Prevention Network. – In addition to its other duties, the Joint Legislative Commission on Dropout Prevention and High School Graduation, established under Section 7.32 of S.L. 2007-323, shall study the development of an effective network for the purpose of sharing best practices among the

grant recipients, the public schools, and other interested organizations. The Commission shall consider interactive Web sites, electronic information sharing, professional development opportunities, conferences, and other means that it believes would be effective. The Commission may consult with the Department of Public Instruction and the Committee on Dropout Prevention. The Commission shall report its findings and any recommendations to the 2009 General Assembly.

**SECTION 7.14.(g)** Of the funds appropriated in this act for the Committee on Dropout Prevention, the sum of five million five hundred thousand dollars (\$5,500,000) for the 2008-2009 fiscal year shall be used to award grants to applicants that did not previously receive funding under S.L. 2007-323. The remainder shall be used to award new grants, as well as additional grants to previous grant recipients, in accordance with subsection (b) of this section.

**SECTION 7.14.(h)** Funds appropriated for the dropout prevention grants for the 2007-2008 fiscal year shall not revert but shall remain available for expenditure until August 31, 2009. Funds appropriated for the 2008-2009 fiscal year shall not revert but shall remain available for expenditure until August 31, 2010.

**SECTION 7.14.(i)** Of the funds appropriated for the dropout prevention grants, the sum of one hundred thousand dollars (\$100,000) for the 2008-2009 fiscal year may be used to issue a request for proposals from qualified vendors on a competitive basis to contract as a consultant to assist with the evaluation. The factors to be considered in awarding the contract shall be identified in the request for proposals.

**SECTION 7.14.(j)** Of the funds appropriated for the dropout prevention grants, the Department of Public Instruction may use up to fifty thousand dollars (\$50,000) for its administrative assistance to the Committee and provide technical assistance under this section.

**SECTION 7.14.(k)** Subsection (h) of this section becomes effective June 30, 2008.

## **DROPOUT PREVENTION TECHNICAL CORRECTION**

**SECTION 7.14A.** Section 7.32(c) of S.L. 2007-323 reads as rewritten:

**"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 General Assembly upon the recommendation of 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 General Assembly upon the recommendation of 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."



## **USE OF LEARN AND EARN ONLINE FOR HYBRID COURSES**

**SECTION 7.15.** Local school administrative units may use funds appropriated for Learn and Earn Online for college-level courses taught by university instructors at public schools. Instruction for these courses shall be partially delivered online. Payments related to the textbooks and the prorated cost of the instructor shall be paid to the university supplying the instruction.

The State Board of Education shall adopt policies to establish guidelines and reimbursement procedures.

## **COMPREHENSIVE SUPPORT FOR SCHOOL SYSTEMS AND SCHOOLS**

**SECTION 7.16.** If a local school administrative unit is designated by the State Board of Education as a targeted school district for comprehensive support, the State Board may:

- (1) Authorize additional flexibility with regard to State allotments to allow the State Board's assigned support team and the local school administrative unit's leadership to redirect State funding to address the identified reform requirements. This additional flexibility shall not increase overall State funding available to the unit.
- (2) Use funds already appropriated to the State Board of Education to allocate time-limited funds to implement strategies identified by the State Board's assigned support team and the school unit's leadership. The State Board shall adopt policies regarding (i) the strategies for which these time-limited funds may be used and (ii) the maximum time a unit may receive these funds. This funding shall not be allotted for more than one fiscal year. This funding is intended to allow the implementation of necessary reform initiatives while the unit obtains local funding or identifies other State or federal funding to cover the initiatives.

## **MORE AT FOUR PROGRAM**

**SECTION 7.17.(a)** Section 7.24(f) of S.L. 2007-323 reads as rewritten:

**"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, ~~year~~ or the 2008-2009 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."

**SECTION 7.17.(b)** The Office of School Readiness shall develop a plan to tier the local More at Four slots that are in child care facilities, based on child care subsidy market rates. The Office of School Readiness shall report the plan to the House of Representatives Appropriations Subcommittee on Education, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Education Oversight Committee, and the Fiscal Research Division by January 1, 2009.

**SECTION 7.17.(c)** Section 7.24.(a)(11) of S.L. 2007-323 reads as rewritten:

**"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:

- (11) A system of ~~accountability~~ accountability to include a yearly review. The Department shall contract with an independent research organization to produce an annual report to include longitudinal review of the program and academic, behavioral, and other child-specific outcomes. The review shall include a quasi experimental research design of a representative sample of children who complete the More at Four program every year and shall report on their sustained progress until the end of grade 9. The review shall also study a representative sample of children who do not enter the More at Four program but who are of the same grade level and demographic as those who complete the program and their sustained progress shall also be reviewed until the end of grade 9. The review shall be presented to the Joint Legislative Oversight Committee on Education by January 31 of every year."

#### **PLANT OPERATION FUNDING**

**SECTION 7.18.(a)** G.S. 115C-546.2(a) reads as rewritten:

"(a) ~~Monies~~ Of the monies credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b), the State Board of Education may allocate up to one million dollars (\$1,000,000) each year to the Department of Public Instruction. These funds shall be used by the Plant Operation Section of the School Support Division to assist each local school administrative unit with effective energy and environmental management, effective water management, hazardous material management, clean air quality, and engineering support for safe, effective environmental practices. The remainder of the monies in the Fund shall be allocated to the counties on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education. Interest earned on funds allocated to each county shall be allocated to that county."

**SECTION 7.18.(b)** The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by April 15 of each year on the effectiveness of the program in accomplishing its purpose and on any other information requested by the Committee.

#### **REPORT ON THE USE OF FUNDS FOR AGRICULTURAL EDUCATION PROGRAMS**

**SECTION 7.19.** The State Board of Education shall report on its use of federal funds which support career and technical education to the Joint Legislative Education Oversight Committee prior to the convening of the 2009 General Assembly.

#### **ALLOTMENTS OF TEACHERS FOR SMALL SCHOOLS**

**SECTION 7.20.** The State Board of Education shall modify its policy on the allotment of funds for small schools by:

- (1) Defining small schools to include schools of fewer than 110 students; and
- (2) Giving consideration to small, geographically isolated schools over other qualifying programs and schools.

#### **MATH AND SCIENCE TEACHERS PILOT PROGRAM MODIFIED**

**SECTION 7.21.** The pilot program providing for salary supplements for newly hired mathematics or science teachers is modified to permit both highly qualified and newly hired teachers in the pilot units to qualify to receive salary supplements.

#### **INCREASES IN STUDENT POPULATION DUE TO BRAC ACTIVITY**

**SECTION 7.23.** If a local school administrative unit employs more classroom teachers than are allotted to it due to a projected increase in student population resulting from BRAC activity, the State Board shall allot additional teachers to the unit based on the greater of (i) the local school administrative unit's first month average daily membership (ADM) or (ii) fifty percent (50%) of the projected increase in ADM resulting from BRAC activity that is in excess of the increase anticipated in the allotted ADM.

The Department of Public Instruction shall notify each impacted local school administrative unit as to the BRAC population increase in excess of allotted average daily membership on or before the distribution of the initial allotments.

Section 7.15(b) of S.L. 2007-323 does not apply to local school administrative units receiving an additional allotment of teachers pursuant to this section.

#### **REPORT ON USE OF TEACHER ACADEMY FUNDS**

**SECTION 7.24.** The North Carolina Teacher Academy shall report on the use of funds for literacy coach training to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management by March 15, 2009. The report shall include (i) actual expenditures by line item for the 2007-2008 fiscal year and for the first two quarters of the 2008-2009 fiscal year, (ii) total budgeted requirements by line item for both fiscal years, and (iii) activities supported by these funds.

#### **CHILD NUTRITION**

**SECTION 7.25.(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 ~~2008-2009~~ 2009-2010 school year, followed by middle schools and then high schools."

**SECTION 7.25.(b)** Local school administrative units 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 2008-2009 school year.

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

#### **REORGANIZATION OF THE NORTH CAROLINA COMMUNITY COLLEGES SYSTEM OFFICE**

**SECTION 8.1.(a)** Notwithstanding any other provision of law, and consistent with the authority established in G.S. 115D-3, the President of the North Carolina Community College System may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges.

**SECTION 8.1.(b)** This section expires June 30, 2009.

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

**SECTION 8.2.(a)** Funds appropriated in this act to the Community Colleges System Office for the College Information System shall not revert at the end of the 2008-2009 fiscal year but shall remain available until expended. These funds may only be used to purchase periodic system upgrades.

**SECTION 8.2.(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 and in consultation with the Office of Information Technology Services, use funds appropriated in this act for the College Information System to create a maximum of three positions. Personnel positions created pursuant to this subsection shall be dedicated to maintaining and administering information technology and software upgrades to the College Information System.

**SECTION 8.2.(c)** The Community Colleges System Office shall report by January 1, 2009, to the Joint Legislative Education Oversight Committee on the transition from the implementation phase to the ongoing operations and maintenance phase of the College Information System Project.

## **REPORT ON EFFECT OF ADDITIONAL ALLIED HEALTH FUNDING**

**SECTION 8.3.** The Community Colleges System Office shall report by March 1, 2009, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management regarding the impact of the additional funding received for nursing and allied health programs during the 2006-2007, 2007-2008, and 2008-2009 fiscal years. This report shall include, at a minimum:

- (1) The number of FTE students enrolled in these programs;
- (2) The number of qualified applicants who were not admitted due to program capacity constraints;
- (3) The performance of students on nursing licensure exams; and
- (4) The average salary for allied health faculty by education level.

## **REPORT ON COST OF ALL PROGRAMS**

**SECTION 8.4.** The Community Colleges System Office shall report by May 15, 2009, to the Fiscal Research Division and the Office of State Budget and Management regarding the instructional cost of all curriculum and non-curriculum programs. This report shall include an explanation of the differences in costs between programs, including faculty salaries and equipment costs.

## **MINORITY MALE MENTORING PROGRAM FUNDS**

**SECTION 8.5.(a)** Funds appropriated for the Minority Male Mentoring Program shall not revert at the end of the fiscal year, but shall remain available until expended. Of the funds carried forward, up to one hundred thousand dollars (\$100,000) may be used by the State Board of Community Colleges to recruit minority male students to community colleges, market the thirty-two pilot programs statewide, and contract for summer enrichment programs for program participants.

**SECTION 8.5.(b)** This section becomes effective June 30, 2008.

## **LEARN AND EARN ONLINE FUNDS**

**SECTION 8.6.(a)** Funds reimbursed to the Community College System for full-time equivalent (FTE) students participating in learn and earn online courses shall not revert at the end of a fiscal year, but shall remain available for expenditure up to 12 months after the close of a fiscal year.

**SECTION 8.6.(b)** This section becomes effective June 30, 2008.

## **CONSOLIDATE WORKFORCE DEVELOPMENT PROGRAMS**

**SECTION 8.7.(a)** G.S. 115D-5.1 reads as rewritten:

**"§ 115D-5.1. Workforce Development Programs.**

(a) Community colleges shall assist in the preemployment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. Such training shall include instruction on worker safety and health standards and practices applicable to the field of employment. The State Board of Community Colleges shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which the instructor or other employee is employed for instructional or educational purposes.

~~(b) The North Carolina Community College System's New and Expanding Industry Training (NEIT) Program Guidelines, which were adopted by the State Board of Community Colleges on April 18, 1997, apply to all funds appropriated for the Program after June 30, 1997. A project approved as an exception under these Guidelines, or these Guidelines as modified by the State Board of Community Colleges, shall be approved for one year only.~~

~~(b1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the New and Expanding Industry Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces.~~

~~(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on September 1 of each year on expenditures for the New and Expanding Industry Training Program each fiscal year. The report shall include, for each company or individual that receives funds for the New and Expanding Industry Training Program:~~

- ~~(1) The total amount of funds received by the company or individual;~~
- ~~(2) The amount of funds per trainee received by the company or individual;~~
- ~~(3) The amount of funds received per trainee by the community college training the trainee;~~
- ~~(4) The number of trainees trained by company and by community college; and~~
- ~~(5) The number of years the companies or individuals have been funded.~~

~~(d) Funds available to the New and Expanding Industry Training Program shall not revert at the end of a fiscal year but shall remain available until expended.~~

(e) There is created within the North Carolina Community College System the Customized Industry Training (CIT) Program. The CIT Customized Training Program shall offer programs and training services as new options for assisting to assist new and existing business and industry to remain productive, profitable, and within the State. Before a business or industry qualifies to receive assistance under the CIT Customized Training Program, the President of the North Carolina Community College System shall determine that:

- (1) The business is making an appreciable capital investment;
- (2) The business is deploying new technology; and
- (2a) The business or individual is creating jobs, expanding an existing workforce, or enhancing the productivity and profitability of the operations within the State; and
- (3) The skills of the workers will be enhanced by the assistance.

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

- (1) The total amount of funds received by a company under the CIT Program;

- (2) The amount of funds per trainee received by that company;
- (3) The amount of funds received per trainee by the community college delivering the training;
- (4) The number of trainees trained by the company and community college; and
- (5) The number of years that company has been funded.

(f1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the Customized Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces.

(f2) Funds available to the Customized Training Program shall not revert at the end of a fiscal year but shall remain available until expended. Up to ten percent (10%) of the college-delivered training expenditures and up to five percent (5%) of the contractor-delivered training expenditures for the prior fiscal year for Customized Training may be allotted to each college for capacity building at that college.

(f3) Of the funds appropriated in a fiscal year for the Customized Training Programs, the State Board of Community Colleges may approve the use of up to eight percent (8%) for the training and support of regional community college personnel to deliver Customized Industry Training Program services to business and industry.

(g) The State Board shall adopt rules and policies to implement this section."

**SECTION 8.7.(b)** The State Board of Community Colleges shall transfer funds appropriated for the New and Expanding Industry Training Program and the Focused Industrial Training Program to the Customized Industry Training Programs appropriation. This transfer shall be completed by September 1, 2008.

## **BASIC SKILLS BLOCK GRANT**

**SECTION 8.8.** The Community Colleges System Office shall develop a new formula for the Basic Skills Block Grant for consideration during the 2009 Session of the General Assembly. The revised formula shall incorporate the following changes:

- (1) Federal funds shall be distributed to both community-based organizations and community colleges using the same process and shall only be awarded to programs that meet minimum standards; and
- (2) A larger amount of funding shall be distributed on the basis of performance using revised criteria.
- (3) The formula shall not include funding for members of target populations who do not receive basic skills services.

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

**SECTION 8.9.(a)** Notwithstanding any other provision of law, four million five hundred thousand dollars (\$4,500,000) of the cash balance remaining in the North Carolina Community College System Information Technology CIS Fund (Budget Code 26802, Fund 2201) on July 1, 2008, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support the General Fund appropriations for the 2008-2009 fiscal year for expansion funding for the North Carolina Community College System.

**SECTION 8.9.(b)** Notwithstanding any other provision of law, seven hundred eighty-three thousand two hundred forty-six dollars (\$783,246) of the cash balance remaining in the Focused Industrial Training (FIT) programs (Budget Code 16800, Fund 1603) on July 1, 2008, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support the General Fund appropriations for the 2008-2009 fiscal year for expansion funding for the North Carolina Community College System.

## **FUNDS FOR CAMPUS SECURITY**

**SECTION 8.10.** Notwithstanding G.S. 115D-32 or any other provision of law, a community college may use up to two percent (2%) of the noninstructional State funds allocated to it in the institutional support allotment for the 2008-2009 fiscal year for campus security. This may include the hiring of personnel, contracted professional services, surveillance cameras, call boxes, alert systems, and other equipment-related expenditures.

These funds shall be used to supplement and shall not be used to supplant existing local funding for campus security.

#### **CLARIFY USE OF FEES COLLECTED FOR GED TESTING**

**SECTION 8.11.** G.S. 115D-5 is amended by adding a new subsection to read:

"(s) The State Board of Community Colleges may retain and budget fees charged to students taking the General Education Development (GED) test. Fees collected for this purpose shall be used only to (i) offset the costs of the GED test, including the cost of scoring the test, (ii) offset the course of printing GED certificates, and (iii) meet federal and State reporting requirements related to the test."

#### **CARRYFORWARD OF NORTH CAROLINA RESEARCH CAMPUS BIOTECHNOLOGY TRAINING FUNDS**

**SECTION 8.12.(a)** Funds appropriated in S.L. 2006-66 and S.L. 2007-323 for the Rowan-Cabarrus Community College Biotechnology Training Center and Greenhouse at the North Carolina Research Campus in Kannapolis shall not revert, but shall remain available until expended.

**SECTION 8.12.(b)** This section becomes effective June 30, 2008.

#### **USE OF BASIC SKILLS FUNDS**

**SECTION 8.13.** Notwithstanding any other provision of law, a local community college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board of Community Colleges to procure instructional technology for literacy labs. This technology may include computers, instructional software and software licenses, scanners for testing, and classroom projection equipment.

#### **SURRY COMMUNITY COLLEGE VITICULTURE & ENOLOGY CENTER FUNDS**

**SECTION 8.14.(a)** Funds appropriated for the 2007-2008 fiscal year to the Community Colleges System Office for the operations of the North Carolina Viticulture and Enology Center located at Surry Community College shall not revert at the end of the fiscal year. Surry Community College may use these funds for capital construction for the Center.

**SECTION 8.14.(b)** This section becomes effective June 30, 2008.

#### **STUDY OF CHANGES NECESSARY TO IMPROVE FINANCIAL AID TO COMMUNITY COLLEGE STUDENTS**

**SECTION 8.15.** The Joint Legislative Education Oversight Committee shall study the changes necessary to improve financial aid for community college students. Specifically the study shall include recommendations on how to better serve nontraditional students and how to increase the number of community colleges that participate in federal student loan programs.

#### **USE OF HOSIERY CENTER FUNDS.**

**SECTION 8.16.** Funds appropriated to the Community Colleges System Office for the Hosiery Technology Center at Catawba Valley Community College may be expended for the Center for Emerging Manufacturing Solutions (CEMS), which was

established by Catawba Valley Community College in February 2008. The Hosiery Technology Center is now a division with the CEMS.

## **NO FEES FOR FIRST AID COURSES TAKEN BY SCHOOL EMPLOYEES**

**SECTION 8.17.** G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development Programs, juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates, ~~and~~ members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes-Statutes, and elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR). Provided further, tuition shall be waived for senior citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this section."

## **STUDENTS IN THE GATEWAY TO COLLEGE PROGRAM MAY ENROLL IN DEVELOPMENTAL COURSES**

**SECTION 8.18.** G.S. 115D-5 is amended by adding a new subsection to read:

"(t) The purpose of the first semester of the Gateway to College Program is to address additional support to successfully complete the program. Students may need to take developmental courses necessary for the transition to more challenging courses; therefore, the State Board of Community Colleges shall (i) permit high school students who are enrolled in Gateway to College Programs to enroll in developmental courses based on an assessment of their individual student needs by a high school and community college staff team and (ii) include this coursework in computing the budget FTE for the colleges."

## **USE OF FUNDS FOR ISOTHERMAL COMMUNITY COLLEGE**



**SECTION 8.19.(a)** Funds appropriated by the 2005 General Assembly as a grant-in-aid for Isothermal Community College for a capital project shall remain available to the college and may be used for another capital project at the college.

**SECTION 8.19.(b)** This section becomes effective June 30, 2008.

## **PART IX. UNIVERSITIES**

### **ELIMINATE COACHING SCHOLARSHIP LOAN PROGRAM/TRANSFER FUND BALANCE TO GENERAL FUND**

**SECTION 9.1.(a)** G.S. 116-209.36 is repealed.

**SECTION 9.1.(b)** All financial obligations to any student awarded a scholarship loan from the Coaching Scholarship Loan Fund before July 1, 2008, shall be fulfilled provided the student remains eligible under the provisions of the Coaching Scholarship Loan Fund. All contractual agreements between a student awarded a scholarship loan from the Coaching Scholarship Loan Fund before July 1, 2008, and the State Education Assistance Authority remain enforceable and the provisions of G.S. 116-209.36 that would be applicable but for this section shall remain applicable with regard to any scholarship loan awarded before July 1, 2008.

**SECTION 9.1.(c)** Effective June 30, 2008, the unencumbered balance of funds in the Coaching Scholarship Loan Fund shall revert to the General Fund.

### **PRIVATE COLLEGE STUDENT ELIGIBILITY FOR EARN SCHOLARSHIP/USE OF ESCHEAT FUNDS FOR CERTAIN EARN SCHOLARSHIPS**

**SECTION 9.2.(a)** G.S. 116-209.26(a) reads as rewritten:

"(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~~ is any of the following:
  - 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)~~. G.S. 115D-2(2); or
  - c. An institution as defined in G.S. 116-22(1).
- (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."

**SECTION 9.2.(b)** G.S. 116-209.26 is amended by adding a new subsection

to read:

"(h) No funds appropriated from the Escheat Fund to the Education Access Rewards North Carolina Scholars Fund shall be used for a grant awarded under this section to a student who is an undergraduate student at an institution as defined in G.S. 116-22(1); however, funds appropriated from the General Fund to the Education Access Rewards North Carolina Scholars Fund may be used for a grant awarded under this section to a student who is an undergraduate student at an institution as defined in G.S. 116-22(1)."

**SECTION 9.2.(c)** Section 9.7(b) of S.L. 2007-323 reads as rewritten:

**"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.~~ year. Of the

funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2008-2009 fiscal year the sum of sixteen million two hundred twenty-five thousand dollars (\$16,225,000) shall be allocated to the Education Access Rewards North Carolina Scholars Fund (EARN)."

**SECTION 9.2.(d)** Section 9.7(c) of S.L. 2007-323 reads as rewritten:

**"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)~~ sixty million dollars (\$60,000,000) 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 9.2.(e)** Subsections (a) and (b) of this section apply only for academic years beginning on or after July 1, 2008.

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

**SECTION 9.3.(a)** Of the funds appropriated by this act for the 2008-2009 fiscal year to the Board of Governors of The University of North Carolina to be used for the North Carolina Historically Minority Colleges and Universities initiative for "Closing the Achievement Gap," North Carolina Central University may use up to fifteen percent (15%) of the funds to cover the costs for administering the grants and shall award at least eighty-five percent (85%) of the funds as grants to participating public and private institutions of higher education identified as historically minority colleges and universities. These funds shall be used for the public purposes of developing and implementing after-school programs designed to close the academic achievement gap and improving the academic performance of youth at risk of academic failure and school dropout. A grant recipient under this section may also allocate the grant funds to a community-based organization that is located in close proximity to the grant recipient for the public purposes stated in this section.

**SECTION 9.3.(b)** North Carolina Central University shall report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division by April 1, 2009, regarding the number of grants awarded, the recipients of the grants, the amount of the grant awarded, the programs and purposes for which the grant was awarded, the cost of administering the grant, and any other information requested by the Committee or Fiscal Research Division. The grants awarded pursuant to this section shall also include as a term of the grant that the recipient of the grant report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division regarding the amount of the grant received, the program and purposes for which the grant was requested, the methodology used to implement the grant program and purposes, the results of the program funded by the grant, and any other information requested by the Joint Legislative Education Oversight Committee and the Fiscal Research Division.

### **OPTIONAL SCHOLARSHIP FOR CERTAIN GRADUATES OF THE PRINCIPAL FELLOWS PROGRAM**

**SECTION 9.4.(a)** The North Carolina Principal Fellows Commission in collaboration with the State Education Assistance Authority shall make available an optional six-month scholarship in the amount of twenty thousand dollars (\$20,000) to any person who was a recipient of a scholarship loan through the Principal Fellows Program and who: (i) was in Class 10 of the Principal Fellows Program for the 2003-2004 academic year, (ii) completed the Principal Fellows Program, and (iii) has either served as a school administrator for four years at a North Carolina public school or at a school operated by the United States as required by G.S. 116-74.43, or who has had the loan forgiven by the State Education Assistance Authority pursuant to G.S. 116-74.43. A person may be eligible for the optional six-month scholarship only after fulfilling all contractual obligations agreed to by the person upon receipt of the original scholarship loan awarded to the person under G.S. 116-74.42. Exclusive of any

deferment for extenuating circumstances, a person remains eligible for the optional six-month scholarship for two years after the six-year period of time allowed the person to satisfy the original scholarship loan requirements under G.S. 116-74.43. Should a person present extenuating circumstances, the State Education Assistance Authority may extend the period of time for which a person remains eligible for the optional six-month scholarship for a reasonable time period.

**SECTION 9.4.(b)** The Principal Fellows Commission shall develop the criteria for awarding the scholarship. In developing the criteria, the Commission shall require that the person agree to work at least another six months as a school administrator in a North Carolina public school or at a school operated by the United States after satisfying the four-year work requirement set out in G.S. 116-74.43. The Commission, in collaboration with the State Education Assistance Authority, shall develop a process for evaluating a scholarship recipient's work performance and for issuing a final approval and certification of the work performance. The Commission shall transfer to the State Education Assistance Authority the name of each recipient that it certifies as successfully completing the optional scholarship program. The State Education Assistance Authority shall pay the twenty thousand dollar (\$20,000) stipend to the scholarship recipient within a reasonable time of receiving notification from the Commission that the recipient has successfully completed the optional scholarship program. The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this act, including rule making.

**SECTION 9.4.(c)** Effective June 30, 2008, the sum of one million dollars (\$1,000,000) shall revert from the Principal Fellows Trust Fund to the General Fund. The sum of one million seven hundred forty thousand dollars (\$1,740,000) in the Principal Fellows Trust Fund shall be held in reserve to pay each participant in the optional scholarship program the stipend of twenty thousand dollars (\$20,000) upon successful completion of the optional scholarship program.

## **REPORTING ON UNC FACULTY WORKLOAD**

**SECTION 9.6.(a)** The Board of Governors shall conduct a study on faculty workload. The study shall be done using the Delaware Study Method of collecting data. Information in the report shall include, but is not to be limited to:

- (1) Faculty workload data for each UNC constituent institution compared to the UNC enrollment model.
- (2) UNC faculty workload average as compared to the UNC enrollment model student credit hours per instructional position.
- (3) Faculty workload of regional and peer institutions as compared to each UNC constituent institution faculty average and to the UNC faculty workload average.

**SECTION 9.6.(b)** The UNC Board of Governors shall submit the study to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than August 1, 2008.

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

**SECTION 9.7.(a)** Funds appropriated in this act to The University of North Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2 E-Learning Initiative shall be used to fund further development of online courses for 2+2 programs. Based on a mutually agreed upon decision by the State Board of Education Chairman, the President of the Community Colleges, and the President of The University of North Carolina as to the areas of greatest need, to include mathematics and science teacher licensure fields, these funds are available to support joint technology development, systems to track student progress, and articulation between a North Carolina community college and a UNC constituent institution and develop technology needed to support online courses and 2+2 programs.

**SECTION 9.7.(b)** The University of North Carolina and the North Carolina Community College System shall use these funds first to develop online teacher education programs, including baccalaureate and associate pre-major programs.

**SECTION 9.7.(c)** The University of North Carolina and Community Colleges System Office shall report by September 1, 2008, and annually thereafter, to the Joint Legislative Education Oversight Commission, the State Board of Education, the Office of State Budget and Management, and the Fiscal Research Division of the General Assembly on the implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report shall include:

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

**UNC ENROLLMENT GROWTH REQUEST TO CONTAIN PREVIOUS ACADEMIC YEAR'S ACTUAL STUDENT CREDIT HOURS (SCH) AND FULL TIME EQUIVALENCIES (FTE)**

**SECTION 9.8.** G.S. 116-11(9) reads as rewritten:

"(9) a. The Board of Governors shall develop, prepare and present to the Governor and the General Assembly a single, unified recommended budget for all of the constituent institutions of The University of North Carolina. The recommendations shall consist of requests in three general categories: (i) funds for the continuing operation of each constituent institution, (ii) funds for salary increases for employees exempt from the State Personnel Act and (iii) funds requested without reference to constituent institutions, itemized as to priority and covering such areas as new programs and activities, expansions of programs and activities, increases in enrollments, increases to accommodate internal shifts and categories of persons served, capital improvements, improvements in levels of operation and increases to remedy deficiencies, as well as other areas. The president may present to the General Assembly an updated estimate of tuition, fees, and other receipts by June 15 of each year to be included in the budget for the following fiscal year.

a1. The Board of Governors shall provide full documentation and justification of any enrollment change funding request at the time it is recommended. This documentation and justification shall include the most recent academic year's actual enrollment numbers in the same format in which the growth increase request is made. The actual enrollment numbers shall be the

actual student credit hours (SCH) or full-time equivalencies (FTE).

- b. Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel Act shall be appropriated to the Board in a lump sum for allocation to the institutions. Funds for the third category in paragraph a of this subdivision shall be appropriated to the Board in a lump sum for allocation to the institutions. The Board shall make allocations among the institutions in accordance with the Board's schedule of priorities and any specifications in the Current Operations Appropriations Act. When both the Board and the Director of the Budget deem it to be in the best interest of the State, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list. Provided, nothing herein shall be construed to allow the General Assembly, except as to capital improvements, to refer to particular constituent institutions in any specifications as to priorities in the third category.
- c. The Director of the Budget may, on recommendation of the Board, authorize transfer of appropriated funds from one institution to another to provide adjustments for over or under enrollment or may make any other adjustments among institutions that would provide for the orderly and efficient operation of the institutions.
- d. Repealed by Session Laws 1987, c. 795, s. 27."

**REVERT THE 2007-2008 APPROPRIATION FOR THE EDUCATION ACCESS REWARDS NORTH CAROLINA (EARN) SCHOLARS FUND**

**SECTION 9.9.** Effective June 30, 2008, the unencumbered balance of the funds appropriated in 2007-2008 to The University of North Carolina Board of Governors and the State Education Assistance Authority in Section 9.7 of S.L. 2007-323 shall revert to the General Fund. The amount reverted shall be no less than twenty-seven million six hundred five thousand two hundred ten dollars (\$27,605,210).

**HIGHER EDUCATION STUDIES/DISTANCE EDUCATION AND UNC ENROLLMENT GROWTH FUNDING FORMULAS**

**SECTION 9.10.(a)** The Joint Legislative Program Evaluation Oversight Committee shall include in the 2009-2010 Work Plan for the Program Evaluation Division of the General Assembly a study of the start-up and ongoing cost of distance education and compare it with the start-up and ongoing cost of on-campus education. The Program Evaluation Division shall submit the study to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

**SECTION 9.10.(b)** The Joint Legislative Program Evaluation Oversight Committee shall include in the 2009-2010 Work Plan for the Program Evaluation Division of the General Assembly a comprehensive review of the full-time equivalencies (FTE) and student credit hours (SCH) enrollment growth funding formulas used by The University of North Carolina. In its study, the Program Evaluation Division shall consider and evaluate all of the following:

- (1) The assumptions contained within each element of the funding formulas.

- (2) Benchmark information related to specific elements within the formulas.
- (3) How a formula based on full-time equivalencies (FTE) compares with a formula based on Student Credit Hours (SCH).
- (4) The types of formulas used by other states to fund university systems; how those states use those formulas; the success of the formulas with regard to indicating future financial needs, providing equitable funding to different institutions within the system based on the size, mission, and growth of each institution; and the types of support programs, if any, addressed by the formulas.
- (5) The objectives that the formulas are designed to meet and whether those accurately reflect the goals of The University of North Carolina System.
- (6) How the current formulas should be modified, if at all, to more accurately predict The University of North Carolina System's future financial needs or whether different types of formulas would be more helpful.

The Program Evaluation Division shall submit the study to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

## **LEGISLATIVE TUITION GRANT/REDEFINE PART-TIME STUDENT**

**SECTION 9.11.(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 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 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-six~~ 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 to take at least ~~nine-six~~ 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. – 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-six~~ 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 9.11.(b)** This section applies to academic semesters beginning on or after July 1, 2008.

## **UNIVERSITY OF NORTH CAROLINA TO STUDY COASTAL SOUNDS WIND ENERGY**

**SECTION 9.12.** The University of North Carolina shall study the feasibility of establishing wind turbines in the Pamlico and Albemarle Sounds. The study shall include an analysis of energy production potential (including the resulting benefits due to a reduction in dependence on fossil fuel combustion for generation of electricity), siting, ecological impacts, and statutory or regulatory barriers to construction and operation of one or more wind turbines and associated support and interconnection facilities in the coastal sounds. The study shall also consider the feasibility and potential synergistic benefits of co-siting wind turbines and artificial oyster reefs.

The Board of Governors shall use available funds from its budget in conducting this study and may apply for, receive, or accept grants and contributions from any source for the purposes of conducting the study. The Board of Governors shall report the results of this study to the House Committee on Energy and Energy Efficiency and the Senate Committee on Agriculture/Environment/Natural Resources by July 1, 2009.

## **AGRICULTURE RESEARCH STATIONS**

**SECTION 9.13.** The Dean of the College of Agriculture and Life Sciences at North Carolina State University, the Dean of the School of Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State University, and the Commissioner of Agriculture shall jointly study and develop a comprehensive strategic plan for the management of both: (i) the agriculture research stations that are currently jointly managed by North Carolina State University and the Department of Agriculture and Consumer Services, and (ii) the university research farm managed by North Carolina Agricultural and Technical State University. The plan shall identify ways to improve the efficiency and effectiveness of the research stations and university research farm. The plan shall be submitted to the Chairs of the House Agriculture Committee, the Senate Agriculture, Environment, and Natural Resources Committee, and the House and Senate Appropriations Subcommittees on Natural and Economic Resources no later than May 1, 2009.

#### **STUDY OF STRUCTURE AND ORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION**

**SECTION 9.14.** The Joint Legislative Program Evaluation Oversight Committee shall include in the 2008-2009 Work Plan for the Program Evaluation Division of the General Assembly a review and study of the structure and organization of the Department of Public Instruction and the State Board of Education. The Program Evaluation Division shall submit the study to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Education Oversight Committee, the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division by December 31, 2008.

#### **BIENNIAL PROJECTION OF UNC ENROLLMENT GROWTH**

**SECTION 9.15.** Part 2A of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

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

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

#### **UNIVERSITY OF NORTH CAROLINA AND DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY PLASTICS USE**

**SECTION 9.17.** The University of North Carolina, in collaboration with the Division of Waste Management of the Department of Environment and Natural Resources shall study the current state, usage, and recycling of plastics (including, but not limited to, beverage bottles and plastic bags) in North Carolina. The study shall include an analysis of the following:

- (1) The impact of plastics on the environment and particularly on solid waste management in the State;



- (2) The current prevalence and utilization of recycling in the State's plastics waste stream;
- (3) The technical and regulatory barriers to increased recycling of plastics waste streams;
- (4) The current and potential benefits to the State's economy from enhancements in plastics recycling; and
- (5) The potential for substitution of biodegradable plastics and plastics manufactured from renewable materials for plastics manufactured from fossil fuels.

The study shall also include recommendations regarding potential policy or statutory changes necessary to encourage plastics recycling, as well as areas or issues where further research is needed.

The Board of Governors of The University of North Carolina and the Secretary of the Department of Environment and Natural Resources shall use available funds from their budgets in conducting this study and may apply for, receive, or accept grants and contributions from any source for the purposes of conducting the study. The Board of Governors and the Secretary shall report the results of this study to the House of Representatives Committee on Energy and Energy Efficiency and the Senate Committee on Agriculture/Environment/Natural Resources by May 1, 2009.

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

### **NC RX FUNDS TRANSFER**

**SECTION 10.1.** The sum of three million five hundred thousand dollars (\$3,500,000) of the cash balance remaining in the NC Rx Program (Budget Code 536J50, Fund 1510) on July 1, 2008, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support General Fund appropriations for the 2008-2009 fiscal year in the following amounts and for the following purposes:

- (1) \$700,000 to HealthNet (Budget Code 536J30; Fund 1510),
- (2) \$2,300,000 to Community Health Centers (Budget Code 536E66, Fund 1510), and
- (3) \$500,000 to the North Carolina Housing Trust Fund (Budget Code 13010).

### **DHHS BUDGET FLEXIBILITY**

**SECTION 10.1A.** Notwithstanding G.S. 143C-6-4, for the 2008-2009 fiscal year the Department of Health and Human Services may, with approval of the Office of State Budget and Management, take actions necessary to identify and realign or adjust the authorized budgets of the Department to fund payments for audit services provided by the Office of State Auditor and for data processing services billed by the State Information Technology Services office.

### **STATE COUNTY SPECIAL ASSISTANCE**

**SECTION 10.2.** Section 10.13 of S.L. 2007-323 is amended by adding the following new subsection to read:

"SECTION 10.13.(c1) Effective January 1, 2009, the maximum monthly rate for residents in adult care home facilities shall be one thousand two hundred seven dollars (\$1,207) per month per resident unless adjusted by the Department in accordance with subsection (e) of this section."

### **AIDS DRUG ASSISTANCE PROGRAM**

**SECTION 10.3.** Section 10.26 of S.L. 2007-323 reads as rewritten:

"SECTION 10.26.(a) 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.

"SECTION 10.26.(b) For the 2008-2009 fiscal year, the Department may, within existing ADAP Program resources, adjust the financial eligibility criterion of the ADAP up to an amount not exceeding three hundred percent (300%) 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 a waiting list develops as a result of the eligibility criterion being raised, the Department shall give first priority to those individuals on the waiting list with income at or below one hundred twenty-five percent (125%) of the federal poverty level, and second priority to those individuals with income above one hundred twenty-five percent (125%) and at or below two hundred fifty percent (250%) of federal poverty guidelines."

## **CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE**

**SECTION 10.4.** Section 10.22 of S.L. 2007-323 reads as rewritten:

**"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~~ three million dollars (\$3,000,000) for the 2008-2009 fiscal year shall be allocated for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to 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.~~ for the 2007-2008 and 2008-2009 fiscal years. 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~~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 October 1, 2009, 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."

## **NICOTINE REPLACEMENT THERAPY PROGRAMS**

**SECTION 10.4B.** Article 1 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

**"§ 90-18.6. Requirements for certain nicotine replacement therapy programs.**

The Health and Wellness Trust Fund ("Trust Fund") or the Department of Health and Human Services ("Department") may contract for the operation of a tobacco-use cessation program through which the Trust Fund or the Department, as applicable, may engage agents or contractors for the purpose of (i) recommending to individuals over-the-counter nicotine replacement therapy products and supplying the products free of charge to the individual and (ii) discussing with the individual contraindications and all other aspects of over-the-counter nicotine replacement therapy. All medical aspects of the nicotine replacement therapy programs shall be supervised by a physician who is licensed under this Article to practice medicine and who is under contract to or employed by the Trust Fund or the Department, as applicable, for the purpose of supervising nicotine replacement therapy programs. The physician under contract with or employed by the Trust Fund or the Department, as applicable, shall be responsible for supervision of all agents or contractors of nicotine replacement therapy programs that provide nicotine replacement therapy services to members of the public. The Trust Fund or the Department, as contracting entity, shall report the name of the supervising physician to the North Carolina Medical Board."

## **HIV PREVENTION FUNDS**

**SECTION 10.5.** Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million dollars (\$2,000,000) for the 2008-2009 fiscal year shall be allocated for HIV Prevention for the following purposes:

- (1) Funding to local health departments, historically black colleges and universities, the Office of Minority Health and Health Disparities, and other community organizations for HIV counseling, testing, case management, and early medical interventions.
- (2) Funding to support peer-to-peer counseling efforts.

## **CHILD CARE FUNDS MATCHING REQUIREMENT**

**SECTION 10.6.** Section 10.17 of S.L. 2007-323 reads as rewritten:

**"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%)~~ twenty percent (20%) 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%)~~ twenty percent (20%) 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, 2009."

## **CHANGES TO FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

**SECTION 10.7.** Section 10.29 of S.L. 2007-323 reads as rewritten:

**"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~~ \$475.00 per child per month for children aged birth through 5;
- (2) ~~\$440.00~~ \$581.00 per child per month for children aged 6 through 12;  
and
- (3) ~~\$490.00~~ \$634.00 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 ~~the State participation in the~~ adoption assistance program are established ~~on a graduated scale~~ consistent with the foster care rates as follows:

- (1) ~~\$390.00~~ \$475.00 per child per month for children aged birth through 5;
- (2) ~~\$440.00~~ \$581.00 per child per month for children aged 6 through 12;  
and
- (3) ~~\$490.00~~ \$634.00 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.

**"SECTION 10.29.(e)** The State and a county participating in foster care and adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a county department of social services or child placing agency in a family foster home or residential child care facility. A county shall be held harmless from contributing fifty percent (50%) of the nonfederal share of the cost for a child currently in a family foster home or residential child care facility until the child leaves foster care or experiences a placement change.

"SECTION 10.29.(f) The Department of Health and Human Services may establish foster care and adoption assistance rates based on the United States Department of Agriculture (USDA) 'Expenditures on Children by Families' index subject to State appropriations for each fiscal year.

"SECTION 10.29.(g) This section becomes effective January 1, 2009, and applies to payments made on or after that date."

#### **TICKET TO WORK IMPLEMENTATION DATE**

**SECTION 10.8.** The Department of Health and Human Services shall implement the Ticket to Work Program on July 1, 2008, whether or not the new MMIS is operational.

#### **IMPLEMENTATION OF MMIS/CONTRACT PROVISION**

**SECTION 10.9.(a)** Subsections (a) and (b) of Section 10.40D of S.L. 2007-323 read as rewritten:

**"SECTION 10.40D.(a)** The Department of Health and Human Services (Department) shall make full development of the replacement Medicaid Management Information System (~~MMIS+~~)(MMIS) a top priority. During the development and implementation of ~~MMIS+~~,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 Kids' Care, the State Employees' Health Plan, the Health Information System, and Medicaid waivers and the Medicare 646 waiver.~~System.

~~These enhancements shall not delay the procurement or implementation of the core system but shall be included 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~~ MMIS and enhancements. The contract between the Department and the contract vendor shall contain an explicit provision requiring that the MMIS have the capability to fully implement the administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must have detailed cost information for each requirement before signing the contract. Any contract between the Department and a vendor for the MMIS that does not contain the explicit provision required under this subsection is void on its face. Notwithstanding any other provision of law to the contrary, the Secretary of the Department of Health and Human Services does not have the authority to sign a contract for the MMIS if the contract does not contain the explicit provision required under this section.

**"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. The counsel engaged by the Department shall review the MMIS contract between the Department of Health and Human Services and the vendor to ensure that the requirements of subsection (a) of this section are met in their entirety."

**SECTION 10.9.(b)** Of the funds appropriated in this act to the Department of Health and Human Services, the sum of three hundred thousand dollars (\$300,000) for the 2008-2009 fiscal year may be used to contract with an outside consultant to

serve as project manager/coordinator to oversee the development and implementation of the MMIS project.

**SECTION 10.9.(c)** The Department of Health and Human Services shall develop a comprehensive schedule for the development and implementation of the MMIS that fully incorporates federal and State project management and review requirements. The Department shall ensure that the schedule is as accurate as possible. The initial schedule that includes all activities up to contract award must be provided by October 1, 2008. The design, development, and implementation schedule must be provided by March 1, 2009, as part of the Department's quarterly MMIS reporting requirements. The Department shall submit the schedule to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. Any change to key milestones in either schedule shall be immediately reported to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division with a full explanation of the reason for the change.

**SECTION 10.9.(d)** Beginning March 1, 2009, the Department shall make quarterly reports on changes in the functionality and projected costs of the MMIS. The first quarterly submission shall contain a final report on the contract award to include total costs and functionality of the MMIS. Each report shall be made to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. A copy of the final report on the contract award shall also be submitted to the Joint Legislative Commission on Governmental Operations.

**SECTION 10.9.(e)** Upon initiation of the NC MMIS Program Reporting and Analytics Project and the Division of Health Services Regulation (DHSR) Project, the Department shall submit all reports regarding functionality, schedule, and cost in the next regular cycle of reporting identified in subsections (c) and (d) of this section. The Department shall ensure that the solution developed in the Reporting and Analytics Project supports the capability, in its initial implementation, to interface with the North Carolina Teachers and State Employees Health Plan. The costs for this capability shall be negotiated prior to the award of the Reporting and Analytics contract. The Reporting and Analytics solution must be completed simultaneously with the replacement MMIS.

## **MEDICAID POLICY CHANGE**

**SECTION 10.10.(a)** Section 10.36(b) of S.L. 2007-323 reads as rewritten:

**"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 medical 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. For medical policy changes exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical policy or policy interpretation change with the fiscal analysis to the Office of State Budget and Management prior to implementing the change. 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 10.10.(b)** Section 10.36(d)(21) of S.L. 2007-323 reads as rewritten:

**"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.

- (21) Personal care services. – Payment in accordance with the State Plan developed by the Department of Health and Human 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, 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."~~

**SECTION 10.10.(c)** Section 31.16.1(d) of S.L. 2007-323 reads as rewritten:

**"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 and after June 1, 2009, or after that date."

**SECTION 10.10.(d)** Section 10.36(e)(1) of S.L. 2007-323 reads as rewritten:

**"SECTION 10.36.(e)** Provider payments performance bonds and visits. –

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

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

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

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

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



In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply. Not later than March 1, 2009, the Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. The report shall indicate the number of performance bonds required, the classes of providers required to purchase a performance bond, the number of waivers or limitations granted, and the classes of providers granted a waiver or limitation from the performance bond requirements. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision."

**SECTION 10.10.(e)** Beginning August 1, 2008, the contractor managing the State Maximum Allowable Cost (SMAC) List shall provide information to the Department on the savings attributable to adding the specialty drugs to the SMAC List. The contractor shall report the information to the Department on a monthly basis to ensure savings are consistent with the savings required by this act. During the period of July 1 to December 31, 2008, this subsection shall apply to specialty drugs costing in excess of one thousand five hundred dollars (\$1,500). If on December 31, 2008, savings are not being achieved, the Department shall report this information immediately to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division and may add additional specialty drugs to the SMAC List necessary to achieve these savings by June 30, 2009. Not later than March 1, 2009, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on savings attributable to adding the specialty drugs to the SMAC List.

## **DMA BUDGET FLEXIBILITY**

**SECTION 10.10A.(a)** Budget approval by the Office of State Budget and Management is required before the Division of Medical Assistance may enter into any new contract and before the Division may renew or amend existing contracts that exceed the existing contract amounts.

**SECTION 10.10A.(b)** The Department of Health and Human Services, Division of Medical Assistance, shall make every effort to achieve savings within its operational budget and shall take the steps necessary to achieve overall budget reductions from the General Fund required by this act. Notwithstanding G.S. 143C-6-4(b)(3), the Department may use funds appropriated to the Division of Medical Assistance to address shortfalls in funds for direct services within the Medical Assistance Payments budget of the Division of Medical Assistance.

**SECTION 10.10A.(c)** Notwithstanding G.S. 143C-6-4(b)(3), the Department of Health and Human Services may use funds appropriated to the Division of Medical Assistance to address contract shortfalls within the Division of Medical Assistance budget.

**SECTION 10.10A.(d)** Not later than March 1, 2009, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on its efforts to cover the contract shortfall in the Division of Medical assistance.

## **CCNC CHRONIC DISEASE/MEDICAL HOME AND PATIENT MODEL PROGRAM**

**SECTION 10.10C.** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, the sum of five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal year shall be used to develop a plan for the implementation of a medical home and patient-centered collaborative model program. The model program will build on and enhance CCNC's success in reducing the cost of treating chronic disease among Medicaid enrollees through its initial implementation in six to eight counties. The model program will also allow CCNC to implement its disease management, patient-centered, medical home model to a greater number of patients, including those who will be included in the pending Medicare 646 waiver.

## **EXPAND HEALTH CHOICE/NC KIDS' CARE**

**SECTION 10.12.(a)** Section 10.48 of S.L. 2007-323 reads as rewritten:

**"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 level.

~~"SECTION 10.48.(c) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven (\$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.~~

**"SECTION 10.48.(d)** The Department of Health and Human Services, Division of Medical Assistance, shall implement a health care assistance program, NC Kids' Care, to provide health insurance coverage to children in families with incomes above two hundred percent (200%) and not more than two hundred fifty percent (250%) of the federal poverty level, by expanding the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes. Except as otherwise provided, all the requirements of Part 8 of Article 2 of Chapter 108A of the General Statutes shall apply to the NC Kids' Care program. The Department shall submit any State Child Health Plan amendments required to implement this section. Eligibility for and benefits under this program are not an entitlement and are subject to availability of funds and other changes to State and federal law.

**"SECTION 10.48.(e)** Eligibility. – The Department may enroll eligible children based on the availability of funds. Following are the eligibility and other requirements for participation in NC Kids' Care. Children must:

- (1) Be between the ages of birth through 18 years of age;

- (2) Be ineligible for Medicaid, Medicare, or other government sponsored health insurance, except that any child covered under G.S. 108A-70.21(g) as of the effective date of this section shall be eligible for participation in NC Kids' Care as provided in subsection (o) of this section;
- (3) If permitted by federal law, have been uninsured for a period of time established by the Department in accordance with federal law. A child enrolled in NC Health Choice pursuant to Part 8 of Article 1 of Chapter 108A of the General statutes immediately prior to enrollment under NC Kids' Care shall not be required to satisfy a waiting period in order to receive coverage under NC Kids' Care.
- (4) Be in a family whose family income is above two hundred percent (200%) through two hundred fifty percent (250%) of the federal poverty level;
- (5) Be a resident of this State, meet applicable federal citizenship and immigration requirements, and be eligible under federal law; and
- (6) Have paid the monthly premiums required under this section.

**"SECTION 10.48.(f) Benefits and Limitations.** – Except as otherwise provided in this section for eligibility and cost-sharing requirements, health benefits coverage provided to children eligible for NC Kids' Care shall be the same as coverage provided under Part 8 of Article 2 of Chapter 108A of the General Statutes.

**"SECTION 10.48.(g) Community Care of North Carolina.** – The Department of Health and Human Services shall provide services to children enrolled in the NC Kids' Care program through Community Care of North Carolina and shall pay Community Care of North Carolina providers a care management fee for these services as allowed under Medicaid.

**"SECTION 10.48.(h) Cost-Sharing.** – The Department shall require NC Kids' Care enrollees to contribute to the cost of their care through the use of deductibles, co-payments, and premiums as follows:

- (1) No annual enrollment fee. – In lieu of an annual enrollment fee, a monthly premium shall be charged for each child or family enrolled in NC Kids' Care. The Department shall establish a procedure for sharing a portion of premium receipts with each county department of social services to cover the cost of determining eligibility for services under NC Kids' Care.
- (2) Premiums. – The premium amount charged for each child or family shall vary depending on family income. Enrollees shall pay monthly premiums as follows:
  - a. Enrollees whose family income is above two hundred percent (200%) through two hundred twenty-five percent (225%) of the federal poverty level shall pay a monthly premium not to exceed thirty dollars (\$30.00) per child.
  - b. Enrollees whose family income is above two hundred twenty-five percent (225%) through two hundred fifty percent (250%) of the federal poverty level shall pay a monthly premium not to exceed sixty dollars (\$60.00) per child.
- (3) Co-payments. – NC Kids' Care enrollees shall be responsible for co-payments to providers as follows:
  - a. Ten dollars (\$10.00) per child for each primary care physician visit;
  - b. Twenty-five dollars (\$25.00) per child for each specialty care physician visit;
  - c. Twenty-five dollars (\$25.00) per child for each physical therapy, occupational therapy, or speech therapy visit;

- d. Thirty dollars (\$30.00) per child for each outpatient hospital visit;
  - e. Fifty dollars (\$50.00) per child for each inpatient hospital visit;
  - f. Twenty dollars (\$20.00) per child for durable medical equipment, except there shall be no co-payment required for diabetic supplies;
  - g. One hundred dollars (\$100.00) for each emergency room visit, except the co-payment is waived if the enrollee is admitted to the hospital;
  - h. One hundred fifty dollars (\$150.00) for each ambulance service, except the co-payment is waived if the enrollee is admitted to the hospital;
  - i. Outpatient prescription drugs, as follows:
    - 1. Five dollars (\$5.00) for each generic prescription drug, for each brand-name prescription drug for which there is no generic substitution available, and for each covered over-the-counter medication; and
    - 2. Twenty dollars (\$20.00) for each brand-name prescription drug for which there is a generic substitution available.
- (4) Deductible. – The Department may establish an annual deductible not to exceed two hundred fifty dollars (\$250.00) per child.
- (5) The Department shall establish maximum annual cost-sharing limits per individual or family, provided that the total annual aggregate cost-sharing, including premiums, with respect to all children in a family receiving benefits under this section shall not exceed five percent (5%) of the family's income for the year involved.

**"SECTION 10.48.(i)** Enrollment in NC Kids' Care shall not exceed 15,000 children for the 2008-2009 fiscal year. This enrollment cap shall not be exceeded even if State and federal funds are available to enroll additional children for the current fiscal year.

**"SECTION 10.48.(j)** The nonfederal costs of NC Kids' Care shall be paid with State funds and enrollee premiums. Counties shall not be required to share in the nonfederal costs of NC Kids' Care.

**"SECTION 10.48.(k)** To the extent allowed by federal law, providers of services under NC Kids' Care shall be paid at rates equivalent to Medicaid rates, less any applicable co-payments or deductibles.

**"SECTION 10.48.(l)** Administration of NC Kids' Care shall be in accordance with Part 8 of Article 2 of Chapter 108A of the General Statutes.

**"SECTION 10.48.(m)** Enrollees covered under G.S. 108A-70.21(g) prior to the effective date of subsection (n) of this section may choose to continue coverage under that section through the end of their buy-in coverage period or enroll in NC Kids' Care provided they meet the eligibility requirements, pay the applicable premium, and notify their county department of social services within 60 days of receiving notice of their potential eligibility under NC Kids' Care. For any enrollee electing to transfer coverage from the buy-in program to NC Kids' Care, coverage under NC Kids' Care shall become effective the first day of the next month immediately following the month in which they notified their county department of social services of their intent to enroll in NC Kids' Care.

**"SECTION 10.48.(n)** This section becomes effective July 1, 2009, or upon the reauthorization of SCHIP. The Department shall not apply for a State Child Health Plan amendment to implement NC Kids' Care until the US Congress acts to reauthorize the State Children's Health Insurance Program with sufficient funding to support the current NC Health Choice program and the provisions of this section. At the time the Department has determined that SCHIP has been reauthorized with sufficient funds, the Department will move forward as quickly as possible to implement NC Kids' Care."

**SECTION 10.12.(b)** G.S. 108A-70.21(c) reads as rewritten:

"(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) through two hundred percent (200%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees."

**SECTION 10.12.(c)** G.S. 108A-70.21(g) reads as rewritten:

"(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty five percent (225%) of the federal poverty level fifty percent (250%) of the federal poverty level and up to and including two hundred seventy-five percent (275%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The ~~same~~ benefits, copayments, and other conditions of enrollment under the Program shall apply applicable to extended coverage purchased under this ~~subsection~~ subsection shall be the same as those applicable to an NC Kids' Care enrollee whose family income equals two hundred fifty percent (250%) of the federal poverty level."

## NC HEALTH CHOICE TRANSITION

**SECTION 10.13.(a)** G.S. 135-39.5(23), 135-39.6(d), and 135-39.6A(c) are repealed.

**SECTION 10.13.(b)** G.S. 135-42 reads as rewritten:

### **"§ 135-42. Undertaking Administration and processing of Program claims.**

(a) The State of North Carolina undertakes to make available a health insurance program for ~~children (hereinafter called the "Program")~~ children (Program), which shall be called North Carolina Health Choice for Children. The Program shall 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 State Health Plan for Teachers and State Employees (hereinafter called the "Plan") 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 shall not incur any financial obligations for the Program in excess of the amount of funds that the Plan's self insured indemnity program receives for the Program. Except as provided in this Part, the Program shall be administered by the Department of Health and Human Services in accordance with Part 8 of Article 2 of Chapter 108A of the General Statutes and as required under applicable federal law.

(a1) Notwithstanding any other provision of law, the Secretary of the Department of Health and Human Services shall delegate the responsibility for the administration and processing of claims for benefits provided under the Program to the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees (hereinafter called the "Plan") until such date, but not later than July 1, 2010, the Secretary determines that the Department is prepared to assume some or all of these responsibilities. In administering the processing of claims for benefits, the Executive Administrator and Board of Trustees shall have the same type of powers and duties as provided for these purposes under the Predecessor Plan. For the purposes of this Part,

"Predecessor Plan" means the "North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in effect prior to July 1, 2008." The claims payments shall be made against accounts maintained by the Department of Health and Human Services. The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under this Part. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Program, make payments to the Plan as determined by the Plan for its administration, claims processing, and other services delegated by the Secretary to provide coverage for acute medical care for children eligible for benefits provided under the Program. The Plan shall not incur any financial obligations for the Program in excess of the amount of funds that the Plan receives for the Program.

(b) The benefits provided under the Program shall be equivalent to the Teachers' and State Employees' Comprehensive Major Medical Plan (hereafter "Predecessor Plan") in effect through June 30, 2008, and as provided under Part 8 of Article 2 of Chapter 108A of the General Statutes, and made available through the Plan pursuant to Articles 2 and 3 of this Chapter and as provided under G.S. 108A-70.21(b) and administered by the Plan's Executive Administrator and Board of Trustees. To the extent there is a conflict between the provisions of Part 8 of Article 2 of Chapter 108A and Part 3 of this Article the Predecessor Plan pertaining to eligibility, fees, deductibles, copayments, and lifetime maximum benefits, and other cost-sharing charges, the provisions of Part 8 of Article 2 of Chapter 108A shall control. In administering the benefits provided by this Part, the Executive Administrator and Board of Trustees shall have the same type of powers and duties that are provided under Part 3 of this Article the Predecessor Plan for hospital and medical benefits.

(c) The benefits authorized by this Part are available only to 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."

**SECTION 10.13.(c)** Part 5 of Article 3 of Chapter 135 of the General Statutes is amended by adding the following new sections to read:

**"§ 135-43. Child health insurance fund.**

There is established a Child Health Insurance Fund. All premium receipts or any other receipts, including earnings on investments, occurring or arising in connection with acute medical care benefits provided under the Program shall be deposited into the Child Health Insurance Fund. Disbursements from the Child Health Insurance Fund shall include any and all amounts required to pay the benefits and administrative costs of the Health Insurance Program for Children.

**"§ 135-44. Data reporting.**

The Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees shall provide to the Department:

- (1) Data as necessary and in sufficient detail to meet federal reporting requirements under Title XXI; and
- (2) Data showing cost-sharing paid by Program enrollees to assist the Department in monitoring and ensuring that enrollees do not exceed the Program's cost of sharing limitations.
- (3) Data as necessary and in sufficient detail to meet the data collections and reporting requirements pursuant to G.S. 108A-70.27."

**SECTION 10.13.(d)** G.S. 108A-70.18 reads as rewritten:

**"§ 108A-70.18. Definitions.**

As used in this Part, unless the context clearly requires otherwise, the term:

- (1) "Comprehensive health coverage" means creditable health coverage as defined under Title XXI.
- (2) "Family income" has the same meaning as used in determining eligibility for the Medical Assistance Program.

- (3) "FPL" or "federal poverty level" means the federal poverty guidelines established by the United States Department of Health and Human Services, as revised each April 1.
- (4) "Medical Assistance Program" means the State Medical Assistance Program established under Part 6 of Article 2 of Chapter 108A of the General Statutes.
- (4a) "Predecessor Plan" means the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in effect prior to July 1, 2008.
- (5) "Program" means The Health Insurance Program for Children established in this Part.
- (6) "State Plan" means the State Child Health Plan for the State Children's Health Insurance Program established under Title XXI.
- (7) "Title XXI" means Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552, codified in scattered sections of 42 U.S.C. (1997).
- (8) "Uninsured" means the applicant for Program benefits is not covered under any private or employer-sponsored comprehensive health insurance plan on the date of enrollment."

**SECTION 10.13.(e)** G.S. 108A-70.20 reads as rewritten:

**"§ 108A-70.20. Program established.**

The Health Insurance Program for Children is established. The Program shall be known as North Carolina Health Choice for Children, and it shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Administration of Program benefits and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes."

**SECTION 10.13.(f)** Effective July 1, 2008, G.S. 108A-70.21 reads as rewritten:

**"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

- (1) Children must:
  - a. Be between the ages of 6 through 18;
  - b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
  - c. Be uninsured;
  - d. Be in a family whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;
  - e. Be a resident of this State and eligible under federal law; and
  - f. Have paid the Program enrollment fee required under this Part.
- (2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.
- (3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the



custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.

If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term "responsible parent" means a person who is under a court order to pay child support.

- (4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the ~~State Health Plan for Teachers and State Employees, including optional prepaid plans.~~ Predecessor Plan.

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

- (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, fluoride applications twice during a 12-month period, fluoride varnish, sealants, simple extractions, therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services and materials under this subsection that ~~are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that~~ do not meet the standards accepted by the American Dental Association.
- (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and solutions must be obtained from licensed or certified ophthalmologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require ~~prior approval of the Plan. Upon prior approval by the Plan,~~ prior approval. Upon prior approval refractions may be covered more often than once every 12 months.
- (3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other approved hearing aid specialist approved by the Plan. Prior approval of the Plan specialist. Prior approval is

required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.

- (4) Over-the-counter medications: Selected over-the-counter medications provided the medication is covered under the State Medical Assistance Plan. Coverage shall be subject to the same policies and approvals as required under the Medicaid program.
- (5) Routine diagnostic examinations and tests: annual routine diagnostic examinations and tests, including x-rays, blood and blood pressure checks, urine tests, tuberculosis tests, and general health check-ups that are medically necessary for the maintenance and improvement of individual health are covered.

~~Effective January 1, 2006, the~~ The Department shall provide services to children enrolled in the NC Health Choice Program through Community Care of North Carolina and shall pay Community Care of North Carolina providers for these services as allowed under Medicaid.

(b1) Payments. – Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, amounts allowable for prescription drugs under Medicaid. For all other providers, ~~effective no later than January 1, 2006, services provided to children enrolled in the Program shall be provided at rates equivalent to one hundred fifteen percent (115%) percent (100%) of Medicaid rates, less any co-payments assessed to enrollees under this Part. Effective July 1, 2006, services provided to these children shall be provided at rates equivalent to one hundred percent (100%) of Medicaid rates, less any co-payments assessed to enrollees under this Part. Effective until rates equivalent to one hundred fifteen percent (115%) of Medicaid rates become effective, providers of services to Program enrollees shall accept as payment in full for services rendered the maximum allowable charges under the State Health Plan for Teachers and State Employees for services less any co-payments assessed to enrollees under this Part.~~

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty level, except that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each outpatient generic prescription ~~drug and drug~~, for each outpatient brand-name prescription drug for which there is no generic substitution ~~available~~ available, and for each covered over-the-counter medication. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is three dollars (\$3.00). Families covered under the Program whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be responsible for copayments to providers as follows:

- (1) Five dollars (\$5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
- (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- (3) A one dollar (\$1.00) fee for each outpatient generic prescription ~~drug and drug~~, for each outpatient brand-name prescription drug for which

there is no generic substitution ~~available~~available, and for each covered over-the-counter medication. The fee for each outpatient brand-name prescription drug for which there is a generic substitution available is ten dollars (\$10.00).

- (4) Twenty dollars (\$20.00) for each emergency room visit unless:
- a. The child is admitted to the hospital, or
  - b. No other reasonable care was available as determined by the ~~Claims Processing Contractor of the State Health Plan for Teachers and State Employees Department.~~

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) ~~Cost-Sharing Limitations. – The total annual aggregate cost sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved.~~

~~To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees shall provide data to the Department showing cost sharing paid by Program enrollees. The department shall establish maximum annual cost-sharing limits per individual or family, provided that the total annual aggregate cost-sharing, including enrollment fees, with respect to all children in a family receiving benefits under this section shall not exceed five percent (5%) of the family's income for the year involved.~~

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

- (1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
- (2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
- (3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
- (4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (f) of this section.

(i) No Lifetime Maximum Benefit Limit. – Benefits provided to an enrollee in the Program shall not be subject to a maximum lifetime limit."

**SECTION 10.13.(g)** G.S. 108A-70.22 is repealed.

**SECTION 10.13.(h)** G.S. 108A-70.23 reads as rewritten:

**"§ 108A-70.23. Services for children with special needs established; definition; eligibility; services; limitation; recommendations; no entitlement.**

(a) [Special Needs Services Authorized. –] The Department shall, from federal funds received and State funds appropriated for the Program, pay for services for children with special needs as authorized under this section. As used in this section, the term "children with special needs" or "special needs child" means children who have been diagnosed as having one or more of the following conditions which in the opinion of the diagnosing physician (i) is likely to continue indefinitely, (ii) interferes with daily routine, and (iii) require extensive medical intervention and extensive family management:

- (1) Birth defect, including genetic, congenital, or acquired disorders;
- (2) Developmental disability as defined under G.S. 122C-3;
- (3) Mental or behavioral disorder; or
- (4) Chronic and complex illnesses.

(b) Eligibility for Services. – In order to be eligible for services under this section a special needs child must be enrolled in the Program.

(c) Services Provided. – The services authorized to be provided to children eligible under this section are as follows:

- (1) The same level of services as provided for special needs children under the Medical Assistance Program as authorized in the Current Operations Appropriations Act except that:
  - a. No services for long-term care shall be provided under this section;
  - b. Services for respite care shall be provided only under emergency circumstances; and
  - c. The Department may limit services for special needs children after consultation with the Commission on Children with Special Health Care Needs.
- (2) Only those services eligible under this section that are not covered or otherwise provided under ~~Part 5 of Article 3 of Chapter 135 of the General Statutes~~ the Predecessor Plan.

(d) Limitation. – Funds may be expended for services under this section only if the special needs child is enrolled in the Program, the services provided under this section are not provided under ~~Part 5 of Article 3 of Chapter 135 of the General Statutes~~ the Predecessor Plan and the child meets the definition of a special needs child under this section.

(e) Case Management Services. – The Department shall develop procedures for the provision of case management services by the Department to eligible special needs children. Case management services shall be developed to ensure to the maximum extent possible that services are provided in the most efficient and effective manner considering the special needs of the child. The cost of providing case management services for children with special needs shall be paid from funds available for services under this section.

(f) Recommendations by Commission on Children With Special Health Care Needs. – In implementing this section the Department shall consider the recommendations of the Commission on Children With Special Health Care Needs established under ~~Article 71~~ Article 72 of Chapter 143 of the General Statutes. The Department, in consultation with the Commission on Children With Special Health Care Needs shall develop procedures for providing respite care services under emergency circumstances.

(g) No Entitlement. – Nothing in this section shall be construed as entitling any person to services under this section."

**SECTION 10.13.(i)** G.S. 108A-70.24 is repealed.

**SECTION 10.13.(j)** G.S. 108A-27(c) reads as rewritten:

**"§ 108A-70.27. Data collection; reporting.**

~~...~~  
(c) ~~The Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Major Medical Plan ("Plan") shall provide to the Department data required under this section that are collected by the Plan. Data shall be reported by the Plan in sufficient detail to meet federal reporting requirements under Title XXI. The Plan~~The Department shall report periodically to the Joint Legislative Health Care Oversight Committee claims processing data for the Program and any other information the ~~Plan~~Department or the Committee deems appropriate and relevant to assist the Committee in its review of the Program."

**SECTION 10.13.(k)** Effective July 1, 2009, G.S. 108A-70.21(b)(1), as amended by subsection (g) of this section, reads as rewritten:

**"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

~~...~~  
(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the Predecessor Plan.

In addition to the benefits provided under the Predecessor Plan, dental services and supplies as follows:

(1) ~~Dental:~~ Oral examinations, teeth cleaning, and ~~sealing~~topical fluoride treatments twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, ~~fluoride applications twice during a 12-month period, fluoride varnish, sealants, simple extractions,~~sealants, extractions, other than impacted teeth or wisdom teeth, therapeutic pulpotomies, space maintainers, root canal therapy for permanent anterior teeth and permanent first molars, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth.

(1a) Orthognathic surgery to correct functionally impairing malocclusions when orthodontics was approved and initiated while the child was covered by Medicaid and the need for orthognathic surgery was documented in the orthodontic treatment plan.

No benefits are to be provided for services and materials under this subsection that do not meet the standards accepted by the American Dental Association."

**SECTION 10.13.(l)** The Secretary of the Department of Health and Human Services shall develop and implement a plan for assuming administrative responsibility for the North Carolina Health Choice for Children program by transitioning all administrative oversight and claims processing activities from the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees to the Division of Medical Assistance. The transition of all administrative oversight and claims processing from the State Health Plan to the Division of Medical Assistance shall be completed not later than July 1, 2010. The Secretary shall report to the Joint Legislative Health Care Oversight Committee and the Committee on Employee Hospital and Medical Benefits at least 30 days prior to effecting the transition of the responsibilities for the administration and processing of claims for benefits provided under the North Carolina Health Choice for Children program from the

Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees to the Department.

**SECTION 10.13.(m).** Effective July 1, 2008, G.S. 135-37(b), as amended by Section 22.28A.(c) of S.L. 2007-323, reads as rewritten:

"(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, the Department of Health and Human Services solely for the purpose of implementing the transition of NC Health Choice from the Plan to the Department of Health and Human Services, 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 10.13.(n)** Subsections (a) through (c) and subsections (e) through (k) of this section become effective July 1, 2008. Effective July 1, 2010, G.S. 135-42, as amended by subsection (b) of this section, is repealed. The remainder of this section is effective when this act becomes law.

## **HEALTH CHOICE ENROLLMENT GROWTH CAP**

**SECTION 10.14.(a)** Section 10.47 of S.L. 2007-323 is repealed.

**SECTION 10.14.(b)** The Department of Health and Human Services may, in the NC Health Choice Program for the 2008-2009 fiscal year, allow up to six percent (6.0%) enrollment growth over the number of children enrolled in the NC Health Choice Program on June 30, 2008.

**SECTION 10.14.(c)** On January 15, 2009, or upon the convening of the 2009 General Assembly, whichever occurs later, the Department of Health and Human Services shall report to the 2009 General Assembly. The report shall provide the following information:

- (1) The number of children that were enrolled in NC Health Choice in the first week of January 2009, based on the January Pull-Night data; and
- (2) Projected enrollment and program costs for each of the remaining six months of the 2008-2009 fiscal year. The projected enrollment shall be based on NC Health Choice enrollment data and program costs from the immediately preceding five fiscal years.
- (3) The status of current expenditures and availability of State and federal funds for the 2008-2009 fiscal year.

The Department shall submit the report to the Chairs of 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 10.14.(d)** If the report submitted pursuant to subsection (c) of this section indicates, or if the Department becomes later aware that growth in NC Health Choice enrollment for the 2008-2009 fiscal year will exceed the maximum six percent (6%) growth allowed under subsection (a) of this section, or if there will be a shortfall of federal funds, then the Department shall notify the Centers for Medicare and Medicaid Services (CMS) that it anticipates a freeze on enrolling new enrollees. The Department will continue to provide monthly reports to the chairs of the House of Representatives Committee on Appropriations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Office of State Budget and Management, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division. If enrollment in NC Health Choice continues to follow the Department's projections that the six percent (6%) cap will be exceeded, or there will be a shortfall of federal funds, then the Department shall formally notify CMS, the Chairs of 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 of a freeze on new enrollees.

**SECTION 10.14.(e)** The limitation on enrollment growth under this section may not be exceeded unless Congress has reauthorized SCHIP so as to provide sufficient federal funds or has appropriated additional federal funds for the 2008-2009 fiscal year. If Congress has reauthorized SCHIP to provide sufficient federal funds, then the Department may continue to enroll new enrollees up to an increase of eight and seventy-three one hundredths percent (8.73%) from such funds as are available to the Department.

## **MENTAL HEALTH CHANGES**

**SECTION 10.15.(a)** For the purpose of mitigating cash-flow problems that many non-single-stream local management entities (LMEs) experience at the beginning of each fiscal year, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method by which allocations of service dollars are distributed to each non-single-stream LME. To this end, the allocations shall be adjusted such that at the beginning of the fiscal year the Department shall distribute not less than one-twelfth of the LME's continuation allocation and subtract the amount of the adjusted distribution from the LME's total reimbursements for the fiscal year.

**SECTION 10.15.(b)** Of the funds appropriated for substance abuse services to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2007-2008 and 2008-2009 fiscal years, the sum of at least eight million dollars (\$8,000,000) shall be allocated for regionally purchased locally hosted substance abuse services. These funds shall be used to support LMEs in establishing additional regionally purchased and locally hosted substance abuse programs. Funds appropriated shall be for the purpose of developing and enhancing the American Society of Addiction Medicine (ASAM) continuum of care at the community level. The Department of Health and Human Services shall work with LMEs in establishing these programs. LMEs shall report to the Department of Health and Human Services on the LMEs' use of the funds. Reporting dates and frequency shall be as determined by the Department.

**SECTION 10.15.(c)** The Department shall encourage the conversion of the remaining non-single-stream LMEs to single-stream funding as soon as possible. The Department shall develop prompt-pay guidelines as part of single-stream funding requirements. The Department shall also develop standards for the removal of single-stream designation for those LMEs that do not continue to comply with the applicable requirements for single-stream funding, except that the Department's requirements shall allow for LMEs in the first year of single-stream funding to have a

six-month grace period to comply with the requirements from the time the LME begins single-stream funding. For its report on performance measures, the Department shall include a matrix by LME and performance measure of those LMEs that are not meeting the performance measure.

**SECTION 10.15.(d)** The Department of Health and Human Services shall simplify the current State Integrated Payment and Reporting System (IPRS) to encourage more providers to serve State-paid clients. This effort shall include working with LMEs to develop billing codes for relevant activities currently lacking such codes.

**SECTION 10.15.(e)** The Department of Health and Human Services shall consult with LMEs and service providers to determine why there have been under- and over-expenditure of State service dollars by LMEs and shall take the action necessary to address the problem. In making its determination, the Department shall work with LMEs and providers. Not later than January 1, 2009, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on actions taken to address the problem of LME under- and over-expenditure of service dollars. The report shall include legislative action needed to address the problem.

**SECTION 10.15.(f)** The Department shall perform a services gap analysis of the Mental Health, Developmental Disabilities, and Substance Abuse Services System. The Department of Health and Human Services shall involve LMEs in performing the gap analysis. The Department shall not contract with an independent entity to perform the gap analysis. The Department shall report the results of its analysis to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than January 1, 2010.

**SECTION 10.15.(g)** Notwithstanding any other provision of law to the contrary, the Secretary of Health and Human Services shall not transfer patients from John Umstead Hospital or Dorothea Dix Hospital to Central Regional Hospital unless and until the Secretary provides a written report to the Governor, based on the Secretary's findings, that on the day of its opening and thereafter, Central Regional Hospital will be operated in a manner that provides a safe and secure environment for its patients and staff. On or after the date the Secretary has provided the written report to the Governor, the Secretary may transfer patients from John Umstead Hospital to Central Regional Hospital. On and after the date of the transfer of John Umstead patients, the Secretary may commence the transfer of patients from Dorothea Dix Hospital but only if the following conditions are met:

- (1) At the time of commencing transfer of Dorothea Dix patients the Secretary has determined that an inspection of Central Regional Hospital indicates no findings of noncompliance with conditions of participation from the Centers for Medicare and Medicaid Services (CMS), and
- (2) The Secretary finds that Central Regional Hospital is in compliance with Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) standards for accreditation.

**SECTION 10.15.(h)** In order to temporarily address high admissions to adult acute unit beds in the State psychiatric hospitals, the Secretary of the Department of Health and Human Services may, notwithstanding G.S. 122C-181 and G.S. 122C-112.1(a)(30), open and operate on a temporary basis up to 60 beds at the Central Regional Hospital Wake Unit on the Dorothea Dix Campus and may maintain the Wake Unit on the Dix Campus until beds become available in the system. Section 10.49(t) of S.L. 2007-323 does not apply to this subsection.



**SECTION 10.15.(i)** Onetime funds appropriated for the Dorothea Dix Hospital overflow unit shall be used to support the temporary opening and operation of the Central Regional Hospital Wake Unit on the Dorothea Dix Campus. It is the intent of the General Assembly to fund the Wake Unit for three years. Notwithstanding any other provision of law to the contrary, the Office of State Budget and Management shall establish the positions for the Central Regional Hospital Wake Unit on the Dorothea Dix campus as time-limited positions for up to three years.

**SECTION 10.15.(j)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for mobile crisis teams, the sum of five million seven hundred fifty-five thousand dollars (\$5,755,000) shall be distributed to LMEs to support 30 mobile crisis teams. The new mobile crisis units shall be distributed across the State according to need as determined by the Department.

**SECTION 10.15.(k)** 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, the sum of eight million one hundred twenty-one thousand six hundred forty-four dollars (\$8,121,644) shall be allocated for the purchase of local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 10 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community hospitals, including beds or bed days being purchased through Hospital Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2009, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds appropriated under this subsection.

**SECTION 10.15.(l)** 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, the sum of one million eight hundred seventy-six thousand two hundred forty-three dollars (\$1,876,243) shall be allocated for the START crisis model for developmental disability services. These funds shall be distributed to

LMEs to support six crisis teams. The new crisis teams shall be distributed across the State according to need as determined by the Department.

**SECTION 10.15.(m)** Funds appropriated in this act in the amount of one million eighty thousand nine hundred ninety-two dollars (\$1,080,992) for start-up and ongoing support of respite beds for individuals with developmental disabilities shall be distributed across the State by the Department according to need.

**SECTION 10.15.(n)** 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, the sum of six million one hundred thirteen thousand nine hundred forty-seven dollars (\$6,113,947) shall be allocated for walk-in crisis and immediate psychiatric aftercare and shall be distributed to the LMEs to support 30 psychiatrists and related support staff. Of these funds, the sum of one million six hundred fifty thousand dollars (\$1,650,000) shall be used for telepsychiatry equipment to be owned by the LMEs and shall be distributed across the State according to need as determined by the Department.

**SECTION 10.15.(o)** The independent and supportive living apartments for persons with disabilities constructed from funds appropriated in this act for that purpose shall be affordable to persons with incomes at the Supplemental Security Income (SSI) level.

**SECTION 10.15.(p)** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall implement the tiered CAP-MR/DD waiver program in accordance with Section 10.49(dd) of S.L. 2007-323. The Department shall implement the program with four tiers: (i) up to seventeen thousand five hundred dollars (\$17,500); (ii) between seventeen thousand five hundred one dollars (\$17,501) and forty-five thousand dollars (\$45,000); (iii) between forty-five thousand one dollars (\$45,001) and seventy-five thousand dollars (\$75,000); and (iv) between seventy-five thousand one dollars (\$75,001) and one hundred thousand dollars (\$100,000). The Department shall review on a case-by-case basis tier funding in excess of one hundred thousand dollars (\$100,000) and may authorize the excess amount based on standards adopted by the Department.

**SECTION 10.15.(q)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Medical Assistance, for the 2008-2009 fiscal year for additional CAP-MR/DD slots, a portion of these funds shall be allocated for slots managed under the North Carolina CAP-MR/DD 1915(c) Medicaid waiver and shall be used for tier one slots as described under subsection (n) of this section. In addition a portion of these funds shall be allocated to fund CAP-MR/DD slots statewide to fund a combination of slots managed under the North Carolina CAP-MR/DD 1915(c) Medicaid waiver and slots managed under the North Carolina Piedmont Behavioral Health Care 1915(b) and (c) Medicaid waiver.

**SECTION 10.15.(r)** The Department of Health and Human Services shall implement a plan to catch up Piedmont Behavioral Health (PBH) CAP-MR/DD slots to the State average such that one percent (1%) of the funds for turnover CAP-MR/DD slots shall be transferred each year to PBH until PBH CAP-MR/DD slots reach the State per capita average of slots.

**SECTION 10.15.(s)** The North Carolina Institute of Medicine (IOM) shall study and report on the transition for persons with developmental disabilities from one life setting to another, including barriers to transition and best practices in successful transitions. The IOM should conduct this study using funds appropriated for IOM studies in the 2007 Session. The study should encompass at least the following topics: (i) the transition for adolescents leaving high school, including adolescents in foster care and those in other settings; (ii) the transition for persons with developmental disabilities who live with aging parents; and (iii) the transition from the developmental centers to other settings. The IOM 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, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2009.

**SECTION 10.15.(t)** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall assist local management entities (LMEs) in using up to five percent (5%) of the LME's developmental disability funds to help successfully transition individuals from developmental disability centers into the community. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on the progress of LMEs in successfully providing discharge planning to individuals with developmental disabilities. The Department of Health and Human Services shall make its report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than March 1, 2009.

**SECTION 10.15.(u)** The Department of Health and Human Services shall review State-County Special Assistance rates to develop an appropriate rate for special care units for persons with a mental health disability, including individuals with Traumatic Brain Injury (TBI), and shall review current rules pertaining to special care units for persons with a mental health disability to determine if additional standards are necessary. 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, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than January 1, 2009.

**SECTION 10.15.(v)** The Department of Health and Human Services shall ensure that veterans and their families comprise one of the target populations for mental health, developmental disabilities, and substance abuse services in order that this population is eligible for existing funding.

**SECTION 10.15.(w)** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop a service authorization process that requires a comprehensive clinical assessment to be completed by a licensed clinician prior to service delivery, except where this requirement would impede access to crisis or other emergency services. The Department shall require that the licensed professional that signs a medical order for behavioral health services must indicate on the order whether the licensed professional (i) has had direct contact with the consumer, and (ii) has reviewed the consumer's assessment. The Department shall report the failure of a licensed professional to comply with this requirement to the licensed professional's occupational licensing board. The Department shall report on the development of the service authorization process to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than October 1, 2008. The Department shall not implement the service authorization process until 15 days after it has notified 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.

**SECTION 10.15.(x)** The Department of Health and Human Services shall develop a plan to return the service authorization, utilization review, and utilization management functions to LMEs for all clients. Not later than February 1, 2009, the Department shall report on the development of the plan 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. Not later than July 1, 2009, utilization review, utilization management, and service authorization for publicly funded mental health, developmental disabilities, and substance abuse services shall be returned to LMEs representing in total at least thirty percent (30%) of the State's population. An LME must be accredited for national accreditation under behavioral health care standards by a national accrediting entity approved by the Secretary and must demonstrate readiness to meet all requirements of the existing vendor contract with the Department for such services in order to provide service authorization, utilization review, and utilization management to Medicaid recipients in the LME catchment area. The Department shall comply with the requirements of S.L. 2007-323, Section 10.49(ee). The Department shall not contract with an outside vendor for service authorization, utilization review, or utilization management functions, or otherwise obligate the State for these functions beyond September 30, 2009. The Department shall require LMEs to include in their service authorization, utilization management, and utilization review a review of assessments, as well as person-centered plans and random or triggered audits of services and assessments. The Department may also develop and implement a plan to return plan authorization for CAP-MR/DD slots to LMEs.

**SECTION 10.15.(y)** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall study Medicaid waivers, including 1915(b) and (c) waivers, for all LMEs. In cases where Medicaid waivers are not appropriate for an LME, the Department shall identify and recommend strategies to increase LME flexibility to provide case management, assessment, limit provider networks, or other innovative approach for managing care. Not later than March 1, 2009, 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, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

**SECTION 10.15.(z)** The Piedmont Behavioral Health (PBH) local management entity (LME) shall be deemed by the Department as a demonstration model in the PBH LME catchment area. The Department shall also adopt as part of the demonstration model the PBH 1915(b) and 1915(c) Medicaid waivers, and single-stream funding for State services funds, which include funds previously transferred from State institution budgets.

**SECTION 10.15.(aa)** The Secretary of the Department of Health and Human Services shall not take any action prior to January 1, 2010, that would result in the merger or consolidation of LMEs operating on January 1, 2008, or that would establish consortia or regional arrangements for the same purpose, except that:

- (1) LMEs that do not meet the catchment area requirements of G.S. 122C-115 as of January 1, 2008, may initiate, continue, or implement the LMEs' merger or consolidation plans to overcome noncompliance with G.S. 122C-115, and
- (2) The Guilford Center for Behavioral Health and Disability Services, the Smoky Mountain Center, and the Mecklenburg County Area Mental Health, Developmental Disability and Substance Abuse Authority may continue with or implement the proposed administrative service organization under development as of March 1, 2008, for merger or consolidation of any combination of these entities.

**SECTION 10.15.(bb)** If the Secretary of the Department of Health and Human Services desires to merge LMEs, the Secretary shall develop a detailed plan for General Assembly review on its recommendation to merge, consolidate, or establish regional arrangements or consortia of LMEs. In developing the plan, the Secretary shall consult with LMEs to obtain input on the feasibility and effectiveness of potential

mergers and the time frame needed to fully implement the mergers, regional arrangements, or consortia at the local level. The Secretary shall provide the plan 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 not later than March 1, 2009.

**SECTION 10.15.(cc)** G.S. 122C-115.4(d) reads as rewritten:

"(d) Except as provided in G.S. 122C-124.1 and G.S. 122C-125, the Secretary may 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 consecutive 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~~three months or until the LME achieves a satisfactory outcome on the performance measure, whichever occurs first.
- (3) If, after ~~six~~three 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 10.15.(dd)** G.S. 122C-3 is amended by adding the following new subdivision to read:

"(23a) 'Minimally adequate services' means a level of service required for compliance with all applicable State and federal laws, rules, regulations, and policies and with generally accepted professional standards and principles."

**SECTION 10.15.(ee)** The lead paragraph of G.S. 122C-124.1(b) reads as rewritten:

"(b) Suspension of Funding; Assumption of Service Delivery or Management Functions. – If the Secretary determines that a county, through an area authority or county program, is not providing minimally adequate ~~services, in accordance with rules adopted by the Secretary or the Commission,~~ services to persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and to the board of county commissioners of the area authority or county program, and after providing the area authority or county program and the boards of county commissioners of the area authority or county program an opportunity to be heard, may:"

## **IMPROVE AND STRENGTHEN FISCAL OVERSIGHT OF COMMUNITY SUPPORT SERVICES**

**SECTION 10.15A.(a)** Not later than June 30, 2008, the Department of Health and Human Services, Division of Medical Assistance, shall submit to the Centers for Medicare and Medicaid Services, revised service definitions for two Medicaid billable services: (i) community support-adults, and (ii) community support-children/adolescents. The revised definitions shall focus on rehabilitative services and be developed to ensure that community support services are provided as efficiently and effectively as possible to minimize overexpenditures in community support services in the 2008-2009 fiscal year and thereafter.

**SECTION 10.15A.(b)** In order to ensure accountability for services provided and funds expended for community services, the Department of Health and

Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop a tiered rate structure to replace the blended rate currently used for community support services. Under the new tiered structure, services that are necessary but do not require the skill, education, or knowledge of a qualified professional should not be paid at the same rate as services provided by qualified skilled professionals. The Department shall not implement the tiered rate structure until 15 days after it has notified 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. The Department shall report on the development of the structure to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than October 1, 2008.

**SECTION 10.15A.(c)** Article 3A of Chapter 122C of the General Statutes is amended by adding the following new section to read:

**"§ 122C-81. National accreditation benchmarks.**

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

- (1) 'National accreditation' applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.
- (2) 'Provider' applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.

(b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted by the Secretary, shall designate the mental health, developmental disabilities, and substance abuse services that require national accreditation.

(c) Providers enrolled with the Medicaid program prior to July 1, 2008, and providing services that require national accreditation approved by the Secretary pursuant to subsection (b) of this section, shall successfully complete national accreditation requirements within three years of enrollment with the Medicaid program. Providers shall meet the following benchmarks to ensure continuity of care for consumers in the event the provider does not make sufficient progress in achieving national accreditation in a timely manner:

- (1) Nine months prior to the accreditation deadline – Formal selection of an accrediting agency as documented by a letter from the agency to the provider acknowledging the provider's selection of that accrediting agency. A provider failing to meet this benchmark shall be prohibited from admitting new clients to service. If a provider fails to meet this benchmark, then the LMEs shall work with the provider to transfer all the provider's entire case load to another provider within four months of the date of the provider's failure to meet the benchmark. The transfer of the case load shall be in increments such that not fewer than twenty-five percent (25%) of the provider's total caseload shall be transferred per month. The Department shall terminate the provider's enrollment in the Medicaid program within four months of the provider's failure to meet the benchmark.
- (2) Six months prior to the accreditation deadline – An on-site accreditation review scheduled by the accrediting agency as documented by a letter from the agency to the facility. A provider failing to meet this benchmark will be prohibited from admitting new clients to service. If a provider fails to meet this benchmark, then the LMEs shall work with the provider to transfer the provider's entire case load to another provider within three months of the date of the provider's failure to meet the benchmark. The transfer of the case load shall be in increments such that not fewer than thirty-three percent

(33%) of the provider's total caseload shall be transferred per month. The Department shall terminate the provider's enrollment in the Medicaid program within three months of the provider's failure to meet the benchmark.

- (3) Three months prior to the accreditation deadline – Completion of an on-site accreditation review, receipt of initial feedback from accrediting agency, and submission of a Plan of Correction for any deficiencies noted by the accrediting agency. A provider failing to meet this benchmark shall be prohibited from admitting new clients to service. If a provider fails to meet this benchmark, then the LMEs shall work with the provider to transfer the provider's entire case load to another provider within two months of the date of the provider's failure to meet the benchmark. The transfer of the case load shall be in increments such that not fewer than fifty percent (50%) of the provider's total caseload shall be transferred per month. The Department shall terminate the provider's enrollment in the Medicaid program within two months of the provider's failure to meet the benchmark.
- (4) Accreditation deadline – Approval as fully accredited by the national accrediting agency. A provider failing to meet this requirement shall be prohibited from admitting new clients to service. The LMEs will work with a provider failing to meet this deadline to transition clients currently receiving service to other providers within 60 days. The Department shall terminate the provider's enrollment in the Medicaid program within 60 days of the provider's failure to meet the benchmark.
- (5) A provider that has its enrollment terminated in the Medicaid program as a result of failure to meet benchmarks for national accreditation or failure to continue to be nationally accredited may not apply for re-enrollment in the Medicaid program for at least one year following its enrollment termination.

(d) Providers enrolled in the Medicaid program or contracting for State-funded services on or after July 1, 2008, and providing services which require national accreditation shall successfully complete all accreditation requirements and be awarded national accreditation within one year of enrollment in the Medicaid program or within two years following the provider's first contract to deliver a State-funded service requiring national accreditation. Providers providing services that require national accreditation shall be required to discontinue service delivery and shall have their Medicaid enrollment and any service contracts terminated if they do not meet the following benchmarks for demonstrating sufficient progress in achieving national accreditation following the date of enrollment in the Medicaid program or initial contract for State-funded services:

- (1) Three months – On-site accreditation review scheduled by accrediting agency as documented by a letter from the agency to the provider and completion of self-study and self-evaluation protocols distributed by the selected accrediting agency.
- (2) Six months – On-site accreditation review scheduled by accrediting agency as documented by a letter from the agency to the provider.
- (3) Nine months – Completion of on-site accreditation review, receipt of initial feedback from accrediting agency, plan to address any deficiencies identified developed.
- (4) If a provider's Medicaid enrollment or service delivery contracts are terminated as a result of failure to meet accreditation benchmarks or failure to continue to be nationally accredited, the provider will work with the LME to transition consumers served by the provider to other

service providers in an orderly fashion within 60 days of notification by the LME of such failure.

- (5) A provider that has its Medicaid enrollment or service delivery contracts terminated as a result of failure to meet accreditation benchmarks or failure to continue to be nationally accredited may not reapply for enrollment in the Medicaid program or enter into any new service delivery contracts for at least one year following enrollment or contract termination."

**SECTION 10.15A.(e1)** For the purpose of expediting the resolution of community support provider appeals and thereby saving State and federal funds that are paid for services that are found to be unnecessary or otherwise ineligible for payment, the Department shall implement on a temporary basis a community support provider appeals process. The process shall be a substitute for informal provider appeals at the Department level and formal provider appeals by the Office of Administrative Hearings. The community support provider appeals process shall apply to a community support services provider:

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

**SECTION 10.15A.(e2)** The community support provider appeals process shall be developed and implemented as follows:

- (1) A hearing under this section shall be commenced by filing a petition with the chief hearings clerk of the Department within 30 days of the mailing of the notice by the Department of the action giving rise to the contested case. The petition shall identify the petitioner, be signed by the party or representative of the party, and shall describe the agency action giving rise to the contested case. As used in this section, "file or filing" means to place the paper or item to be filed into the care and custody of the chief hearings clerk of the Department and acceptance thereof by the chief hearings clerk, except that the hearing officer may permit the papers to be filed with the hearing officer, in which event the hearing officer shall note thereon the filing date. The Department shall supply forms for use in these contested cases.
- (2) If there is a timely request for an appeal, the Department shall promptly designate a hearing officer who shall hold an evidentiary hearing. The hearing officer shall conduct the hearing according to applicable federal law and regulations and shall ensure that:
  - a. Notice of the hearing is given not less than 15 days before the hearing. The notice shall state the date, hour, and place of the hearing and shall be deemed to have been given on the date that a copy of the notice is mailed, via certified mail, to the address provided by the petitioner in the petition for hearing.
  - b. The hearing is held in Wake County, except that the hearing officer may, after consideration of the numbers, locations, and convenience of witnesses and in order to promote the ends of justice, hold the hearing by telephone or other electronic means or hold the hearing in a county in which the petitioner resides.
  - c. Discovery is no more extensive or formal than that required by federal law and regulations applicable to the hearings. Prior to and during the hearing, a provider representative shall have adequate opportunity to examine the provider's own case file. No later than five days before the date of the hearing, each party



to a contested case shall provide to each other party a copy of any documentary evidence that the party intends to introduce at the hearing and shall identify each witness that the party intends to call.

- (3) The hearing officer shall have the power to administer oaths and affirmations, subpoena the attendance of witnesses, rule on prehearing motions, and regulate the conduct of the hearing. The following shall apply to hearings held pursuant to this section:
  - a. At the hearing, the parties may present such sworn evidence, law, and regulations as are relevant to the issues in the case.
  - b. The petitioner and the respondent agency each have a right to be represented by a person of his choice, including an attorney obtained at the party's own expense.
  - c. The petitioner and the respondent agency shall each have the right to cross-examine witnesses as well as make a closing argument summarizing his view of the case and the law.
  - d. The appeal hearing shall be recorded. If a petition for judicial review is filed pursuant to subsection (f) of this section, a transcript will be prepared and made part of the official report and shall be prepared at no cost to the appellant. In the absence of the filing of a petition for a judicial review, no transcript will be prepared unless requested by a party, in which case each party shall bear the cost of the transcript or part thereof or copy of the transcript or part thereof requested by the party. The recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed as provided in G.S. 108A-79(i)(5).
- (4) The hearing officer shall decide the case based upon a preponderance of the evidence, giving deference to the demonstrated knowledge and expertise of the agency as provided in G.S. 150B-34(a). The hearing officer shall prepare a proposal for the decision, citing relevant law, regulations, and evidence, which shall be served upon the petitioner or the petitioner's representative by certified mail, with a copy furnished to the respondent agency.
- (5) The petitioner and the respondent agency shall have 15 days from the date of the mailing of the proposal for decision to present written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who will make the final decision. If neither written arguments are presented, nor extension of time granted by the final agency decision maker for good cause, within 15 days of the date of the mailing of the proposal for decision, the proposal for decision becomes final. If written arguments are presented, such arguments shall be considered and the final decision shall be rendered. The final decision shall be rendered not more than 90 days from the date of the filing of the petition. This time limit may be extended by agreement of the parties or by final agency decision maker, for good cause shown, for an additional period of up to 30 days. The final decision shall be served upon the petitioner or the petitioner's representative by certified mail, with a copy furnished to the respondent agency. In the absence of a petition for judicial review filed pursuant to subsection (f) of this section, the final decision shall be binding upon the petitioner and the Department.
- (6) A petitioner who is dissatisfied with the final decision of the Department may file, within 30 days of the service of the decision, a petition for judicial review in the Superior Court of Wake County or of

the county from which the case arose. The judicial review shall be conducted according to Article 4 of Chapter 150B of the General Statutes.

- (7) In the event of a conflict between federal law or regulations and State law or regulations, federal law or regulations shall control. This section applies to all petitions that are filed by a Medicaid community support services provider on or after July 1, 2008, and for all Medicaid community support services provider petitions that have been filed at the Office of Administrative Hearings previous to July 1, 2008, but for which a hearing on the merits has not been commenced prior to that date. The requirement that the agency decision must be rendered not more than 90 days from the date of the filing of the petition for hearing shall not apply to (i) community support services provider petitions that were filed at the Office of Administrative Hearings or (ii) requests for a hearing under the Department's informal settlement process prior to the effective date of this act. The Office of Administrative Hearings shall transfer all cases affected by this section to the Department of Health and Human Services within 30 days of the effective date of this section. This act preempts the existing informal appeal process and reconsideration review process at the Department of Health and Human Services and the existing appeal process at the Office of Administrative Hearings with regard to all appeals filed by Medicaid community support services providers under the Medical Assistance program.

**SECTION 10.15A.(e3)** Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may, pursuant to its statutory authority or federal Medicaid requirements, suspend the endorsement or Medicaid participation of a provider of community support services pending a final agency decision based on a fair hearing of the provider's appeal filed with the Department under its community support provider appeal process. A provider of community support services whose endorsement, Medicaid participation, or services have been suspended is not entitled to payment during the period the appeal is pending, and the Department shall make no such payment to the provider during that period. If the final agency decision is in favor of the provider, the Department shall remove the suspension, commence payment for provider services, and reimburse the provider for payments withheld during the period of appeal. Contracts between the Department or a local management entity and the provider shall contain a provision indicating the circumstances under which a provider may appeal an agency decision and giving notice of the suspension of payments to the provider while the appeal is pending. This subsection applies to community support provider appeals pending in the Department of Health and Human Services or the Office of Administrative Hearings, as applicable, on and after July 1, 2008.

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

**SECTION 10.15A.(f)** G.S. 150B-1(e) is amended by adding the following new subdivision to read:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly

exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

- ...
- (16) The Department of Health and Human Services with respect to contested cases commenced by (i) Medicaid providers appealing a denial or reduction in reimbursement for community support services, and (ii) community support services providers appealing decisions by the LME to deny or withdraw the provider's endorsement."

**SECTION 10.15A.(g)** The Department of Health and Human Services shall adopt guidelines for LME periodic review and rules for endorsement and reendorsement of providers to ensure that only qualified providers are endorsed and that LMEs hold those providers accountable for the Medicaid and State-funded services they provide.

**SECTION 10.15A.(h)** G.S. 122C-151.4 reads as rewritten:

**"§ 122C-151.4. Appeal to State MH/DD/SA Appeals Panel.**

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

- (1) "Appeals Panel" means the State MH/DD/SA Appeals Panel established under this section.
- (1a) "Client" means an individual who is admitted to or receiving public services from an area facility. "Client" includes the client's personal representative or designee.
- (1b) "Contract" means a contract with an area authority or county program to provide services, other than personal services, to clients and other recipients of services.
- (2) "Contractor" means a person who has a contract or who had a contract during the current ~~fiscal year~~ year, or whose application for endorsement has been denied by an area authority or county program.
- (3) "Former contractor" means a person who had a contract during the previous fiscal year.

(b) Appeals Panel. – The State MH/DD/SA Appeals Panel is established. The Panel shall consist of three members appointed by the Secretary. The Secretary shall determine the qualifications of the Panel members. Panel members serve at the pleasure of the Secretary.

(c) Who Can Appeal. – The following persons may appeal to the State MH/DD/SA Appeals Panel after having exhausted the appeals process at the appropriate area authority or county program:

- (1) A contractor or a former contractor who claims that an area authority or county program is not acting or has not acted within applicable State law or rules in denying the contractor's application for endorsement or in imposing a particular requirement on the contractor on fulfillment of the contract;
- (2) A contractor or a former contractor who claims that a requirement of the contract substantially compromises the ability of the contractor to fulfill the contract;
- (3) A contractor or former contractor who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided by the contractor or former contractor;
- (4) A client or a person who was a client in the previous fiscal year, who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided to the client directly by the area authority or county program; and
- (5) A person who claims that an area authority or county program did not comply with a State law or a rule adopted by the Secretary or the Commission in developing the plans and budgets of the area authority

or county program and that the failure to comply has adversely affected the ability of the person to participate in the development of the plans and budgets.

(d) Hearing. – All members of the State MH/DD/SA Appeals Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within the time required by the Secretary and shall be heard by the Panel within the time required by the Secretary. A hearing shall be conducted at the place determined in accordance with the rules adopted by the Secretary. A hearing before the Panel shall be informal; no sworn testimony shall be taken and the rules of evidence do not apply. The person who appeals to the Panel has the burden of proof. The Panel shall not stay a decision of an area authority during an appeal to the Panel.

(e) Decision. – The State MH/DD/SA Appeals Panel shall make a written decision on each appeal to the Panel within the time set by the Secretary. A decision may direct a contractor, an area authority, or a county program to take an action or to refrain from taking an action, but it shall not require a party to the appeal to pay any amount except payment due under the contract. In making a decision, the Panel shall determine the course of action that best protects or benefits the clients of the area authority or county program. If a party to an appeal fails to comply with a decision of the Panel and the Secretary determines that the failure deprives clients of the area authority or county program of a type of needed service, the Secretary may use funds previously allocated to the area authority or county program to provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-2(1a), an area authority or county program is considered an agency for purposes of the limited appeal authorized by this section. If the need to first appeal to the State MH/DD/SA Appeals Panel is waived by the Secretary, a contractor may appeal directly to the Office of Administrative Hearings after having exhausted the appeals process at the appropriate area authority or county program. The Secretary shall make a final decision in the contested case.

(g) This section does not apply to providers of community support services who appeal directly to the Department of Health and Human Services under the Department's community support provider appeal process."

**SECTION 10.15A.(h1)** The Department of Health and Human Services and the Office of Administrative Hearings shall work together to streamline the process for hearing Medicaid recipient appeals. The process shall be designed to significantly reduce the backlog of Medicaid recipient appeals pending as of July 1, 2008, and shall ensure that Medicaid recipients continue to receive benefits at current levels pending the outcome of the appeal. The Department shall further ensure that Medicaid applicants who have been determined to be eligible for Medicaid shall be eligible to receive community support services if the services are determined to be medically necessary.

**SECTION 10.15A.(i)** Sections 10.49(ee)(5) and (6) of S.L. 2007-323 read as rewritten:

- "(5) All community support services are subject to prior ~~approval after the initial assessment and development of a person-centered plan has been completed;~~ approval.
- (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. After the tiered rates required under Subsection (b) of this section have been~~

implemented, not less than fifty percent (50%) of community support services must be delivered by qualified professionals."

**SECTION 10.15A.(j)** The Department of Health and Human Services, Division of Medical Assistance, shall adopt a policy reducing the maximum allowable hours for community support services to eight hours per week. This subsection does not apply to community support services offered under a Medicaid managed care, capitated at-risk waiver.

**SECTION 10.15A.(k)** The lead paragraph of Section 10.49(ee) of S.L. 2007-323 reads as rewritten:

"SECTION 10.49.(ee) For This subsection does not apply to community support services offered under a Medicaid managed care, capitated, at-risk waiver. For all other community support services, 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:"

## **NON-MEDICAID REIMBURSEMENT CHANGES**

**SECTION 10.16.** Section 10.5 of S.L. 2007-323 reads as rewritten:

**"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."

**ADULT CARE HOME TRAINING/TECHNICAL ASSISTANCE**

**SECTION 10.16A.** Section 10.54(b) of S.L. 2007-323 reads as rewritten:

**"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. Thirty-five thousand dollars (\$35,000) of these funds shall be allocated to the Division of Aging and Adult Services for the Adult Care Home Quality Improvement Consultation Program. The remaining funds are appropriated for training and technical assistance to implement the rated certificate program and shall be used to fund the development and implementation of a training and educational program by the North Carolina adult care home provider associations that will be integrated with the assessment, care planning, training, and quality improvement initiative being coordinated and financially supported by participating adult care home providers and associations as they are developed. Providers shall not be charged a fee for receiving the training."

**DHHS BLOCK GRANTS**

**SECTION 10.17.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2009, 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)	\$90,857,234
02.	Work First County Block Grants	94,453,315
03.	Work First Functional Assessment	2,721,787
04.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
05.	Work First – Boys and Girls Clubs	2,000,000
06.	Work First – After-School Services for At-Risk Children	2,049,642

07.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
08.	Work First – Connect, Inc.	550,000
09.	Work First – Citizens Schools Program	600,000
10.	Adoption Services – Special Children's Adoption Fund	3,000,000
11.	Family Violence Prevention	2,200,000
Division of Child Development		
12.	Subsidized Child Care Program	61,087,077
Division of Public Health		
13.	Teen Pregnancy Prevention Initiatives	450,000
DHHS Administration		
14.	Division of Social Services	995,142
15.	Office of the Secretary	66,101
16.	Office of the Secretary/DIRM – TANF Automation Projects	595,541
17.	Office of the Secretary/DIRM – NC FAST Implementation	1,200,000
Transfers to Other Block Grants		
Division of Child Development		
18.	Transfer to the Child Care and Development Fund	84,330,900
Division of Social Services		
19.	Transfer to Social Services Block Grant for Department of Juvenile Justice and Delinquency Prevention – Support Our Students	2,649,642
20.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,738,827
21.	Transfer to Social Services Block Grant for Maternity Homes	838,000
22.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000

23.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,620,619
24.	Transfer to Social Services Block Grant for Foster Care Services	2,372,587
25.	Transfer to Social Services Block Grant for Medically Fragile Children	190,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		\$378,018,805

**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 – \$4,620,619)	\$ 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)	2,372,587
06.	Child Protective Services – Child Welfare Training for Counties (Transfer from TANF)	2,738,827
07.	Maternity Homes (Transfer from TANF)	838,000
08.	Special Children Adoption Incentive Fund	500,000

Division of Aging and Adult Services

09.	Home and Community Care Block Grant (HCCBG)	1,834,077
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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	3,150,000
Division of Vocational Rehabilitation		
14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	188,263
Division of Public Health		
15.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
16.	Services to Medically Fragile Children	290,000
DHHS Program Expenditures		
Division of Aging and Adult Services		
17.	UNC-CARES Training Contract	247,920
Division of Services for the Blind		
18.	Independent Living Program	3,633,077
Division of Health Service Regulation		
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668
DHHS Administration		
21.	Division of Aging and Adult Services	675,593
22.	Division of Social Services	869,058
23.	Office of the Secretary/Controller's Office	135,093
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	216,418
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

Department of Juvenile Justice and Delinquency Prevention

32. Support Our Students (Transfer from TANF) 2,649,642

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

TOTAL SOCIAL SERVICES BLOCK GRANT \$ 66,347,353

LOW-INCOME ENERGY BLOCK GRANT

Local Program Expenditures

Division of Social Services

01. Low-Income Energy Assistance Program (LIHEAP) \$ 19,510,559

02. Crisis Intervention Program (CIP) 14,588,514

Office of the Secretary – Office of Economic Opportunity

03. Weatherization Program 6,268,946

04. Heating Air Repair & Replacement Program (HARRP) 2,923,950

Local Administration

Division of Social Services

05. County DSS Administration 2,259,757

Office of the Secretary – Office of Economic Opportunity

06. Local Residential Energy Efficiency Service Providers – Weatherization 268,146

07. Local Residential Energy Efficiency Service Providers – HARRP 125,067

DHHS Administration

08. Division of Social Services 219,410

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	268,146
13.	Office of the Secretary/Office of Economic Opportunity – HARRP	125,067
Transfers to Other State Agencies		
14.	Department of Administration – N.C. State Commission of Indian Affairs	60,947
TOTAL LOW-INCOME ENERGY BLOCK GRANT		\$ 46,882,504
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
Local Program Expenditures		
Division of Child Development		
01.	Subsidized Child Care Services	\$148,484,960
02.	Child Care Services Support – Contract	504,695
03.	Subsidized Child Care Services (TANF to CCDF)	84,330,900
DHHS Program Expenditures		
Division of Child Development		
04.	Quality and Availability Initiatives	27,298,901
Local Administration		
Division of Social Services		
05.	Administrative Expenses (Nondirect Subsidy Services Support)	15,813,021
DHHS Administration		
06.	DCD Administrative Expenses	6,540,707
DHHS Central Management and Support		
07.	DHHS Central Administration – DIRM Technical Services	749,081

TOTAL CHILD CARE AND DEVELOPMENT FUND  
BLOCK GRANT \$283,722,265

MENTAL HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01.	Mental Health Services – Adult	\$ 6,854,932
02.	Mental Health Services – Child	3,921,991
03.	Comprehensive Treatment Service Program	1,500,000
04.	Mental Health Services – UNC School of Medicine, Department of Psychiatry	300,000

Local Administration

05.	Division of Mental Health	100,000
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TOTAL MENTAL HEALTH SERVICES BLOCK GRANT \$ 12,676,923

SUBSTANCE ABUSE PREVENTION  
AND TREATMENT BLOCK GRANT

Local Program Expenditures

01.	Substance Abuse Services – Adult	\$ 21,938,080
02.	Substance Abuse Services – ADATC One-Time Expenses	70,000
03.	Substance Abuse Treatment Alternative for Women	8,069,524
04.	Substance Abuse – HIV and IV Drug	5,116,378
05.	Substance Abuse Prevention – Child	7,186,857
06.	Substance Abuse Services – Child	4,940,500

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
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TOTAL SUBSTANCE ABUSE PREVENTION  
AND TREATMENT BLOCK GRANT \$ 48,702,674

MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

Division of Public Health

01.	Children's Health Services	7,415,569
02.	Women's Health	7,504,019
03.	Oral Health	35,951

DHHS Program Expenditures

Division of Public Health

04.	Children's Health Services	1,554,428
05.	Women's Health	121,285
06.	State Center for Health Statistics	120,364
07.	Quality Improvement in Public Health	14,646
08.	Health Promotion	84,843
09.	Office of Minority Health	51,562
10.	Immunization Program – Vaccine Distribution	310,667
11.	Task Force on Preventing Childhood Obesity	100,000

DHHS Administration

12.	Division of Public Health Administration	631,966
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TOTAL MATERNAL AND CHILD  
HEALTH BLOCK GRANT \$ 17,945,300

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01.	NC Statewide Health Promotion	\$1,755,653
02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819

DHHS Program Expenditures

04.	NC Statewide Health Promotion	1,508,889
05.	Oral Health	70,000
06.	State Laboratory of Public Health	16,600
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,694,073

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity – Community Services Block Grant

01.	Community Action Agencies	\$ 16,062,653
02.	Limited Purpose Agencies	892,370

DHHS Administration

03.	Office of Economic Opportunity	892,369
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TOTAL COMMUNITY SERVICES BLOCK GRANT		\$ 17,847,392
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**GENERAL PROVISIONS**

**SECTION 10.17.(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 10.17.(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 10.17.(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 10.17.(e)** The sum of nine hundred ninety-five thousand one hundred forty-two dollars (\$995,142) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year shall be used to support administration of TANF-funded programs.

**SECTION 10.17.(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 2008-2009 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, 2008. 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, 2008, 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, 2008. The Division of Social

Services may reallocate unspent funds to counties that submit a written request for additional funds.

**SECTION 10.17.(g)** The sum of two million forty-nine thousand six hundred forty-two dollars (\$2,049,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 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 10.17.(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 2008-2009 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 postadoption services for eligible families.

**SECTION 10.17.(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 2008-2009 fiscal year shall be used in accordance with Section 10.31 of S.L. 2007-323. 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 10.17.(j)** The sum of one million two hundred thousand dollars (\$1,200,000) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant for the 2008-2009 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, 2009.

**SECTION 10.17.(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 2008-2009 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 10.17.(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 10.17.(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 2008-2009 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 10.17.(n)** The sum of two million dollars (\$2,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs for the 2008-2009 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 10.17.(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, 2009.

**SECTION 10.17.(p)** The sum of six hundred thousand dollars (\$600,000) appropriated under this section in the TANF block grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 fiscal year shall be

used to implement a Citizens Schools Program, a three-year urban/rural dropout prevention pilot program in the Durham and Vance county public school systems. The Citizens Schools Program provides high-quality, extended learning time for middle school students in schools with high percentages of minority students, poor students, or both, and students with other risk factors for dropping out and reduces the rate of teen pregnancy. Students in the Citizens Schools Program receive after-school instruction in groups of eight to 12 students per adult. The instruction includes: (i) 60 minutes of daily academic support with strong study skills and critical thinking components, (ii) four 11-week apprenticeships, using volunteers as leaders focusing on 21<sup>st</sup> century skills, and (iii) career exploration and choice time to further explore a variety of interests. Citizens Schools Team Leaders contact each student's family by telephone at least every two weeks to discuss the student's participation and progress.

North Carolina State University shall evaluate the program to ensure that the program is effectively helping students stay in school and successfully graduate in their four-year cohort. The evaluation shall include a long-term study of the graduation cohort rate increase as well as short-term measures, including attendance, grade point average, discipline, the program dropout rate, credits earned, and postsecondary education matriculation. Not later than January 1, 2009, North Carolina State University shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the results of its evaluation.

## **SOCIAL SERVICES BLOCK GRANT**

**SECTION 10.17.(q)** 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 10.17.(r)** The sum of two million six hundred forty-nine thousand six hundred forty-two dollars (\$2,649,642) 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 2008-2009 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 10.17.(s)** The sum of two million seven hundred thirty-eight thousand eight hundred twenty-seven dollars (\$2,738,827) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2008-2009 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 10.17.(t)** 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 2008-2009 fiscal year shall be used to purchase services at maternity homes throughout the State.

**SECTION 10.17.(u)** The sum of two million three hundred seventy-two thousand five hundred eighty-seven dollars (\$2,372,587) appropriated in this section in the Social Services Block Grant for child-caring agencies for the 2008-2009 fiscal year shall be allocated to the State Private Child-Caring Agencies Fund.

**SECTION 10.17.(v)** The sum of two hundred ninety thousand dollars (\$290,000) appropriated in this section in the Social Services Block Grant for services

to medically fragile children for the 2008-2009 fiscal year shall be used for the child care component of pediatric day treatment centers for medically fragile children.

**SECTION 10.17.(w)** 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 10.17.(x)** 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 10.17.(y)** 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 10.17.(z)** 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 10.17.(aa)** 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 2008-2009 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 2008-2009 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 10.10 of S.L. 2007-323.

**SECTION 10.17.(bb)** Of the three hundred thousand dollars (\$300,000) appropriated for the UNC School of Medicine, Department of Psychiatry, for the 2008-2009 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be used to: (i) expand the Department of Psychiatry's Schizophrenia Treatment and Evaluation Program (STEP) into a community setting, (ii) provide training for the next generation of psychiatrists, social workers, psychologists, and nurses to address the current workforce crisis, (iii) provide statewide training and consultation in evidence-based practices, and (iv) provide ongoing support for the STEP and OASIS clinics.

Of the three hundred thousand dollars (\$300,000) appropriated for the UNC School of Medicine, Department of Psychiatry, for the 2008-2009 fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be used to provide bridge funding for OASIS, a statewide program providing targeted, intense interventions to individuals in the early stages of schizophrenia when chronicity and disability may be most preventable. Funds shall be used to support OASIS as foundation support ends, allowing OASIS to transition to funding through private insurance, Medicaid, State

appropriations for Mental Health, Developmental Disabilities, and Substance Abuse Services, and other funding streams.

### **MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.17.(cc)** The sum of one hundred thousand dollars (\$100,000) appropriated in this section in the Maternal and Child Health Block Grant to the Department of Health and Human Services, Division of Public Health, for the 2008-2009 fiscal year shall be used to establish a Task Force on Preventing Childhood Obesity (Task Force) to be cochaired by the State Health Director and the Chairman of the State Board of Education. The Task Force is to review current State activities in the Department of Health and Human Services, the Department of Public Instruction, and the Health and Wellness Trust Fund and develop a comprehensive statewide strategic plan with recommendations for preventing childhood obesity. The goals of the strategic plan shall encompass the following framework of initiatives:

- (1) Providing healthier foods to students;
- (2) Improving the availability of healthy foods at home and in the community;
- (3) Increasing the frequency, intensity, and duration of physical activity in schools;
- (4) Encouraging communities to establish a master plan for pedestrian and bicycle pathways;
- (5) Improving access to safe places where children can play; and
- (6) Developing activities or programs that limit children's screen time, including limits on video games and television.

Membership on the task force shall include, but is not limited to, representatives from the following organizations:

- (1) Health and Wellness Trust Fund.
- (2) North Carolina Institute for Public Health.
- (3) UNC Active Living by Design.
- (4) Blue Cross Blue Shield of North Carolina.
- (5) NC Hospital Association.
- (6) NC Parent Teacher Association.
- (7) American Heart Association.
- (8) School Nutrition Association of North Carolina.

The Chairman of the State Board of Education and the State Health Director shall report to the House of Representatives Chairs of the Appropriations Subcommittees on Health and Human Services and Education, the Senate Chairs of the Appropriations Committees on Health and Human Services and Education/Public Instruction, the Joint Legislative Oversight Committee on Education, the Joint Legislative Oversight Committee on Health, and the Fiscal Research Division on the Task Force on Preventing Childhood Obesity's strategic plan and recommendations by January 15, 2009, or upon the convening of the 2009 Session of the General Assembly, whichever occurs first.

**SECTION 10.17.(dd)** 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 2008-2009 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 10.17.(ee)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

## **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

### **STUDY CERTAIN DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FEES**

**SECTION 11.1.(a)** The Department of Agriculture and Consumer Services, in consultation with the Office of State Budget and Management and the Fiscal Research Division, shall study the following:

- (1) The feasibility and advisability of increasing the fees imposed by either the Board of Agriculture or the Department regarding services provided by the Rollins Laboratory System.
- (2) The feasibility and advisability of establishing fees for soil testing services provided by the Agronomics Division of the Department.
- (3) The feasibility and advisability of using alternative sources of funding for the "Agricultural Review", an agriculture newsletter published by the Department, including charging fees for advertisements or classified advertisements and soliciting private sponsors for the newsletter.

**SECTION 11.1.(b)** In the course of the study under subsection (a) of this section, the Department may consider other fees imposed by either the Board of Agriculture or the Department, the administrative costs associated with these fees, and current usage rates for various services provided by the Department.

**SECTION 11.1.(c)** No later than March 1, 2009, the Department of Agriculture and Consumer Services shall report the results of the study under this section, including any recommendations or legislative proposals, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources.

## **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

### **BERNARD ALLEN MEMORIAL EMERGENCY DRINKING WATER FUND AMENDMENTS.**

**SECTION 12.1.** 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 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 Fund may also be used by the Department to 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 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 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~~ may be used to provide alternative drinking water supplies ~~unless if the Department determines that the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the federal Maximum Contaminant Level~~ 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) ~~2007~~) and 40 Code of Federal Regulations § 143.3 (1 July 2006) ~~2007~~). For a contaminant for which a federal maximum contaminant level or drinking water action level has not been established, the State groundwater standard established by the Environmental Management Commission for the concentration of that contaminant shall be used to determine whether the Fund may be used to provide alternative drinking water supplies. The Fund may also be used to provide alternative drinking water supplies as provided in this section if the Department determines that the concentration of one or more contaminants in a private drinking water well is increasing over time and that there is a significant risk that the concentration of a contaminant will exceed the federal maximum contaminant level or drinking water action level, or the State groundwater standard. A determination of the concentration of a contaminant shall be based on a sample of water collected from the private drinking water well within the past 12 months. 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.

(c1) In disbursing monies from the Fund, preference shall be given to providing the Department shall give preference to provision of permanent replacement water supplies by connection to public water supplies and repair or replacement of contaminated wells over the provision of temporary water supplies. In providing alternative drinking water supplies, the Department shall give preference to connection to a public water supply system or to construction of a new private drinking water well over the use of a filtration system if the Department determines that the costs of periodic required maintenance of the filtration system would be cost-prohibitive for users of the alternative drinking water supply.

(c2) If the Department provides an alternative drinking water supply by extension of a waterline, the Department may disburse from the Fund no more than ten thousand dollars (\$10,000) per household or other service connection. No more than one-third of the total cost of the project may be paid from the Fund. The Department may combine monies from the Fund with monies from other sources in order to pay the total cost of the project.

(c3) The Fund shall be used to provide alternative drinking water supplies only if the Department determines that the person or persons who are responsible for the contamination of the private drinking water well is or are not financially viable or cannot be identified or located and if the Department determines that one of the following applies:

(1) The contamination of the private drinking water well is naturally occurring.

(2) The owner of the property on which the private drinking water well is located did not cause or contribute to the contamination or control the source of the contamination.

(3) The source of the contamination is the application or disposal of a hazardous substance or pesticide that occurred without the consent of the owner of the property on which the private drinking water well is located.

(c4) The Department may use up to one hundred thousand dollars (\$100,000) of the monies in the Fund to pay the personnel and other direct costs associated with the implementation of this section.

(c5) The Fund shall not be used for remediation of groundwater contamination.

(c6) 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.

(d) The Department shall establish criteria by which the Department is to evaluate applications and disburse monies from this Fund and may adopt any rules necessary to implement this section.

(e) The Department, in consultation with the Commission for Public Health 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."

## **INACTIVE HAZARDOUS WASTE SITES REPORT REQUIREMENT**

**SECTION 12.1A.(a)** G.S. 130A-310.2 reads as rewritten:

### **"§ 130A-310.2. Inactive Hazardous Waste Sites Priority List.**

(a) No later than six months after July 1, 1987, the Commission shall develop a system for the prioritization of inactive hazardous substance or waste disposal sites based on the extent to which such sites endanger the public health and the environment. The Secretary shall apply the prioritization system to the inventory of sites to create and maintain an Inactive Hazardous Waste Site Priority List, which shall rank all inactive hazardous substance or waste disposal sites in decreasing order of danger. This list shall identify the location of each site and the type and amount of hazardous substances or waste known or believed to be located on the site. The first such list shall be published within two years after July 1, 1987, with subsequent lists to be published at intervals of not more than two years thereafter. The Secretary shall notify owners, operators, and responsible parties of sites listed on the Inactive Hazardous Waste Sites Priority List of their ranking on the list. The Inactive Hazardous Sites Priority List shall be used by the Department in determining budget requests and in allocating any State appropriation which may be made for remedial action, but shall not be used so as to impede any other action by the Department, or any remedial or other action for which funds are available.

(b) No later than January 1 of each year, the Department shall report to each member of the General Assembly who has an inactive hazardous substance or waste disposal site in the member's district. This report shall include the location of each inactive hazardous substance or waste disposal site in the member's district, the type and amount of hazardous substances or waste known or believed to be located on each of these sites, the last action taken at each of these sites, and the date of that last action."

**SECTION 12.1A.(b)** The initial report under G.S. 130A-310.2(b), as amended by this section, shall be due no later than January 1, 2009.

## **AGRICULTURAL DROUGHT RESPONSE COST SHARE PROGRAM**

**SECTION 12.4.(a)** Agricultural Drought Response Cost Share Program. – The Agricultural Drought Response Cost Share Program is established. The Program shall provide cost share funds to assist North Carolina farmers who suffered damage from the severe and extreme drought conditions in North Carolina in 2007. These cost share funds shall be used to assist farmers with the following projects:

- (1) To redrill damaged wells or to drill new wells to be used as a water supply for livestock or for irrigation.
- (2) To renovate damaged or inadequate farm ponds or construct new farm ponds to be used as a water supply for livestock or for irrigation.
- (3) To renovate pastures depleted by the 2007 drought.

**SECTION 12.4.(b)** Program Administration. – The Program shall be implemented and supervised by the Soil and Water Conservation Commission through the Agriculture Cost Share Program for Nonpoint Source Pollution Control. The Commission shall administer this Program as provided in this section and in Part 9 of Article 21 of Chapter 143 of the General Statutes.

**SECTION 12.4.(c)** Program Functions. – Under the Agricultural Drought Response Cost Share Program, the Division shall:

- (1) Within funds available for this Program, provide cost share funds subject to all of the following limitations and requirements:
  - a. Except as provided in G.S. 143-215.74(b)(9), State funding shall be limited to:
    1. Seventy-five percent (75%) of the average cost for each project with the assisted person providing twenty-five percent (25%) of the project cost, which may include in-kind support of the project.
    2. A maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
  - b. Applicants shall be limited to farmers who have an adjusted gross income in each of the previous two years that is at or below two hundred fifty thousand dollars (\$250,000), unless at least seventy-five percent (75%) of this adjusted gross income is derived directly from farming, ranching, or forestry operations.
  - c. To be eligible for cost share funds under subdivision (1) or subdivision (2) of subsection (a) of this section, applicants must demonstrate that their existing water supplies are insufficient to provide reliable water to meet current needs for livestock watering or irrigation.
  - d. Applicants may apply for cost share funds for projects under subsection (a) of this section that were installed as of August 1, 2007, so long as the costs of installation are documented to the satisfaction of the Commission.
  - e. The requirements and limitations under subdivisions (1), (2), (5), and (8) of subsection (b) of G.S. 143-215.74 do not apply. All other limitations and requirements set out in Part 9 of Article 21 of Chapter 143 of the General Statutes, as modified by this section, apply.
- (2) Establish criteria to prioritize the redrilling of damaged wells and the drilling of new wells, the renovation of damaged or inadequate farm ponds and the construction of new farm ponds, and the renovation of pastures depleted by the drought.
- (3) Establish criteria for the selection of applicants who are eligible for participation in the Program.
- (4) Develop a process for soliciting and reviewing applications and for selecting farmers to participate in the Program.



- (5) Investigate and pursue other funding sources to supplement State funds, including federal, local, and private funding sources.
- (6) Provide technical assistance to participating persons to assist with the projects that are eligible for cost share funds under subsection (a) of this section and to facilitate the timely transfer of technology among participating persons.

**SECTION 12.4.(d)** Report. – No later than 31 January of each year, the Division shall prepare a comprehensive report on the implementation of subsections (a) through (c) of this section. The report shall be submitted to the Environmental Review Commission as a part of the report required by G.S. 143-215.74(e). The first report required by this subsection shall be submitted to the Environmental Review Commission no later than 31 January 2009.

**SECTION 12.4.(e)** Program Funds. – The Soil and Water Conservation Commission may use up to one hundred fifteen thousand dollars (\$115,000) of the funds appropriated in this act to the Department of Environment and Natural Resources for the 2008-2009 fiscal year to be used for the Agricultural Drought Response Cost Share Program for the Division of Soil and Water Conservation and for the Soil and Water Conservation Districts for the costs of providing engineering assistance, providing technical assistance, and administering the Program. Further, twenty-five percent (25%) of the remaining funds shall not be allocated during the initial funding cycle, but shall be retained to be allocated by the Commission consistent with the limitations under this section, for the purposes under this section, and to address future drought emergencies or to allocate to farmers who received cost share funds under this section who need additional funds to achieve the purpose of the initial cost share disbursement.

#### **INACTIVE HAZARDOUS WASTE SITES CLEANUP FUNDS**

**SECTION 12.5.** There is appropriated from the interest earned on the Dry Cleaning Solvent Cleanup Fund during the 2007-2008 fiscal year to the Department of Environment and Natural Resources the sum of four hundred thousand dollars (\$400,000) for the 2008-2009 fiscal year to be used, notwithstanding G.S. 143-215.104C, to assess and remove contamination from inactive hazardous waste sites throughout the State and to provide an alternative drinking water supply to any person whose water supply was contaminated by an inactive hazardous waste site.

#### **COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND**

**SECTION 12.6.(a)** There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of seven hundred ninety-one thousand six hundred fourteen dollars (\$791,614) for the 2008-2009 fiscal year. Notwithstanding G.S. 143-215.94B, these funds shall be used to establish and support 11 positions within the underground storage tank program as follows:

- (1) \$92,643 shall be used to establish and support one Environmental Program Supervisor II position.
- (2) \$615,953 shall be used to establish and support nine Environmental Specialist positions.
- (3) \$83,018 shall be used to establish and support one Environmental Engineer I position.

**SECTION 12.6.(b)** The positions under subsection (a) of this section shall be used to increase compliance inspection frequency for the underground storage tank program within the Department and to conduct operator training for those underground storage tank systems that are subject to regulation under Part 2A or Part 2B of Article 21A of Chapter 143 of the General Statutes. It is the intent of the General Assembly that funds for these positions under this section are recurring funds and that these funds are

in addition to funds previously appropriated to the Department of Environment and Natural Resources for the 2008-2009 fiscal year.

#### **FUNDS FOR PENDING CIVIL LITIGATION EXPENSES**

**SECTION 12.7.** From funds in the I & M Air Pollution Control Account, there is appropriated the sum of seven hundred fifty thousand dollars (\$750,000) for the 2008-2009 fiscal year to the Office of State Budget and Management, Litigation Reserve. Notwithstanding G.S. 143-215.3A, these funds shall be used by the Department of Justice solely for expenses related to either 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. 220138 ORG (U.S. Sup. Ct. filed June 7, 2007). Any of these funds that remain unused on June 30, 2009, shall revert to the I & M Air Pollution Control Account.

#### **ESTABLISH NC CONSERVATION EASEMENT ENDOWMENT FUND**

**SECTION 12.9.(a)** Article 18 of Chapter 113A of the General Statutes is amended by adding a new section to read:

**"§ 113A-253.2. North Carolina Conservation Easement Endowment Fund.**

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the Clean Water Management Trust Fund for stewardship activities related to projects for conservation easements funded from the Clean Water Management Trust Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State."

**SECTION 12.9.(b)** G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17i) The North Carolina Conservation Easement Endowment Fund."

**SECTION 12.9.(c)** G.S. 147-69.2 is amended by adding a new subsection to read:

"(d) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17i) of this section in any of the investments authorized under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation Easement Endowment Fund, and interest or other investment income earned thereon shall be prorated and credited to the North Carolina Conservation Easement Endowment Fund on the basis of the amounts thereof contributed, figured according to sound accounting principles."

#### **MARINE FISHERIES FUNDS FOR THE FISHERY RESOURCE GRANT PROGRAM**

**SECTION 12.11.(a)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Division of Marine Fisheries for the Fishery Resource Grant Program established under G.S. 113-200, the sum of one million dollars (\$1,000,000) for the 2008-2009 fiscal year shall be used as follows:

- (1) \$853,688 shall be used for the Fishery Resource Grant Program in accordance with G.S. 113-200.
- (2) \$146,312 shall be used for river herring research in the Department, notwithstanding G.S. 113-200.

**SECTION 12.11.(b)** Neither the Department of Environment and Natural Resources nor North Carolina State University may use any of the funds allocated under subsection (a) of this section for administrative costs.

### **STUDY ADDING AREA SURROUNDING RUTHERFORD TRACE TO STATE PARKS SYSTEM**

**SECTION 12.12.** The Division of Parks and Recreation of the Department of Environment and Natural Resources shall study the feasibility and the desirability of acquiring land and establishing a State park for inclusion in the State Parks System on property surrounding Rutherford Trace in McDowell County. The study shall include estimates of the cost of purchasing the land and the costs of developing and operating the proposed State park. The Division shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources no later than February 1, 2009.

### **CONSERVATION GRANT FUND INVESTMENTS**

**SECTION 12.13.** G.S. 147-69.2(a) is amended by adding a new subdivision to read:  
"(17j) The Conservation Grant Fund."

## **PART XIII. DEPARTMENT OF COMMERCE**

### **ONE NORTH CAROLINA FUND**

**SECTION 13.1.** Section 13.1 of S.L. 2007-323 reads as rewritten:

**"SECTION 13.1.(a)** Of the funds appropriated in this act to the One North Carolina Fund for the ~~2007-2008~~2008-2009 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~~2008-2009 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. Funds recovered by the Department of Commerce under this subsection in the 2007-2008 fiscal year that are unencumbered and unexpended as of June 30, 2008, may be used by the Department in the 2008-2009

fiscal year for Client Relationship Management software and to upgrade the building and sites database and website for the Certified Sites Program."

#### **NC GREEN BUSINESS FUND**

**SECTION 13.2.** Of the funds appropriated in this act to the NC Green Business Fund for the 2008-2009 fiscal year, 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.

#### **CIAA BASKETBALL TOURNAMENT TOURISM AND MARKETING**

**SECTION 13.2A.** Of the funds available to the Tourism, Film, and Sports Development Division of the Department of Commerce, the sum of five hundred thousand dollars (\$500,000) for fiscal year 2008-2009 shall be used to support marketing and tourism promotion for the Central Intercollegiate Athletic Association Tournament to be held in Charlotte February 23-28, 2009.

#### **FUNDS FOR ENVIROTHON AND WNC COMMUNITIES**

**SECTION 13.2B.(a)** Of the funds appropriated to the Department of Commerce, Division of Tourism, Film and Sports Development, the sum of seventy-five thousand dollars (\$75,000) for the 2008-2009 fiscal year is allocated to the NC Foundation for Soil and Water Conservation, Inc., a nonprofit organization, for planning and other activities involved in North Carolina serving as the host state to the 2009 North America Envirothon Competition to be held in Asheville.

**SECTION 13.2B.(b)** Of the funds appropriated to the Department of Commerce, Division of Tourism, Film and Sports Development, the sum of seventy-five thousand dollars (\$75,000) for the 2008-2009 fiscal year is allocated to WNC Communities, a nonprofit organization.

#### **WELCOME/VISITOR CENTER CONSTRUCTION**

**SECTION 13.3.** S.L. 2007-356 reads as rewritten:

"**SECTION 1.** The Department of Commerce and the Department of Transportation shall consult with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources before beginning the design or construction of any new welcome center or visitor center buildings.

"**SECTION 2.** The Department of Commerce and the Department of Transportation shall immediately cease the planning, design, or construction of any new welcome center buildings in Randolph County and shall not resume the planning, design, or construction of any new welcome center buildings in that county before consulting with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources.

"**SECTION 3.** Nothing in this act shall be interpreted to prohibit or restrict the Department of Transportation from constructing visitor center buildings in Randolph County and Wilkes County that were in the planning, design, or construction phase prior to the effective date of this act. ~~The Department of Commerce shall operate the Randolph County visitor center with funding sources consistent with the existing nine welcome centers, excluding use of funds from the Special Registration Plate Account and the Highway Fund.~~

"**SECTION 4.** This act is effective when it becomes law."

#### **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

**SECTION 13.4.** Section 13.3A of S.L. 2007-323 reads as rewritten:

"**SECTION 13.3A.(a)** Funds appropriated to the Department of Commerce for the ~~2006-2007~~2007-2008 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of ~~June 30, 2007~~June 30, 2008, shall not revert to

the General Fund on ~~June 30, 2007~~, June 30, 2008, 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~~2007-2008 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of ~~June 30, 2007~~, June 30, 2008, shall not revert to the General Fund on ~~June 30, 2007~~, June 30, 2008, 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~~, June 30, 2008."

#### **NER BLOCK GRANTS**

**SECTION 13.5.(a)** Appropriations from federal block grant funds are made for fiscal year ending June 30, 2009, according to the following schedule:

#### **COMMUNITY DEVELOPMENT BLOCK GRANT**

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

**TOTAL COMMUNITY DEVELOPMENT  
BLOCK GRANT – 2009 Program Year** \$ 45,000,000

**SECTION 13.5.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

**SECTION 13.5.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as

follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

**SECTION 13.5.(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; eight million seven hundred ten thousand dollars (\$8,710,000) 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 dollars (\$13,000,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to one million five hundred thousand dollars (\$1,500,000) 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 13.5.(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 13.5.(f)** 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.

## **EMPLOYMENT SECURITY COMMISSION FUNDS**

**SECTION 13.6.** Section 13.4 of S.L. 2007-323 reads as rewritten:

**"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~~2008-2009 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)~~twenty million dollars (\$20,000,000) for the ~~2007-2008~~2008-2009 fiscal year to be used for the following purposes:

- (1) ~~Seven million dollars (\$7,000,000)~~Nineteen million seven hundred thousand dollars (\$19,700,000) for the operation and support of local ESC 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)~~one million dollars (\$1,000,000) for the ~~2007-2008~~2008-2009 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~~2008-2009 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~~July 1, 2008."

## **NC WINE AND GRAPE GROWERS COUNCIL/ADDITIONAL FUNDS FOR RESEARCH AND DEVELOPMENT**

**SECTION 13.6A.(a)** G.S. 105-113.81A reads as rewritten:

**"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.**

(a) Industry Promotion. – The Secretary shall on a quarterly basis credit to the Department of Commerce two hundred thousand dollars (\$200,000) from the net proceeds of the excise tax collected on unfortified wine. The Department of Commerce shall allocate the funds received under this ~~section~~subsection to the North Carolina Wine and Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina industry. Any funds credited to the Department of Commerce under this subsection that are not expended by June 30 of any fiscal year do not revert to the General Fund, but remain available to the Department for the uses set forth in this ~~section~~subsection.

(b) Research and Development. – The Secretary shall on a quarterly basis credit to the Department of Commerce twenty-five thousand dollars (\$25,000) from the net proceeds of the excise tax collected on unfortified wine. The Department of Commerce shall allocate the funds received under this subsection to the North Carolina Wine and Grape Growers Council to be used to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Commerce under this subsection that are not expended by June 30 of any fiscal year do not revert to the General Fund, but remain available to the Department for the uses set forth in this subsection."

**SECTION 13.6A.(b)** This section becomes effective October 1, 2008.

**STATE BANKING COMMISSION/GRANTS TO NONPROFIT AGENCIES TO PROVIDE HOUSING COUNSELING AND RELATED SERVICES**

**SECTION 13.6B.(a)** The Commissioner of Banks shall use one million dollars (\$1,000,000) of the funds available to the State Banking Commission in the 2008-2009 fiscal year to make grants to nonprofit counseling agencies in the State that are designated and approved by the North Carolina Housing Finance Agency. Grants made under this section shall be used to provide housing counseling and related services to help homeowners avoid home loss and foreclosure and to preserve home equity. Grants may also be used to provide training for counselors.

**SECTION 13.6B.(b)** The State Banking Commission shall report to the Joint Legislative Commission on Governmental Operations regarding the implementation of this program by February 15, 2009.

**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 four hundred sixty-nine thousand seven hundred forty dollars (\$469,740) in the 2008-2009 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 four hundred sixty-nine thousand seven hundred forty dollars (\$469,740) in the 2008-2009 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)** 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.

### **RURAL CENTER/FUNDS FOR LOCAL GOVERNMENT WATER, SEWER, AND NATURAL GAS IMPROVEMENT GRANTS**

**SECTION 13.8.(a)** Appropriation. – Of the funds appropriated to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of fifty million dollars (\$50,000,000) for the 2008-2009 fiscal year shall be used to provide grants to local government units for wastewater-related projects and public water system-related projects as provided by this section. Up to four million dollars (\$4,000,000) of these funds may be used for natural gas line projects as provided by this section. Funds may also be used to provide drought-related emergency water and sewer grants.

**SECTION 13.8.(b)** Definitions. – The definitions in G.S. 159G-20 apply in this section, except that all census calculations are based on the most recent federal decennial census. 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 or natural gas line 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. 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) 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 13.8.(c)** Eligible Applicants; Eligible Projects. – A local government unit is eligible for a grant under this section if it meets the eligibility requirements under subsections (d) or (e) of this section for the specific type of grant. The funds appropriated 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.
- (6) Natural gas line project.

**SECTION 13.8.(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, public water system projects, and natural gas line projects. Preliminary planning includes developing a capital improvement plan, developing a comprehensive land-use plan that provides for water quality protection, conducting a feasibility 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.** – 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. For purposes of this subsection, a regional council of governments 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 regional council of governments or regional planning and development commission is eligible for a grant if it serves a rural county and 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 fifty percent (50%) or less:
  - 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 13.8.(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, 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 or natural gas 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.

The maximum supplemental grant for an applicant meeting at least one of these descriptions is the lesser of one million dollars (\$1,000,000) or twenty-five percent (25%) of the total project cost.

(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 fifty percent (50%) or less:

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.

A local government unit that meets one or more of these descriptions may not provide less than a dollar-for-dollar match if the supplemental grant amount requested exceeds five hundred thousand dollars (\$500,000).

**SECTION 13.8.(f)** Criteria for Grants. – All projects must document a current critical water or wastewater need affecting human health or the environment or must document a current critical natural gas line project. 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. The Board of Directors of the Rural Center may determine that a crisis need exists that merits special consideration and may establish a subcategory of this program to address one or more crisis applications.

**SECTION 13.8.(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 13.8.(h)** Environmental Assessment. – An application submitted under this section for a supplemental grant 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 13.8.(i)** Review of Applications and Award of Grant. – The Rural Center shall review grant applications and award grants as provided by this subsection:

- (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. Applications addressing a crisis need may be ranked according to a special set of criteria or be reviewed for a specifically determined application period. 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 13.8.(j)** Disbursement of Grant. – A planning grant awarded under this section shall be disbursed in two payments. 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 13.8.(k)** Withdrawal of Grant. – An award for a supplemental 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 (e) 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. Planning grants may be withdrawn if there is insufficient progress in meeting the scope of work within one year of the award date.

**SECTION 13.8.(l)** Inspection of Project. – The Rural Center may inspect a project as provided by this subsection:

- (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 13.8.(m)** Administration Costs. – The Rural Center may use a portion of the funds appropriated in this section for administration, not to exceed two percent (2%), for the life of the grant program created by this section.

**SECTION 13.8.(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, 2008.

**SECTION 13.8.(o)** Separate Accounts. – Each grant that is provided under this section shall be administered through a separate account.

**SECTION 13.8.(p)** Loans Prohibited. – The Rural Center shall not use the funds appropriated in this section to make loans.

## **RURAL ECONOMIC TRANSITION PROGRAM FUNDS**

**SECTION 13.9.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million dollars (\$4,000,000) for the 2008-2009 fiscal year shall be used to continue and expand the Rural Economic Transition Program for the following purposes:

- (1) To provide grants to local governments for building reuse and restoration projects leading to job or business creation, including brownfield assessment and remediation projects leading to productive reuse, with priority given to towns or communities with populations of less than 10,000.
- (2) To provide grants to support economic recovery and revitalization in small towns, with priority given to towns with populations less than 10,000 experiencing hardship posed by business losses, devastation from natural disasters, or persistent poverty.
- (3) To provide grants for innovative local and regional economic development and agriculture diversification projects that spur business activity, job creation, or public or private investment.

**SECTION 13.9.(b)** Priority for grant funds shall be given to eligible applicants in development tier one areas as defined in G.S. 143B-437.08.

**SECTION 13.9.(c)** The Rural Center may use a portion of the funds appropriated in this section, not to exceed two percent (2%), for administration of the programs for which funds are appropriated in this section.

**SECTION 13.9.(d)** The Rural Center may contract with other agencies and institutions for certain aspects of the programs for which funds are appropriated in this section, including the design of program guidelines and evaluation of program results.

**SECTION 13.9.(e)** The Rural Center shall report to the Joint Legislative Commission on Governmental Operations concerning the progress of the programs for which funds are appropriated in this section by July 1, 2009.

## **PART XIV. JUDICIAL DEPARTMENT**

### **PILOT PROGRAM FOR ALTERNATIVE SCHEDULING**

**SECTION 14.1.** Of the funds appropriated to the Office of Indigent Defense Services in this act, the Office of Indigent Defense Services may spend up to the sum of twenty-five thousand dollars (\$25,000) to support one or more pilot programs of alternative scheduling in district or superior court that would reduce defense attorney wait time and State expense. The establishment of any pilot program under this section would require the prior agreement of the district attorney, chief district court judge, and senior resident superior court judge for the district.

## **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION OF EXISTING PUBLIC DEFENDER OFFICES**

**SECTION 14.3.(a)** Section 14.4(a) of S.L. 2007-323 reads as rewritten:

**"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.~~ positions during the 2007-2008 fiscal year. In addition, the Office of Indigent Defense Services may use up to the sum of two million three hundred thousand eight hundred fifty dollars (\$2,300,850) in appropriated funds during the 2008-2009 fiscal year to create up to 20 new attorney and 10 new support staff positions in existing offices during the 2008-2009 fiscal year. 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 14.3.(b)** Section 14.4(c) of S.L. 2007-323 reads as rewritten:

**"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)~~ one million two hundred ninety-five thousand sixty dollars (\$1,295,060) 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)~~ seven hundred sixty-two thousand eight hundred thirty-seven dollars (\$762,837) for the 2008-2009 fiscal year to establish Public Defender District 29B as provided for in subsection (d) of this section."

## **REPEAL PUBLIC DEFENDER EXPANSION AUTHORITY**

**SECTION 14.4.** Section 14.4(b) of S.L. 2007-323 is repealed.

## **JUDICIAL DEPARTMENT GRANT FUNDS**

**SECTION 14.5.** Section 14.2 of S.L. 2007-323 reads as rewritten:

**"SECTION 14.2.(a)** 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~~ Except as provided in subsection (b) of this section, 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.

**"SECTION 14.2.(b)** Of the sum of one million five hundred thousand dollars (\$1,500,000) authorized for grant funding under subsection (a) of this section, the Judicial Department may use the sum of eight hundred fifty-six thousand nine hundred seven dollars (\$856,907) for the 2008-2009 fiscal year to match block grant funding for

24 specific projects awarded by the Governor's Crime Commission as of June 20, 2008, without providing a prior 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."

**ADDITIONAL ASSISTANT DISTRICT ATTORNEYS**

**SECTION 14.6.** G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	7 8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	17 18
6A	Halifax	5
6B	Bertie, Hertford, Northampton	6
7	Edgecombe, Nash, Wilson	18 19
8	Greene, Lenoir, Wayne	14
9	Franklin, Granville, Vance, Warren	12
9A	Person, Caswell	5 6
10	Wake	39 42
11	Harnett, Johnston, Lee	17 19
12	Cumberland	22 23
13	Bladen, Brunswick, Columbus	13
14	Durham	16 18
15A	Alamance	10 11
15B	Orange, Chatham	10
16A	Scotland, Hoke	6 7
16B	Robeson	13
17A	Rockingham	6 7
17B	Stokes, Surry	7 8
18	Guilford	31 32
19A	Cabarrus	9
19B	Montgomery, Randolph	9 10
19C	Rowan	7 8
19D	Moore	5
20A	Anson, Richmond, Stanly	11 12
20B	Union	9 10
21	Forsyth	24 25
22	Alexander, Davidson, Davie, Iredell	20
23	Alleghany, Ashe, Wilkes, Yadkin	8

24	Avery, Madison, Mitchell, Watauga, Yancey	7
25	Burke, Caldwell, Catawba	<del>18</del> <u>19</u>
26	Mecklenburg	<del>53</del> <u>58</u>
27A	Gaston	<del>14</del> <u>15</u>
27B	Cleveland, Lincoln	<del>10</del> <u>11</u>
28	Buncombe	<del>13</del> <u>14</u>
29A	McDowell, Rutherford	<del>7</del>
29B	Henderson, Polk, Transylvania	8
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	11

**FEASIBILITY STUDY ON PROVIDING THE OFFICE OF INDIGENT DEFENSE SERVICES WITH INDIGENT CASE INFORMATION WHEN CASES ARE INITIATED**

**SECTION 14.7.** The Office of Indigent Defense Services and the Administrative Office of the Courts shall consult on developing a statewide system to enable the Office of Indigent Defense Services to obtain information about indigent cases when counsel is first appointed and shall develop a proposal for statewide implementation of such a system. A report on this proposal shall be included in the Office of Indigent Defense Services' annual report due March 1, 2009.

**JCPC EFFECTIVENESS STUDY**

**SECTION 14.8.(a)** The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, shall conduct a feasibility study for measuring the effectiveness of programs that receive Juvenile Crime Prevention Council (JCPC) grant funds. All State agencies and community-based programs that receive JCPC funding shall provide data as requested by the Commission.

The Sentencing and Policy Advisory Commission shall provide an interim report on the results of the feasibility study 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 House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by December 1, 2008. The final plan for measuring the effectiveness of JCPC programs shall be provided to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2009.

**SECTION 14.8.(b)** G.S. 143B-519 is repealed.

**LEGAL ASSISTANCE TO HOMEOWNERS**

**SECTION 14.9.** G.S. 7A-474.3(b) reads as rewritten:

"(b) Eligible Cases. – Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

- (1) Family violence or spouse abuse;
- (2) Assistance for the disabled in obtaining federal Social Security benefits;
- (2a) Assistance for eligible clients in obtaining benefits or assistance under any federal law or program providing benefits or assistance for human trafficking victims;
- (3) Representation of eligible farmers faced with the potential of farm foreclosure;
- (4) Representation of eligible clients over the age of 60 regarding the following matters:



- a. Wills and estates;
  - b. Safe and sanitary housing;
  - c. Pensions and retirement rights;
  - d. Social Security and Medicare rights;
  - e. Access to health care;
  - f. Food and nutrition; and
  - g. Transportation.
- (5) Representation of eligible clients designed to enable them to obtain the necessary skills and means to obtain meaningful employment at a decent wage and reduce the public welfare rolls; and
- (6) Representation of eligible clients under the age of 21 or eligible families with legal problems affecting persons under the age of 21 regarding the following matters:
- a. Financial support and custody of children;
  - b. Child care;
  - c. Child abuse or neglect;
  - d. Safe and sanitary housing;
  - e. Food and nutrition; and
  - f. Access to health care.
- (7) Legal assistance to consumers in cases involving predatory mortgage lending, mortgage broker and loan services abuses, foreclosure defense, and other legal issues that relate to helping consumers avoid foreclosure and home loss."

**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 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	9	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)) Franklin
9A	2	Person Caswell
9B	2	Warren (part of Vance see subsection(b))
10	<del>18</del> <u>19</u>	Wake
11	<del>10</del> <u>11</u>	Harnett Johnston Lee
12	10	Cumberland
13	6	Bladen Brunswick Columbus
14	7	Durham
15A	4	Alamance
15B	5	Orange Chatham
16A	3	Scotland Hoke
16B	5	Robeson
17A	3	Rockingham
17B	4	Stokes Surry
18	14	Guilford
19A	4	Cabarrus
19B	7	Montgomery Moore Randolph
19C	5	Rowan
20A	4	Stanly Anson Richmond
20B	1	(part of Union see subsection(b))
20C	2	(part of Union see subsection(b))
20D	1	Union
21	10	Forsyth
22A	5	Alexander Iredell
22B	6	Davidson Davie

23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison Mitchell Watauga Yancey
25	9	Burke Caldwell Catawba
26	<del>20</del> <u>21</u>	Mecklenburg
27A	7	Gaston
27B	5	Cleveland Lincoln
28	7	Buncombe
29A	3	McDowell Rutherford
29B	4	Henderson Polk Transylvania
30	6	Cherokee Clay Graham Haywood Jackson Macon Swain."

**SECTION 14.13.(b)** The Governor shall appoint the additional district court judges for Districts 10, 11, and 26 authorized by subsection (a) of this section, and those judges' successors shall be elected in the 2010 election for four-year terms commencing January 1, 2011.

**SECTION 14.13.(c)** As to District 11, subsection (a) of this section becomes effective January 15, 2009, or 15 days after preclearance under section 5 of the Voting Rights Act of 1965, whichever is later. The remainder of this section becomes effective January 15, 2009.

**PROBATION OFFICER ACCESS TO AUTOMATED COURT INFORMATION SYSTEM**

**SECTION 14.15.** The Administrative Office of the Courts shall use up to the sum of one hundred thousand dollars (\$100,000) from the Court Information Technology Fund established in G.S. 7A-343.2 to develop an interface between the case management functions of the Offender Population Unified System (OPUS) of the Department of Correction and the Automated Court Information System, in order to provide probation parole officers with access to the most recent information on arrests and pending charges against probationers.

**PART XV. DEPARTMENT OF JUSTICE**

**USE OF GRANT FUNDS OR OTHER RECEIPT FUNDS FOR REPLACEMENT LABORATORY EQUIPMENT AND FORENSIC FIREARMS ANALYST START-UP COSTS**

**SECTION 15.2.** The Department of Justice is authorized to use up to one hundred forty thousand dollars (\$140,000) of grant funding or other receipt funds

available to purchase replacement laboratory equipment and for start-up costs associated with the forensic firearms analyst positions approved in this act. Notwithstanding Section 15.3 of S.L. 2007-323, the Department is not required to seek prior approval to use these funds for the purposes described in this section.

## **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

### **JCPC GRANT REPORTING AND CERTIFICATION**

**SECTION 16.1.(a)** Section 18.2(a) of S.L. 2007-323 reads as rewritten:

**"SECTION 18.2.(a)** On or before ~~April 1~~ October 1 of 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 grants,~~ including:

- (1) ~~the~~ The amount of the grant awarded, awarded.
- (2) ~~the~~ The membership of the local committee or council administering the award funds on the local level, and level.
- (3) The type of program funded.
- (4) a ~~A~~ short description of the local services, programs, or projects that will receive ~~funds.~~ funds.
- (5) ~~The list shall also identify~~ Identification of 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.~~ Department.
- (6) The number of at-risk, diverted, and adjudicated juveniles served by county.
- (7) The Department's actions to ensure that county JCPC's prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.
- (8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

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 16.1.(b)** Section 18.2(d) of S.L. 2007-323 is repealed.

### **SUPPORT OUR STUDENTS (SOS) GRANT ELIGIBILITY**

**SECTION 16.2.** G.S. 143B-152.4(a) reads as rewritten:

- "(a) ~~Any of the following may apply for a grant:~~
- (1) ~~A community- or neighborhood-based 501(c)(3) entity or a consortium consisting of one or more local 501(c)(3) entities and one or more local school administrative units may apply for a grant.~~ entity.
  - (2) A community-based, public or private nonprofit, tax exempt organization.
  - (3) A school system.
  - (4) A local government agency."

### **JUVENILE CRIME PREVENTION COUNCILS (JCPC) FORMULA REVISION**

**SECTION 16.3.** The Department of Juvenile Justice and Delinquency Prevention, the NC Juvenile Services Association, and the Community Alternatives for Youth, in consultation with the Fiscal Research Division, shall develop and propose a revision to the county allocation formula for Juvenile Crime Prevention Councils. The

Department shall report the recommendations 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 December 1, 2008.

#### **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 16.4.** Section 18.5 of S.L. 2007-323 reads as rewritten:

"**SECTION 18.5.** Funds appropriated in this act from the General Fund to the Department of Juvenile Justice and Delinquency Prevention for the ~~2007-2008 fiscal year~~ 2008-2009 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~~, 2008-2009 fiscal year, the amount of funds anticipated for the ~~2008-2009 fiscal year~~, 2009-2010 fiscal year, and the allocation of funds by program and purpose."

### **PART XVII. DEPARTMENT OF CORRECTION**

#### **TEMPORARY HOUSING FUNDS**

**SECTION 17.1.(a)** The Department of Correction may use funds available during the 2008-2009 fiscal year to secure appropriate temporary housing for offenders on post-release supervision, probation, or parole who do not have a viable residence plan and are at risk of being homeless. The Department may use available funds to secure housing for post-release supervisees, probationers, and parolees in a transitional housing shelter, halfway house, or other community-based residential facility that provides housing for offenders. The Department shall not expend funds to secure housing for post-release supervisees, probationers, and parolees in a hotel, motel, nursing home, adult care facility, group home containing the physically or developmentally disabled, or residential facility where minors are housed.

**SECTION 17.1.(b)** The Department may not use available funds as authorized by this section to provide housing for any offender for a continuous period exceeding 30 days.

**SECTION 17.1.(c)** The Department of Correction shall evaluate the most effective means to provide temporary housing for offenders on post-release supervision, probation, or parole who do not have a viable residence plan and are at risk of being homeless. The evaluation shall include a review of practices in other states, an evaluation of the feasibility of contracting with community-based facilities to provide housing, and an assessment of the feasibility of establishing a central facility or facilities to house offenders on post-release supervision, probation, or parole. The Department shall report its findings to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by January 1, 2009.

#### **FEDERAL GRANT MATCHING FUNDS**

**SECTION 17.2.** Section 17.12 of S.L. 2007-323 reads as rewritten:

"**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 and up to the sum of one million

five hundred thousand dollars (\$1,500,000) during the 2008-2009 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."

## **RESERVE FUND FOR PROBATION AND PAROLE STAFFING AND RESOURCES**

**SECTION 17.3.** Of the funds appropriated in this act to the Department of Correction, a reserve fund of two million five hundred thousand dollars (\$2,500,000) is established in the Office of State Budget and Management to address critical staffing and resource needs in Probation and Parole Field Services, Department of Correction. The designation of these funds is pending the outcome of a National Institute of Corrections review. The sum of five hundred thousand dollars (\$500,000) in nonrecurring funds in the reserve shall not revert at the end of the fiscal year but shall remain available to the Department for the purposes identified in the NIC review.

Prior to using any funds from the reserve authorized by this section, the Department of Correction shall consult with the Joint Legislative Commission on Governmental Operations, 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 proposed use of the funds and the reasons for the proposal. The consultation shall include a report on the Department's proposed policies and procedures for maximizing the efficiency of the probation violation staffing process.

## **REPORT ON PROBATION AND PAROLE CASELOADS**

**SECTION 17.4.** Section 17.16 of S.L. 2007-323 reads as rewritten:

**"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;~~ III, and Chief Probation Parole Officer 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;~~ The process of assigning offenders to an appropriate supervision level based on a risk assessment and an examination of other existing resources for assessment and case planning, including the Sentencing Services Program in the Office of Indigent Defense Services, and the range of screening and assessment services provided by the Division of Mental Health, Developmental Disability, and Substance Abuse Services in the Department of Health and Human Services; 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.

"**SECTION 17.16.(d)** The Office of State Personnel, in conjunction with the Department of Correction, shall conduct a compensation study of probation parole officers, including the identification and assessment of relevant labor market comparisons for which:

- (1) The job duties are similar;
- (2) The education and experience requirements are similar; and
- (3) The labor markets are representative of markets that typically seek to draw qualified applicants from similar backgrounds.

The Office of State Personnel shall report the results of the study and recommendations for any adjustments to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2009."

## **CRIMINAL JUSTICE PARTNERSHIP/NOTIFICATION OF AMOUNT OF FORMULA FUNDING/SCHEDULE FOR APPLICATION TO RECEIVE REALLOCATION OF UNOBLIGATED FUNDS**

**SECTION 17.7.(a)** G.S. 143B-273.15 reads as rewritten:

"**§ 143B-273.15. Funding formula.**

(a) To determine the grant amount for which a county or counties may apply, the granting authority shall apply the following formula:

- (1) Twenty-five percent (25%) based on a fixed equal dollar amount for each county;
- (2) Fifty percent (50%) based on the county share of the State population; and
- (3) Twenty-five percent (25%) based on the intermediate punishment entry rate for the county, using the total of the three most recent years of data available divided by the average county population for that same period.

The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the funding that a county may apply for under this subsection.

Grants to participating counties are for a period of one fiscal year with unobligated funds being returned to the Account at the end of the grant period. Funds are provided to participating counties on a reimbursement basis unless a county documents a need for an advance of grant funds. The data used for this funding formula shall be updated at least once every three years.

(b) Each year that the Department of Correction updates the data for the funding formula pursuant to subsection (a) of this section, the Department of Correction shall send a written notification by January 15 to each program participating in the State-County Criminal Justice Partnership of the amount of the grant that the program will receive pursuant to the revised formula for the fiscal year beginning July 1 of that year subject to funds being appropriated by the General Assembly."

**SECTION 17.7.(b)** Article 6A of Chapter 143B of the General Statutes is amended by adding the following:

"**§ 143B-273.15A. Reallocation of unspent or unclaimed funds.**

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 in an effort to maintain the level of services realized in previous fiscal years. A program may apply for a grant from the reallocated funds at least semiannually beginning July 1 of each year."

## **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

### **GOVERNOR'S CRIME COMMISSION STUDY/EXPAND JUVENILE JURISDICTION**

**SECTION 18.1.(a)** The Governor's Crime Commission and its adjunct committees shall study the legal, systematic, and organizational impact of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include persons 16 and 17 years of age who commit crimes or infractions under State law or under an ordinance of local government. In particular, the Commission shall perform the following functions regarding the proposed expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention to include 16- and 17-year-olds who commit crimes or infractions under State or local law:

- (1) Identify the costs to the State court system and State and local law enforcement.
- (2) Review the relevant State laws that should be conformed or amended, including, but not limited to, the motor vehicle and criminal laws, the laws regarding expunction of criminal records, and other juvenile laws.
- (3) Review the experience of any other states which have within recent years expanded the juvenile justice jurisdiction to 16- and 17-year-olds.
- (4) Identify the practical issues for the Department of Juvenile Justice and Delinquency Prevention to implement best practices for programs and facilities that would meet the unique needs of the older youth under the proposal without adversely affecting the existing departmental programming.
- (5) Review the relevant State laws on sharing of juvenile information with other State departments and agencies.
- (6) Create a specific plan of the actions that are necessary to implement the expansion of the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (7) Determine the total cost of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention.
- (8) Conduct a cost benefit analysis of expanding the jurisdiction of the Department of Juvenile Justice and Delinquency Prevention with specific information on possible future fiscal savings anywhere within State government as a result of expenditures necessary to implement the expansion.
- (9) Determine whether federal or other funds are available to aid in the transition and expansion, or both, of the age of juvenile jurisdiction to 16- and 17-year-olds.

**SECTION 18.1.(b)** The Commission may contract with an independent group or groups for the oversight and management of this study project, a service needs study, and a courts study, and to periodically report those findings to the Commission.

**SECTION 18.1.(c)** The Department of Juvenile Justice and Delinquency Prevention and all other departments, agencies, institutions, or officers of the State or any political subdivision of the State, shall cooperate with the Commission in this study, shall provide the Commission with any requested facilities, data, or other assistance,



and help the Commission identify any collateral effect which might result from implementation of the proposal on the program and operations of the relevant State department, agency, or the political subdivision.

**SECTION 18.1.(d)** The Commission shall submit a report of its findings and legislative, administrative, and funding recommendations by April 1, 2009, to the General Assembly and the Governor.

In addition to its final report, the Commission shall report in writing on the progress of this study on a quarterly basis beginning on October 1, 2008, and by the first day of every quarter thereafter until the Commission submits its final report to the General Assembly, to the chairs and cochairs, as applicable, of the standing committees or subcommittees of the General Assembly listed in subsections (e) and (f) of this section. A copy of each progress report made to the standing committee and subcommittee chairs shall also be filed in the Legislative Library.

**SECTION 18.1.(e)** The Commission shall report to all of the following standing committees or subcommittees in the House of Representatives pursuant to this section:

- (1) Appropriations: Justice and Public Safety.
- (2) Children, Youth, and Families.
- (3) Education: Preschool, Elementary, and Secondary Education.
- (4) Juvenile Justice.
- (5) All of the Judiciary Committees.

**SECTION 18.1.(f)** The Commission shall report to all of the following standing committees or subcommittees in the Senate pursuant to this section:

- (1) Appropriations: Justice and Public Safety.
- (2) Education and Higher Education.
- (3) All of the Judiciary Committees.

**SECTION 18.1.(g)** Of the funds appropriated by this act to the Department of Crime Control and Public Safety, the Governor's Crime Commission for the 2008-2009 fiscal year, the Commission may use up to two hundred thousand dollars (\$200,000) to conduct the study authorized by this section. The Commission may also apply for, receive, or accept grants and contributions from any source of money or any other thing of value to be held and used for the purposes of the study authorized by this section.

## **ENHANCE RAPE VICTIMS ASSISTANCE PROGRAM**

**SECTION 18.2.(a)** G.S. 143B-480.2 reads as rewritten:

### **"§ 143B-480.2. Victim assistance.**

(a) Eligibility for Assistance. – Sexual assault victims or victims of attempted sexual assault are eligible for assistance under this Program if the sexual assault or the attempted sexual assault is reported to a law enforcement officer within ~~five days~~72 hours of the occurrence of the assault or the attempted sexual assault and if a forensic medical examination is performed within ~~five days~~72 hours of the sexual assault or the attempted sexual assault. The Secretary may waive either ~~five-day~~72-hour requirement for good cause. The term "sexual assault" as used in this section refers to the following crimes: first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5, or statutory rape as defined in G.S. 14-27.7A.

(b) Eligible Expenses. – Assistance is limited to the following expenses incurred by the victim:

- (1) Immediate and short-term medical expenses.
- (2) Ambulance services from the place of the attack to a place where medical treatment is provided.
- (3) Mental health services provided by a professional licensed or certified by the State to provide such services.

- (4) A forensic medical examination. As used in this section, the term "forensic medical examination" means an examination provided to a sexual assault victim eligible for assistance under subsection (a) of this section by medical ~~medical~~-personnel who gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include an examination of physical trauma, a patient interview, and a collection and evaluation of evidence.
- (5) Counseling treatment following the attack.

(c) Amount of Assistance. – ~~The Program shall pay for the full out of pocket cost of the victim's forensic medical examination.~~ examination up to eight hundred dollars (\$800.00). Specifically, the Program shall pay amounts for services in accordance with the following schedule:

<u>Service:</u>	<u>Maximum Amount Paid by Program:</u>
<u>Physician or SANE Nurse</u>	<u>\$350.00</u>
<u>Hospital/Facility Fee</u>	<u>\$250.00</u>
<u>Ambulance Fee</u>	<u>\$200.00</u>
 <b><u>Total:</u></b>	 <b><u>\$800.00</u></b>

The Program shall pay for all other eligible expenses set out in subsection (b) of this section in an amount not to exceed the difference between the ~~full out of pocket~~ cost of the forensic medical examination and one thousand dollars (\$1,000). ~~If the full out of pocket cost for the forensic medical examination costs more than one thousand dollars (\$1,000), then the Program shall pay only for the full out of pocket cost of the forensic medical examination.~~ Assistance not to exceed fifty dollars (\$50.00) shall be provided to victims to replace clothing that was held for evidence tests.

(d) Payment Directly to Provider. – ~~With the exception of assistance authorized under subsection (f) of this section, assistance for expenses authorized under this section is to be paid directly to any hospital, ambulance service, attending physicians, or mental health professionals providing counseling, upon the filing of proper forms. Payment for the full out of pocket cost of the forensic medical examination shall be paid to the provider no later than 90 days after receiving the required written notification of the victim's expense.~~ If the entity seeking payment for expenses authorized under this section is a hospital, ambulance service, or mental health professional providing counseling, the Program shall make payment directly to that entity upon the filing of proper forms. If the entity seeking payment for expenses authorized under this section is an attending physician or licensed registered nurse, the Program shall make payment to a hospital, which shall then pay the entity seeking payment. Attending physicians and licensed registered nurses shall not bill or otherwise seek payment directly from the Program, but shall instead seek payment from the hospital that accepted payment on the entity's behalf. No payment for the cost of the forensic medical examination shall be made under this subsection unless the recipient agrees in writing that receipt of that payment shall constitute payment in full for the amount owed for the cost of the examination and expenses related to the examination.

(e) Judicial Review. – Upon an adverse determination by the Secretary on a claim for medical expenses, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

~~(f) Examinations by Licensed Registered Nurse. — If the forensic medical examination is conducted by a licensed registered nurse who has successfully completed a program approved under G.S. 90-171.38(b), payment for the full out of pocket cost of the forensic medical examination may be made directly to the licensed registered nurse in lieu of any payment which may otherwise have been made under subsection (d) of this section. Payment for the full out of pocket costs of a forensic medical examination under this subsection shall be paid no later than 90 days after receiving the required~~

~~written notification of the victim's expense. The Secretary shall adopt rules to facilitate the payments authorized under this subsection and to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures."~~

**SECTION 18.2.(b)** G.S. 143B-480.3 reads as rewritten:

**"§ 143B-480.3. Reduction of benefits; restitution; actions.**

(a) Assistance shall be reduced or denied to the extent the medical expenses are recouped through a public or private insurance plan or other victim benefit ~~source-source~~, except that the Program shall pay any co-payment that the victim is required to pay in connection with the forensic medical examination up to the maximum amount that the Program will pay for a forensic medical exam under G.S. 143B-480.2(c).

(b) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(c) When any victim who:

- (1) Has received assistance under this Part;
- (2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and
- (3) Recovers damages including the expenses for which she was awarded assistance,

the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(d) Funds appropriated to the Department of Crime Control and Public Safety for this program may be used to purchase and distribute rape evidence collection kits approved by the State Bureau of Investigation."

**SECTION 18.2.(c)** Of the funds appropriated by this act to the Department of Crime Control and Public Safety for the 2008-2009 fiscal year, the sum of one million seventy-eight thousand seventy-eight dollars (\$1,078,078) may be used to enhance the ability of the Assistance Program for Victims of Rape and Sex Offenses to provide assistance to victims of rape and sexual offenses.

**REPORT ON THE USE OF ILLEGAL IMMIGRATION PROJECT FUNDS**

**SECTION 18.3.** No later than March 1, 2009, the North Carolina Sheriffs' Association shall submit a report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the operations and effectiveness of the Illegal Immigration Project. The report shall include all of the following:

- (1) An overview of the program.
- (2) The program budget.
- (3) A summary of work done with funds received, which shall include the following information:
  - a. The total number of law enforcement agencies that received funding from the program for officer training.
  - b. The total number of officers trained.
  - c. The total number of training sessions administered.
  - d. Copies of educational/informational materials distributed.
- (4) Recommendations on ways that federal, State, and local resources can be used to further improve the effectiveness of the Illegal Immigration Project and other immigration enforcement initiatives.

**PART XIX. DEPARTMENT OF ADMINISTRATION**

## SEXUAL ASSAULT AND RAPE CRISIS CENTER FUND

**SECTION 19.1.** Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 3B. Sexual Assault and Rape Crisis Center Fund.

### **"§ 143B-480.20. Sexual Assault and Rape Crisis Center Fund.**

(a) The Sexual Assault and Rape Crisis Center Fund is established within the State Treasury. The fund shall be administered by the Department of Administration, North Carolina Council for Women, and shall be used to make grants to centers for victims of sexual assault or rape crisis and to the North Carolina Coalition Against Sexual Assault, Inc. This fund shall be administered in accordance with the provisions of the State Budget Act under Chapter 143C of the General Statutes. The Department of Administration shall make quarterly grants to each eligible sexual assault or rape crisis center and to the North Carolina Coalition Against Sexual Assault, Inc. To be eligible to receive funds under this section, a sexual assault or rape crisis center shall meet the following requirements:

- (1) Have been in operation on the preceding July 1 and continue to be in operation.
- (2) Offer all of the following services: a hotline, transportation services, community education programs, daytime services, and call forwarding during the night; and fulfill other criteria established by the Department of Administration.
- (3) Be a nonprofit corporation or a local governmental entity.
- (4) Have a mission statement that clearly specifies rape crisis services are provided.
- (5) 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.

(b) Funds appropriated from the General Fund to the Department of Administration, North Carolina Council for Women, for the Sexual Assault and Rape Crisis Center Fund shall be distributed in two shares. The North Carolina Coalition Against Sexual Assault, Inc., and sexual assault or rape crisis centers whose services are confined to rape crisis or sexual assault services shall receive an equal share of thirty-five percent (35%) of the funds. Organizations whose services contain sexual assault or rape crisis services and domestic violence services or other support services shall receive an equal share of the remaining sixty-five percent (65%) of the funds."

## SCHOLARSHIPS FOR CHILDREN OF WAR VETERANS

**SECTION 19.2.(a)** G.S. 165-21 reads as rewritten:

### **"§ 165-21. Scholarship.**

(a) A scholarship granted pursuant to this Article shall consist of the following benefits in either a State or private educational institution:

- (1) With respect to State educational institutions, unless expressly limited elsewhere in this Article, a scholarship shall consist of:
  - a. ~~Tuition, Tuition~~ at the State educational institution.
  - b. A reasonable standard board allowance, allowance.
  - c. A reasonable standard room allowance, allowance.
  - d. Matriculation and other institutional fees required to be paid as a condition to remaining in said the institution and pursuing the course of study selected, excluding charges or fees for books, supplies, tools and clothing selected.
- (2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in G.S. 165-22.1(d).

- (3) Only one scholarship may be granted pursuant to this Article with respect to each child and it shall not extend for a longer period than four academic years, which years, however, need not be consecutive.
- (4) No educational assistance shall be afforded a child under this Article after the end of an eight-year period beginning on the date the scholarship is first awarded. Those persons who have been granted a scholarship under this Article prior to the effective date of this act shall be entitled to the remainder of their period of scholarship eligibility if used prior to August 1, 2010. Whenever a child is enrolled in an educational institution and the period of entitlement ends while enrolled in a term, quarter or semester, such period shall be extended to the end of such term, quarter or semester, but not beyond the entitlement limitation of four academic years.
- (5) A scholarship awarded to a student under this section shall not exceed the cost of attendance at the State educational institution at which the student is enrolled. If a student, who is eligible for a scholarship under this section, also receives a scholarship or other grant covering the cost of attendance at the State educational institution for which the scholarship is awarded, then the amount of the scholarship shall be reduced by an appropriate amount determined by the State educational institution at which the student is enrolled. The scholarship shall be reduced so that the sum of all grants and scholarship aid covering the cost of attendance received by the student, including the scholarship under this section, shall not exceed the cost of attendance for the State educational institution at which the student is enrolled.
- (b) Repealed by Session Laws 2002-126, s. 19.3(b), effective November 1, 2002.
- (c) If a child is awarded a scholarship under this Article, the Commission shall notify the recipient by May 1st of the year in which the recipient enrolls in college."

**SECTION 19.2.(b)** G.S. 165-20(6) reads as rewritten:

- "(6) "State educational institution" means any constituent institution of The University of North Carolina, educational institution of higher learning which is owned and operated by the State of North Carolina, or any community college operated under the provisions of Chapter 115A and Article 3 of Chapter 116 of the General Statutes of North Carolina, or the college program of the North Carolina School of the Arts, or any technical institute operated under the provisions of Chapter 115A of the Chapter 115D of the General Statutes of North Carolina."

## **PART XIXA. CULTURAL RESOURCES**

### **BENTONVILLE BATTLEFIELD FUND**

**SECTION 19A.1.** Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

**"§ 121-7.5. Bentonville Battlefield Fund.**

(a) Fund. – The Bentonville Battlefield Fund is created as a special fund in the Department of Cultural Resources, Division of State Historic Sites. The interest earned by the Fund shall be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used for operation, interpretation, maintenance, preservation, development, and expansion at Bentonville Battlefield State Historic Site.

(b) Disposition of Fees. – Notwithstanding Chapter 146 of the General Statutes, all receipts derived from donations or the lease, rental, or other disposition of structures or products of the land owned by or under the supervision or control of the Division of Historic Sites in Johnston County shall be credited to the Fund.

(c) The monies credited to this Fund pursuant to this section are annually appropriated to the Department of Cultural Resources."

## **ESTABLISH AFRICAN-AMERICAN HERITAGE COMMISSION**

**SECTION 19A.2.** Article 2 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 30. African-American Heritage Commission.

### **"§ 143B-135. Commission established.**

(a) Creation and Duties. – There is created the African-American Heritage Commission in the Department of Cultural Resources to advise and assist the Secretary of Cultural Resources in the preservation, interpretation, and promotion of African-American history, arts, and culture. The Commission shall have the following powers and duties:

- (1) To advise the Secretary of Cultural Resources on methods and means of preserving African-American history, arts, and culture.
- (2) To promote public awareness of historic buildings, sites, structures, artwork, and culture associated with North Carolina's African-American heritage through special programs, exhibits, and publications.
- (3) To support African-American heritage education in elementary and secondary schools in coordination with North Carolina Public Schools.
- (4) To build a statewide network of individuals and groups interested in the preservation of African-American history, arts, and culture.
- (5) To develop a program to catalog, preserve, assess, and interpret all aspects of African-American history, arts, and culture.
- (6) To advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it.

(b) Composition and Terms. – The Commission shall consist of 10 members who shall serve staggered terms. The initial board shall be selected on or before October 1, 2008, as follows:

- (1) Four appointed by the Governor, two of whom shall serve terms of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year. At least one appointee shall be a member of the North Carolina Historical Commission.
- (2) Three appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.
- (3) Three appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall serve a term of three years, one of whom shall serve a term of two years, and one of whom shall serve a term of one year.

Upon the expiration of the terms of the initial Commission members, each member shall be appointed for a three-year term and shall serve until a successor is appointed.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved.

(e) Officers. – The chair shall be designated by the Governor from among the members of the Commission to serve as chair at the pleasure of the Governor. The

Commission shall elect annually from its membership a vice-chair and other officers deemed necessary by the Commission to carry out the purposes of this Article.

(f) Meetings; Quorum. – The Commission shall meet at least semiannually to conduct business. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Commission members shall constitute a quorum.

(g) Compensation. – The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable."

## **CARTWHEELS PROGRAM**

**SECTION 19A.3.(a)** Of the funds appropriated in the 2008-2009 fiscal year to the North Carolina Arts Council to administer the cARTwheels Program, grants shall be based on a competitive application process and may be awarded to previous grantees. The competitive application process shall include criteria that awards at least twenty-five percent (25%) but no more than fifty percent (50%) of total grant funds to professional performing arts groups that have not received grants from the cARTwheels Program. The competitive application process shall emphasize geographic distribution, ethnic diversity, and variety of programs, such as dance, opera, music, and theatre.

**SECTION 19A.3.(b)** The Department of Cultural Resources shall report on the cARTwheels Program to the Joint Legislative Commission on Governmental Operations by September 1, 2008. The report shall include the following:

- (1) A detailed summary of the competitive application process used to select the professional performing arts groups for the 2008-2009 fiscal year.
- (2) A list of professional performing arts groups that submitted applications for the 2008-2009 fiscal year.
- (3) The allocation of the funding appropriated in the 2008-2009 fiscal year to the professional performing arts groups selected.
- (4) The schedule of performances for the 2008-2009 fiscal year.

## **PART XX. OFFICE OF THE STATE CONTROLLER**

### **BEACON STAFF TO SUPPORT STATEWIDE ENTERPRISE TRAINING PROGRAM**

**SECTION 20.1.** The Office of the State Controller shall use existing BEACON receipts to establish eight full-time time-limited positions to support the statewide enterprise training program as follows:

- (1) \$80,375 nonrecurring in fiscal year 2008-2009 for one SAP/NCAS Training Technology Specialist.
- (2) \$141,500 nonrecurring in fiscal year 2008-2009 for two SAP/NCAS Staff Development Specialists.
- (3) \$353,750 nonrecurring in fiscal year 2008-2009 for five SAP/NCAS Trainers.

## **PART XXI. HOUSING FINANCE AGENCY**

### **HOUSING FINANCE AGENCY SHALL CONTINUE AND EXPAND THE HOME PROTECTION PROGRAM**

**SECTION 21.1.(a)** G.S. 122A-3 reads as rewritten:

#### **"§ 122A-3. Definitions.**

~~The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:~~ The following definitions apply in this section:

- (1) ~~"Bonds" or "notes" mean the bonds or the bond anticipation notes or construction loan notes authorized to be issued by the Agency under this Chapter;~~
- (2) ~~"Agency" means the North Carolina Housing Finance Agency created by this Chapter;~~
- (3) ~~Repealed by Session Laws 1973, c. 1296, s. 5;~~
- (4) ~~Repealed by Session Laws 1973, c. 1296, s. 6;~~
- (5) ~~"Governmental agency" means any department, division, public agency, political subdivision or other public instrumentality of the State, the federal government, any other State or public agency, or any two or more thereof;~~
- (6) ~~Repealed by Session Laws 1973, c. 1296, s. 8;~~
- (7) ~~Repealed by Session Laws 1973, c. 1296, s. 9;~~
- (8) ~~"Mortgage" or "mortgage loan" means a mortgage loan for residential housing, including, without limitation, a mortgage loan to finance, either temporarily or permanently, the construction, rehabilitation, improvement, or acquisition and rehabilitation or improvement of residential housing and a mortgage loan insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure such a mortgage;~~
- (9) ~~Repealed by Session Laws 1973, c. 1296, s. 11;~~
- (10) ~~"Obligations" means any bonds or bond anticipation notes authorized to be issued by the Agency under the provisions of this Chapter;~~
- (11) ~~"Persons and families of lower income" means persons and families deemed by the Agency to require such assistance as is made available by this Chapter on account of insufficient personal or family income, taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a lower income basis and (v) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing and deemed by the Agency therefore to be eligible to occupy residential housing financed wholly or in part, with mortgages, or with other public or private assistance;~~
- (12) ~~"Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the rehabilitation of buildings and improvements, and such other nonhousing facilities as may be incidental or appurtenant thereto;~~
- (13) ~~"State" means the State of North Carolina;~~
- (14) ~~"Federally insured securities" means an evidence of indebtedness secured by a first mortgage lien on residential housing for persons of lower income and insured or guaranteed as to repayment of principal and interest by the United States or any agency or instrumentality thereof; and~~
- (15) ~~"Mortgage lenders" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, mortgage banking company, the federal government and any other financial institution authorized to transact business in the State;~~



- (16) ~~"Energy conservation loan" means a loan obtained from a mortgage lender for the purpose of satisfying an existing obligation of a borrower who is the resident owner of a single family dwelling or of "residential housing." The existing obligation of the owner in an "energy conservation loan" must have been incurred to pay for the purchase of materials or the installation of materials, or both, which results in a significant decrease in the amount of consumption of nonrenewable sources of energy in order to provide or maintain a comfortable level of room temperatures in his residence during the winter. "Energy conservation loan" does not include a loan obtained to refinance an existing loan agreement unless payment or collection of the original loan was guaranteed by the agency.~~
- (17) "Rehabilitation" means the renovation or improvement of residential housing by the owner of said residential housing.
- (1) Agency. – The North Carolina Housing Finance Agency created by this Chapter.
  - (2) Bonds or notes. – The bonds or the bond anticipation notes or construction loan notes authorized to be issued by the Agency under this Chapter.
  - (3) Counseling agency. – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.
  - (4) Energy conservation loan. – A loan obtained from a mortgage lender for the purpose of satisfying an existing obligation of a borrower who is the resident owner of a single-family dwelling or of "residential housing." The existing obligation of the owner in an "energy conservation loan" must have been incurred to pay for the purchase of materials or the installation of materials, or both, which results in a significant decrease in the amount of consumption of nonrenewable sources of energy in order to provide or maintain a comfortable level of room temperatures in his residence during the winter. "Energy conservation loan" does not include a loan obtained to refinance an existing loan agreement unless payment or collection of the original loan was guaranteed by the Agency.
  - (5) Federally insured securities. – An evidence of indebtedness secured by a first mortgage lien on residential housing for persons of lower income and insured or guaranteed as to repayment of principal and interest by the United States or any agency or instrumentality thereof.
  - (6) Governmental agency. – Any department, division, public agency, political subdivision, or other public instrumentality of the State, the federal government, any other State or public agency, or any two or more thereof.
  - (7) Mortgage or mortgage loan. – A mortgage loan for residential housing, including, without limitation, a mortgage loan to finance, either temporarily or permanently, the construction, rehabilitation, improvement, or acquisition and rehabilitation or improvement of residential housing and a mortgage loan insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure such a mortgage. A mortgage obligation may be evidenced by a security document and secured by a lien upon real property, 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.

- (8) Mortgage lenders. – Any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, mortgage banking company, the federal government, and any other financial institution authorized to transact business in the State.
- (9) 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.
- (10) Obligations. – Any bonds or bond anticipation notes authorized to be issued by the Agency under the provisions of this Chapter.
- (11) Persons and families of lower income. – Persons and families deemed by the Agency to require such assistance as is made available by this Chapter on account of insufficient personal or family income, taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a lower-income basis, and (v) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing and deemed by the Agency therefore to be eligible to occupy residential housing financed wholly or in part, with mortgages, or with other public or private assistance.
- (12) Residential housing. – A specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the rehabilitation of buildings and improvements, and such other nonhousing facilities as may be incidental or appurtenant thereto.
- (13) State. – The State of North Carolina.
- (14) Rehabilitation. – The renovation or improvement of residential housing by the owner of said residential housing."

**SECTION 21.1.(b)** G.S. 122A-5.4(b) reads as rewritten:

"(b) The terms "persons and families of lower income" and "persons of lower income" wherever they appear in this Chapter, except where they appear in G.S. 122A-2 and ~~122A-3(11)~~, G.S. 122A-3, shall be deemed to include "persons and families of moderate income" as defined in clause (c) of this section."

**SECTION 21.1.(c)** Chapter 122A of the General Statutes is amended by adding a new section to read:

**"§ 122A-5.14. Home Protection Program and Fund.**

(a) The North Carolina Housing Finance Agency shall establish and administer the Home Protection Program ("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 Home Protection Program Fund ("Fund") to ensure that workers in North Carolina have assistance to avoid losing their homes to foreclosure.
- (2) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.
- (3) 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 North Carolina 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.

(b) Home Protection Period. – 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 for a period of 120 days following the date of the mortgagor's properly filed application:

- (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.

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 10 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.

(c) Rule Making. – Solely with respect to the adoption of procedures for the 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.

(d) Annual Report. – By April 1 of each year, the Agency shall report to the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology 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 21.1.(d)** Of the funds appropriated to the Housing Finance Agency and allocated to the Home Protection Program Fund in this act, at least two-thirds shall be used for loans to North Carolina workers who have lost jobs as a result of changing economic conditions. If less than two-thirds of the funds allocated to the program go to loans, the Housing Finance Agency shall account for and explain the

failure to meet this requirement during the Housing Finance Agency's annual report to the House Appropriations Subcommittee on General Government and Senate Appropriations Subcommittee on General Government and Information Technology.

## **PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**

### **STAFFING ANALYSIS OF THE ETHICS COMMISSION AND THE LOBBYIST REGISTRATION SECTION OF THE DEPARTMENT OF SECRETARY OF STATE**

**SECTION 22.1.** The Office of State Budget and Management shall conduct a staffing analysis of the Ethics Commission and the Lobbyist Registration Section of the Department of Secretary of State to determine if the staffing is appropriate for the workload volume that has been generated by the enactment of Session Law 2006-201. The Office of State Budget and Management shall submit a final report outlining its findings and staffing recommendations to the House Appropriations Subcommittee on General Government, Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division by March 1, 2009.

### **MODIFY STATE FIRE PROTECTION GRANT FUND**

**SECTION 22.2.** Effective July 1, 2008, 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 up to ~~three million eight hundred eighty thousand dollars (\$3,880,000)~~ four million one hundred eighty thousand dollars (\$4,180,000) 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."

### **MILITARY MORALE, RECREATION, AND WELFARE FUNDS**

**SECTION 22.3.** 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.

### **STAFFING ANALYSIS OF THE YOUTH ADVOCACY & INVOLVEMENT OFFICE**

**SECTION 22.4.** The Office of State Budget and Management shall conduct a staffing analysis of the Youth Advocacy and Involvement Office of the Department of Administration to determine if the staffing is appropriate for the workload volume. The Office of State Budget and Management shall submit a final report outlining its findings and staffing recommendations to the House Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division by March 1, 2009.

### **STAFFING SURVEY OF STATE AGENCIES AND UNIVERSITIES THAT USE THE BEACON SYSTEM**

**SECTION 22.5.** The Office of State Budget and Management shall conduct a staffing survey of all State agencies and universities that use the BEACON system and

determine the number of FTE staff assigned to BEACON training. The Office of State Budget and Management shall submit a final report outlining its findings and staffing recommendations to the House Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division by March 1, 2009.

#### **STUDY DOA ASSISTANCE TO COUNTY VETERANS SERVICE PROGRAMS**

**SECTION 22.6.(a)** The Office of State Budget and Management, in consultation with the Department of Administration, shall study the level of State assistance provided to county veterans service programs by the Aid to Counties program within the Department of Administration pursuant to G.S. 165-6(9). The Office will collect data from county programs, including a five-year analysis of county spending, the number and type of veteran claims filed, and the number of FTE staff assigned to the county programs, to assess the level of services provided. The study should examine the effect of changing the amount of assistance that a county is eligible to receive pursuant to G.S. 165-6(9). The study should include an analysis of the number of claims filed with each veterans service program; total county spending for the programs; and the county veteran population. The study should also include a section on recommended statutory changes, budgetary increases, distribution reallocations, and administrative changes to the Division of Veterans Affairs.

**SECTION 22.6.(b)** The Office of State Budget and Management shall submit a final report of its findings and recommendations to the House Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the Fiscal Research Division no later than March 1, 2009.

#### **NORTH CAROLINA STATE VETERANS PARK**

**SECTION 22.7.(a)** The General Assembly finds that:

- (1) It is fitting and appropriate that the State of North Carolina establish a world-class, twenty-first century memorial park honoring the sacrifices of members of the Armed Services and recognizing the special place that the military occupies in the lives of the citizens of this State.
- (2) Veterans from across this State and from all branches of the Armed Services deserve a place for meaningful reflection, a place to take pride in their service and to bond with their fellow veterans and grateful countrymen.
- (3) The optimal means of providing veterans with these opportunities is to create a twenty-first century park that includes a formal garden, a visitors center, and a Freedom Trail and that is beautiful, reflective, and contemplative.

**SECTION 22.7.(b)** Of the funds appropriated in this act to the Office of State Budget and Management, the sum of fifteen million dollars (\$15,000,000) for the 2008-2009 fiscal year shall be allocated as a grant-in-aid to the City of Fayetteville for the construction of the North Carolina State Veterans Park. The Park shall provide a place for meaningful reflection and inspiration in a community setting that is beautiful and unique to honor the lives, service, and pride of veterans from across North Carolina.

#### **PART XXIII. DEPARTMENT OF REVENUE**

##### **USE OF COLLECTION ASSISTANCE FEE**

**SECTION 23.1.** Section 6.9(b) of S.L. 2007-323 reads as rewritten:

**"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 proceeds of the collection assistance fee imposed by G.S. 105-243.1 may be applied to the cost of the

~~computer system is subject to the collection assistance fee set forth in G.S. 105-243.1. system. The Department of Revenue is authorized to use funds in the 20% Collection Assistance Fee Account, Budget Code 24704-2474, during the 2007-2008 and 2008-2009 fiscal year years to replace the Department's current computer system, and these funds are appropriated to the Department for that purpose. The For fiscal year 2007-2008, 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. For fiscal year 2008-2009, the Department shall not use more than twenty-five million dollars (\$25,000,000) from the Account to replace the Department's current computer system.~~

Funds appropriated under this subsection may be transferred to Budget Code 24708-2478 to be applied to expenditures for a replacement computer system. Funds appropriated under this subsection that are not transferred to Budget Code 24708-2478 remain in the Account until they are transferred to that Budget Code or withdrawn for expenditures for a replacement computer system. Funds appropriated under this subsection that are not expended at the end of the 2007-2009 biennium remain available for expenditure for the purpose designated in this subsection."

## **PART XXIV. STATE BOARD OF ELECTIONS**

### **2008 EARLY VOTING FUNDS**

**SECTION 24.1.** Section 25.1(a) of S.L. 2007-323 reads as rewritten:

**"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.
- (5) \$1,000,000 nonrecurring in fiscal year 2008-2009 provided for additional operating support for one-stop absentee voting (early voting) sites for the 2008 general election."

## **PART XXV. DEPARTMENT OF TRANSPORTATION**

### **INCREASE ADMINISTRATIVE APPROPRIATION FOR THE HIGHWAY TRUST FUND**

**SECTION 25.1.** 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%)~~ four and eight-tenths percent (4.8%) 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, 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 PRODUCE BIENNIAL STATE TRANSPORTATION MAPS AND COASTAL BOATING GUIDES**

**SECTION 25.2.(a)** The Department of Transportation shall cease annual production of the North Carolina State Transportation Map and Coastal Boating Guide and shall produce a biennial North Carolina State Transportation Map and may provide funding for a biennial Coastal Boating Guide, in conjunction with the Wildlife Resources Commission, beginning in the 2008-2009 fiscal year.

**SECTION 25.2.(b)** The Department shall provide a written report to the Joint Legislative Transportation Oversight Committee on the biennial map production plan and identify any cost savings for nonproduction years. The report shall also include historical budget and production information for the past five years. The report is due by March 1, 2009.

## **ONE-STOP SHOPS FOR DRIVERS LICENSE AND REGISTRATION PLATES**

**SECTION 25.3.(a)** 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.

**SECTION 25.3.(b)** The Department of Transportation shall develop a plan that thoroughly outlines the operational plans of combined function centers designated

as One-Stop Shops. The plan may contain recommendations regarding making necessary changes to G.S. 20-63(h) to expand Division services. The plan should detail a cost-effectiveness comparison between the current means for delivery of service and the proposed combined function center services. The plan should also include a thorough justification for each proposed One-Stop Shop location, including any assumptions made in the justification process. The plan should clearly highlight the benefits to the State, including customer service enhancements for Division customers obtained by implementation of One-Stop Shops. The Division shall also conduct an analysis of the anticipated number of transactions at the One-Stop Shops and consider the impact on commission contracts for independent license plate agents, as well as any other interested party affected by the change.

**SECTION 25.3.(c)** The Division shall report to the Joint Legislative Transportation Oversight Committee, the Joint Appropriations Subcommittee for Transportation, and the Fiscal Research Division no later than October 31, 2008.

### **REALIGN THE CONTINUATION AND CERTIFIED BUDGETS OF EACH DIVISION WITHIN THE DEPARTMENT**

**SECTION 25.4.(a)** Notwithstanding G.S. 143C-6-1 and G.S. 143C-6-7, the Department of Transportation and the Office of State Budget and Management shall review each of the Department's divisions' expenditure patterns and realign the continuation and certified budget for the 2009-2011 Fiscal Biennium. The certified budget shall become the current expenditure plan for each division based on anticipated expenditure patterns.

**SECTION 25.4.(b)** The Department of Transportation shall prepare a report on the cash spending plan based on the certified budget's fund codes. This report shall show cash expenditure plans for the 2008-2009 fiscal year.

**SECTION 25.4.(c)** The Department of Transportation and the Office of State Budget and Management shall jointly study alternatives and enhancements to the current budgeting process that highlight and more closely align the Department's division, DMV, ferry, rail, public transportation, and administration spending with performance outcomes and metrics. Study goals include greater clarity of budgets and cash work plans, flexible funding capabilities, and projected investment performance.

**SECTION 25.4.(d)** The Department of Transportation shall develop a quarterly report that evaluates the Department's achievement of performance measures for safety, preservation, capacity improvements, ITS, effective and efficient business practices, spending plans, DMV services, minority and disadvantaged business goals, and other relevant performance indicators. Division performance comparisons will be included where applicable. The fourth quarter report will serve as the annual performance evaluation and shall be submitted to the Governor and Legislature, including the Joint Legislative Transportation Oversight Committee.

**SECTION 25.4.(e)** The Department of Transportation and the Office of State Budget and Management shall report on its cash spending plan for the 2008-2009 fiscal year and shall present recommendations for a revised budget process to the Joint Legislative Transportation Oversight Committee, Appropriations Subcommittee for Transportation, and the Fiscal Research Division no later than November 1, 2008. The Department of Transportation shall present the Fiscal Year 2009 first quarter performance report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than November 15, 2008.

### **TRANSFER HIGHWAY TRUST FUND MONIES IN THE AMOUNT OF TWENTY-FIVE MILLION DOLLARS BEGINNING IN FISCAL YEAR 2008-2009, SIXTY-FOUR MILLION DOLLARS BEGINNING IN FISCAL YEAR 2009-2010, AND NINETY-NINE MILLION DOLLARS BEGINNING IN FISCAL YEAR 2010-2011 TO THE NC TURNPIKE AUTHORITY FOR DEBT SERVICE ON BONDS**



**SECTION 25.5.(a)** G.S. 105-187.9(b) reads as rewritten:

"(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of one hundred ~~seventy million dollars (\$170,000,000).~~ forty-five million dollars (\$145,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

**SECTION 25.5.(b)** G.S. 136-176 is amended by adding a new subsection to read:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of twenty-five million dollars (\$25,000,000) to be used to service debt on bonds issued for the construction of the Triangle Expressway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations set forth in this act at any time to decrease or eliminate the amount annually appropriated to the Authority."

**SECTION 25.5.(c)** G.S. 105-187.9(b) as amended by subsection (a) of this section reads as rewritten:

"(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of ~~one hundred forty five million dollars (\$145,000,000).~~ one hundred six million dollars (\$106,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or

decreased for the most recent 12-month period for which data are available."

**SECTION 25.5.(d)** G.S. 136-176(b2), as enacted by subsection (b) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~twenty five million dollars (\$25,000,000)~~ to be used to service debt on bonds issued for the construction of the Triangle Expressway. sixty-four million dollars (\$64,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, and fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations set forth in this act at any time to decrease or eliminate the amount annually appropriated to the Authority."

**SECTION 25.5.(e)** G.S. 105-187.9(b) as amended by subsections (a) and (c) of this section reads as rewritten:

"(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of ~~one hundred six million dollars (\$106,000,000)~~. seventy-one million dollars (\$71,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

**SECTION 25.5.(f)** G.S. 136-176(b2), as enacted by subsection (b) of this section and as amended by subsection (d) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~sixty four million dollars (\$64,000,000)~~. ninety-nine million dollars (\$99,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of

the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe ~~Connector/Bypass, and Connector/Bypass~~, fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck ~~Bridge. Bridge,~~ and thirty-five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations set forth in this act at any time to decrease or eliminate the amount annually appropriated to the Authority."

**SECTION 25.5.(g)** Subsections (a), (b), and (g) of this section become effective July 1, 2008. Subsections (c) and (d) of this section become effective July 1, 2009. Subsections (e) and (f) of this section become effective July 1, 2010.

**FUNDS FOR UNSAFE AND OBSOLETE FIELD FACILITIES**

**SECTION 25.6.** Section 27.6 of S.L. 2007-323 is repealed.

**CASH FLOW HIGHWAY FUNDS AND HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 25.7.(a)** Section 27.2 of S.L. 2007-323 is repealed.

**SECTION 25.7.(b)** The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2009-2010	\$2,070.8 million
For Fiscal Year 2010-2011	\$2,066.0 million
For Fiscal Year 2011-2012	\$2,064.5 million
For Fiscal Year 2012-2013	\$2,075.6 million

**SECTION 25.7.(c)** The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2009-2010	\$1,178.4 million
For Fiscal Year 2010-2011	\$1,199.8 million
For Fiscal Year 2011-2012	\$1,226.9 million
For Fiscal Year 2012-2013	\$1,263.4 million

**DEPARTMENT OF TRANSPORTATION TO APPLY FOR INTERSTATE CORRIDOR GRANT FUNDS**

**SECTION 25.8.** The Department of Transportation and the North Carolina Turnpike Authority shall apply for all federal grant monies available for Interstate corridors. The grant funds shall be used for the preservation of the highway infrastructure and to provide for improvements and enhancements to the Interstate.

The Department shall report on the status of all grant applications made and any funding awarded for Interstate corridors to the Joint Legislative Transportation Oversight Committee no later than December 1, 2008.

**AVIATION FUNDS FOR THE MOUNT AIRY-SURRY COUNTY AIRPORT AUTHORITY AND THE ASHE COUNTY AIRPORT**

**SECTION 25.9.(a)** Of the funds appropriated to the Department of Transportation, Division of Aviation, for fiscal year 2008-2009, the sum of three million dollars (\$3,000,000) shall be allocated to the Mount Airy-Surry County Airport Authority for expansion and renovation of the regional airport.

**SECTION 25.9.(b)** Of the funds appropriated to the Department of Transportation, Division of Aviation, for fiscal year 2008-2009, the sum of two million five hundred thousand dollars (\$2,500,000) shall be allocated to Ashe County to be used for expansion and renovation of the Ashe County Airport.

#### **CLOSURE OF EXITS ON INTERSTATE HIGHWAYS**

**SECTION 25.10.** If any exits on an interstate highway are scheduled for permanent closure before September 30, 2008, other than an exit that was created and exists solely as a temporary exit in a construction zone that would be closed upon completion of the construction project, the Department of Transportation shall apply for a waiver or request for reconsideration from the United States Department of Transportation or any other federal agency, as required, to keep the exit or exits open to vehicular traffic exiting from the interstate highway. If the Department of Transportation has applied for a waiver or request for reconsideration and received a decision from the United States Department of Transportation on or before June 30, 2008, the Department shall be deemed to have met the requirements for this section and shall proceed as directed by the United States Department of Transportation.

#### **DEPARTMENT OF TRANSPORTATION TO PLANT SEEDLINGS IN RIGHTS-OF-WAY**

**SECTION 25.12.(a)** Of the funds appropriated to the Department of Transportation up to one million dollars (\$1,000,000) per year, for five years, beginning with the 2008-2009 fiscal year, shall be used to develop and implement a plan to plant trees and shrubs native to North Carolina along the State's roads and highways in the rights-of-way. The Department shall consult with and use the expertise of the United States Forest Service and the Division of Forest Resources of the North Carolina Department of Environment and Natural Resources in the development and implementation of the plan. The plan shall include the planting of trees, shrubs, and other vegetation that (i) are native to the various regions and areas of the State in which they are being planted, (ii) will provide clean air and otherwise benefit the State's environment, (iii) are appropriately placed for the safety of those traveling on the roads and highways, and (iv) reduce the costs of mowing and maintaining the rights-of-way along the State's roads and highways.

**SECTION 25.12.(b)** The Department shall procure the seedlings from the North Carolina Division of Forest Resources or any State institution that cultivates seedling trees. If the seedlings are cultivated from within the State, the Department shall revegetate the cleared area with the same tree, shrub, or other vegetation harvested within the first planting season after the area is cleared. If no State agency cultivates seedling trees, then the Department shall procure seedlings grown in North Carolina. The Department shall, to the fullest extent possible, use inmates of the Department of Correction to plant and maintain the trees. The Department shall submit the plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee by October 1, 2008, and begin implementation of the plan by January 1, 2009.

#### **DRIVERS LICENSE FORMAT CHANGE**

**SECTION 25.13.** Provided that the Commissioner of the Department of Motor Vehicles is not required to reissue a drivers license in the horizontal format to drivers when the drivers turn 21, up to fifty thousand dollars (\$50,000) of any funding received by the Division of Motor Vehicles to help fund the drivers license format change from horizontal to vertical, for drivers less than 21 years of age, shall be

appropriated to the Department of Transportation, System Preservation Account, to replace funds previously expended by the Division for this initiative.

### **SHORT LINE RAIL IMPROVEMENTS FOR THE PIEDMONT & NORTHERN CORRIDOR AND OTHER TRANSIT AND RAIL IMPROVEMENTS**

**SECTION 25.14.(a)** Of the funds appropriated to the Department of Transportation, Divisions of Rail and Public Transportation, up to five million dollars (\$5,000,000) shall be spent to improve the railroad track for the Piedmont & Northern corridor to current operating standards after the Rail Division has entered into a formal lease with a qualified operator. The lease shall contain terms that provide for a cost share of at least ten percent (10%), by the operator, for any improvements to the corridor for the operation of the rail line.

**SECTION 25.14.(b)** The Department of Transportation shall report the terms of any proposed lease for the Piedmont & Northern rail corridor to the Joint Legislative Transportation Oversight Committee no later than 30 days after a final lease has been proposed for the rail corridor.

### **FUNDS TRANSFER TO SUPPORT GLOBAL TRANSPARK FREIGHT TRANSPORTATION SYSTEM**

**SECTION 25.15.** G.S. 136-176(a1)(2) reads as rewritten:

"(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty-nine million dollars (\$29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark."

### **KEEP AMERICA BEAUTIFUL ORGANIZATION STAFF FUNDS**

**SECTION 25.16.** Of the funds appropriated to the Department of Transportation, the sum of forty thousand dollars (\$40,000), in recurring funds, for the 2008-2009 fiscal year is allocated to The North Carolina Clean Foundation, a nonprofit organization, to support a program coordinator for the North Carolina Keep America Beautiful organization.

### **REPAIRS AND RENOVATIONS FUNDS**

**SECTION 25.17.(a)** Of the funds appropriated to the Highway Trust Fund, Highway Construction Program, for fiscal year 2008-2009, up to five million two hundred fifty thousand dollars (\$5,250,000) may be used by the Department of Transportation for repairs and renovations of Department facilities throughout the State.

**SECTION 25.17.(b)** The Department of Transportation shall report to Joint Legislative Transportation Oversight Committee on the repair and renovations program, the planned use of funds for repairs and renovations, and the prioritization of needs for fiscal years 2009-2010 and 2010-2011 no later than October 30, 2008.

### **STORMWATER RUNOFF FROM BRIDGES**

**SECTION 25.18.(a)** Of funds available to the Department of Transportation, the Department, in cooperation with the Center for Transportation and the Environment at North Carolina State University, shall conduct a pilot study on 50 bridges, located throughout the State in various ecosystems, of the installation of various types of storm water detention, collection, and filtering systems during new bridge construction over waterways. The Department may also retrofit existing bridges as part of its pilot study. Treatments and methods used in the pilot study shall include but not be limited to those treatments found effective by other states and new treatments identified through

investigation and research which may be effective. Construction or retrofitting shall be initiated on at least 25 of the 50 bridges by July 1, 2009. Construction or retrofitting shall be initiated on the remaining bridge projects by January 1, 2010.

**SECTION 25.18.(b)** An interim report shall be made to the Joint Legislative Transportation Oversight Committee no later than July 1, 2009, that includes information which quantifies stormwater runoff at structures as well as the types of pollutants, the various treatments which will be constructed and evaluated to target these pollutant types, and a measurement and collection plan to determine effectiveness of the evaluated treatments.

**SECTION 25.18.(c)** A final report shall be made to the Joint Legislative Transportation Oversight Committee no later than July 1, 2010. The final report shall include as a minimum, the effectiveness of the treatments included in the study, costs of each treatment, and the costs of implementing effective treatments on new bridge construction projects as well as existing bridge retrofit projects for all bridges over waterways in the State.

**PART XXVI. SALARIES AND BENEFITS**

**GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES**

**SECTION 26.1.(a)** Effective July 1, 2008, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty five thousand eight hundred fifty four dollars (\$135,854)~~ one hundred thirty-nine thousand five hundred ninety dollars (\$139,590) annually, payable monthly."

**SECTION 26.1.(b)** Section 28.1(b) of S.L. 2007-323 reads as rewritten:

"**SECTION 28.1.(b)** Effective ~~July 1, 2007, July 1, 2008,~~ the annual salaries for the members of the Council of State, payable monthly, for the ~~2007-2008 and 2008-2009~~ fiscal years-year are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	<del>\$119,901</del> <u>\$123,198</u>
Attorney General	<del>119,901</del> <u>123,198</u>
Secretary of State	<del>119,901</del> <u>123,198</u>
State Treasurer	<del>119,901</del> <u>123,198</u>
State Auditor	<del>119,901</del> <u>123,198</u>
Superintendent of Public Instruction	<del>119,901</del> <u>123,198</u>
Agriculture Commissioner	<del>119,901</del> <u>123,198</u>
Insurance Commissioner	<del>119,901</del> <u>123,198</u>
Labor Commissioner	<del>119,901</del> <u>123,198</u> "

**NONELECTED DEPARTMENT HEAD/SALARY INCREASES**

**SECTION 26.2.** Effective July 1, 2008, Section 28.2 of S.L. 2007-323 reads as rewritten:

"**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-year are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	<del>\$117,142</del> <u>\$120,363</u>
Secretary of Correction	<del>117,142</del> <u>120,363</u>
Secretary of Crime Control and Public Safety	<del>117,142</del> <u>120,363</u>
Secretary of Cultural Resources	<del>117,142</del> <u>120,363</u>
Secretary of Commerce	<del>117,142</del> <u>120,363</u>
Secretary of Environment and Natural Resources	<del>117,142</del> <u>120,363</u>
Secretary of Health and Human Services	<del>117,142</del> <u>120,363</u>

Secretary of Juvenile Justice and Delinquency Prevention	<del>117,142</del>	<u>120,363</u>
Secretary of Revenue	<del>117,142</del>	<u>120,363</u>
Secretary of Transportation	<del>117,142</del>	<u>120,363</u>

**CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

**SECTION 26.3.** Effective July 1, 2008, Section 28.3 of S.L. 2007-323 reads as rewritten:

**"SECTION 28.3.** The annual salaries, payable monthly, for the ~~2007-2008~~ and 2008-2009 fiscal ~~years-year~~ for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>	
Chairman, Alcoholic Beverage Control Commission	<del>\$106,621</del>	<u>\$109,553</u>
State Controller	<del>149,216</del>	<u>153,319</u>
Commissioner of Motor Vehicles	<del>106,621</del>	<u>109,553</u>
Commissioner of Banks	<del>119,901</del>	<u>123,198</u>
Chairman, Employment Security Commission		133,161
State Personnel Director	<del>117,142</del>	<u>120,363</u>
Chairman, Parole Commission	<del>97,358</del>	<u>100,035</u>
Members of the Parole Commission	<del>44,942</del>	<u>46,178</u>
Chairman, Utilities Commission	<del>133,531</del>	<u>137,203</u>
Members of the Utilities Commission	<del>119,901</del>	<u>123,198</u>
Executive Director, Agency for Public Telecommunications	<del>89,884</del>	<u>92,356</u>
Director, Museum of Art	<del>109,252</del>	<u>112,256</u>
Executive Director, North Carolina Agricultural Finance Authority	<del>103,781</del>	<u>106,635</u>
State Chief Information Officer	<del>149,126</del>	<u>153,227</u>

**JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

**SECTION 26.4.(a)** Effective July 1, 2008, Section 28.4 of S.L. 2007-323 reads as written:

**"SECTION 28.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the ~~2007-2008~~ and 2008-2009 fiscal ~~years-year~~ are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>	
Chief Justice, Supreme Court	<del>\$137,160</del>	<u>\$140,932</u>
Associate Justice, Supreme Court	<del>133,576</del>	<u>137,249</u>
Chief Judge, Court of Appeals	<del>130,236</del>	<u>133,817</u>
Judge, Court of Appeals	<del>128,011</del>	<u>131,531</u>
Judge, Senior Regular Resident Superior Court	<del>124,532</del>	<u>127,957</u>
Judge, Superior Court	<del>121,053</del>	<u>124,382</u>
Chief Judge, District Court	<del>109,923</del>	<u>112,946</u>
Judge, District Court	<del>106,445</del>	<u>109,372</u>
District Attorney	<del>116,112</del>	<u>119,305</u>
Administrative Officer of the Courts	<del>123,346</del>	<u>126,738</u>
Assistant Administrative Officer of the Courts	<del>112,665</del>	<u>115,763</u>
Public Defender	<del>116,112</del>	<u>119,305</u>
<u>Director of Indigent Defense Services</u>		<u>123,022</u>

**"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.(b1)** The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed seventy thousand nine hundred forty-six dollars (\$70,946), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-seven thousand one hundred eighty-two dollars (\$37,182), effective July 1, 2008.

**"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%). Effective July 1, 2008, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

**"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%). Effective July 1, 2008, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by pro rata amounts of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) whichever is greater."

**SECTION 26.4.(b)** Effective July 1, 2008, G.S. 7A-498.6(a) reads as rewritten:

"(a) The Director of Indigent Defense Services shall be appointed by the Commission for a term of four years. The salary of the Director shall be set by the General Assembly in the Current Operations Appropriations Act, after consultation with the Commission. The Director may be removed during this term in the discretion of the Commission by a vote of two-thirds of all of the Commission members. The Director shall be an attorney licensed and eligible to practice in the courts of this State at the time of appointment and at all times during service as the Director."

**SECTION 26.4.(c)** Effective July 1, 2008, G.S. 7A-498.6 is amended by adding a new subsection to read:

**"(c)** In lieu of merit and other increment raises paid to regular State employees, the Director of Indigent Defense Services 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, 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 Director of Indigent Defense Services, 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."

## **CLERK OF SUPERIOR COURT/SALARY INCREASES**

**SECTION 26.5.** Effective July 1, 2008, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	<del>\$ 80,196</del> \$82,401
100,000 to 149,999	<del>89,993</del> 92,468



150,000 to 249,999	<del>99,792</del> <u>102,536</u>
250,000 and above	<del>109,593</del> <u>112,607</u>

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 26.6.** Effective July 1, 2008, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	<del>\$31,122</del> <u>\$32,222</u>
Maximum	<del>53,304</del> <u>54,767</u>
Deputy Clerks	Annual Salary
Minimum	<del>\$26,788</del> <u>\$27,888</u>
Maximum	<del>41,456</del> <u>42,596</u> ."

**MAGISTRATES' SALARY INCREASES**

**SECTION 26.7.(a)** Effective July 1, 2008, 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	<del>\$31,533</del> <u>\$32,633</u>
Step 1	<del>34,425</del> <u>35,525</u>
Step 2	<del>37,571</del> <u>38,671</u>
Step 3	<del>41,006</del> <u>42,134</u>
Step 4	<del>44,768</del> <u>45,999</u>
Step 5	<del>49,007</del> <u>50,355</u>
Step 6	<del>53,760</del> <u>55,238</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 26.7.(b)** Effective July 1, 2008, 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	\$25,428	\$26,528
1 or more but less than 3 years of service	26,595	27,695
3 or more but less than 5 years of service	28,944	30,044

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 26.8.** Effective July 1, 2008, 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 ~~one hundred one thousand two hundred ninety eight dollars (\$101,298)~~ one hundred four thousand eighty-four dollars (\$104,084) 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 26.9.** Effective July 1, 2008, 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 fifty nine dollars (\$359.00)~~ three hundred eighty dollars (\$380.00) 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 26.10.** Effective July 1, 2008, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2007-2008 by the greater of one thousand one hundred dollars (\$1,100)

or two and seventy-five hundredths percent (2.75%). Nothing in this act limits any of the provisions of G.S. 120-32.

## COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

**SECTION 26.11.** Section 28.11 of S.L. 2007-323 reads as rewritten:

"**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.(a1) Effective July 1, 2008, the Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal year 2008-2009, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of:

- (1) Three percent (3.0%) including funds for the employer's retirement and social security contributions, commencing July 1, 2008, for all community college faculty and professional staff supported by State funds.
- (2) The greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) including funds for the employer's retirement and social security contributions, commencing July 1, 2008, for all other 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."

## COMMUNITY COLLEGE FACULTY SALARIES

**SECTION 26.11A.** Section 8.5 of S.L. 2007-323 is amended by adding a new subsection to read:

"SECTION 8.5.(h) For the 2008-2009 school year, the minimum salaries for nine-month, full-time curriculum community college faculty shall be as follows:

<u>Education Level</u>	<u>Minimum Salary</u>
<u>Vocational Diploma/Certificate or Less</u>	<u>\$34,314</u>
<u>Associate Degree or Equivalent</u>	<u>\$34,819</u>
<u>Bachelor's Degree</u>	<u>\$37,009</u>
<u>Master's Degree or Education Specialist</u>	<u>\$38,952</u>
<u>Doctoral Degree</u>	<u>\$41,753.</u>

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

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

## UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

**SECTION 26.12.** Section 28.12 of S.L. 2007-323 reads as rewritten:

"**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.(a1)** Effective July 1, 2008, the Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 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 three percent (3%) for faculty and non-faculty. The percentage annual salary increase of three percent (3%) 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.(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.

**"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.

**"SECTION 28.12.(c1)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2008-2009, to provide an average annual salary increase of three percent (3%), but at least an annual increase of four hundred seventy dollars (\$470.00), including funds for the employer's retirement and social security contributions, commencing July 1, 2008, 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."

## **LOTTERY COMMISSION COMPENSATION INCREASES**

**SECTION 26.12A.** Article 8 of Chapter 18C of the General Statutes is amended by adding a new section to read:

**"§ 18C-120.173. Limits on compensation increases.**

Notwithstanding G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission, during any fiscal year, may not expend funds for merit and performance-based salary increases in excess of the funds that would have been expended had the Lottery Commission employees received the same across-the-board salary increases granted by the General Assembly to State employees subject to the State Personnel Act. These merit and performance-based salary increases may be awarded on an aggregated average basis according to rules adopted by the Lottery Commission."

**MENTAL HEALTH NURSES/SIGN-ON BONUS**

**SECTION 26.12B.(a)** Notwithstanding the provisions of G.S. 126-4(10), the sum of up to five hundred thousand dollars (\$500,000) for the 2008-2009 fiscal year may be used by the Department of Health and Human Services to pay sign-on bonuses to newly employed registered nurses hired during the fiscal year to work in State operated facilities in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

**SECTION 26.12B.(b)** These sign-on bonuses may not exceed:

- (1) \$8,000 per full-time registered nurse or
- (2) \$4,000 per part-time registered nurse hired to work at least 20 hours but less than 30 hours per week.

One-half of the sign-on bonus shall be paid in the employee's first paycheck with the second installment to be paid after the completion of 36 months of consecutive State service as a registered nurse in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. Employees whose performance ratings, at any time, are not rated at or above level three on the five-level rating scale, or who have documented disciplinary actions for misconduct or performance, shall be ineligible for the second installment of the sign-on bonus.

**SECTION 26.12B.(c)** Employees who terminate, either voluntarily or involuntarily, before the completion of 36 months of consecutive service shall repay a prorated amount of the sign-on bonus as determined by the Secretary of the Department of Health and Human Services.

**LICENSED FERRY PERSONNEL/CLASSIFICATION STUDY/REPORT**

**SECTION 26.12C.** The Office of State Personnel (OSP) shall conduct a classification study of licensed ferry personnel within the Ferry Division of the Department of Transportation to ensure that the Division retains and recruits the most qualified personnel, in the interests of public safety and efficiency, to accomplish the State's important ferry transportation function. By the convening of the 2009 General Assembly, the OSP shall report to the Senate and House Appropriations Committees on the findings of the study, any related actions of the State Personnel Commission, and any related salary increases or adjustments based upon the study.

**SALARY ADJUSTMENT FUND CHANGES**

**SECTION 26.12D.** Section 28.18 of S.L. 2007-323 reads as rewritten:

**"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~~ Except as provided by subsections (g) and (h) of this section, 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.

**"SECTION 28.18.(g)** Of the funds available in the General Fund Salary Adjustment Fund, the State Construction Office of the Department of Administration shall receive from the Salary Adjustment Fund up to the sum of four hundred eighty-four thousand dollars (\$484,000) for the 2008-2009 fiscal year to adjust salaries for engineering and architect positions due to the career banding of these positions. These grade to band transfers shall receive the highest funding priority.

**"SECTION 28.18.(h)** Of the funds available in the Highway Fund Salary Adjustment Fund, the Ferry Division of the Department of Transportation shall receive the highest funding priority in fiscal year 2008-2009 to increase salaries of licensed ferry personnel in the event that reallocations or range revisions are approved by the State Personnel Commission resulting from the classification study of licensed ferry personnel."

## **MOST STATE EMPLOYEES/SALARY INCREASES**

**SECTION 26.13.** Effective July 1, 2008, Section 28.14 of S.L. 2007-323 reads as rewritten:

**"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%). Effective July 1, 2008, the salaries in effect June 30, 2008, of all permanent, full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or Highway Fund shall be increased by the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

**"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. Effective July 1, 2008, the compensation of 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 the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

**"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. Effective July 1, 2008, the salaries of permanent, part-time State employees shall be increased by the greater of pro rata amounts of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

**"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, increases~~ in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

**"SECTION 28.14.(e)** ~~Within~~ For the 2007-2008 fiscal year, 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. For the 2008-2009 fiscal year, 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 the greater of pro rata amounts of one thousand one hundred dollar (\$1,100) or two and seventy-five hundredths percent (2.75%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2008."

## **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

**SECTION 26.14.** Effective July 1, 2008, Section 28.15 of S.L. 2007-323 reads as rewritten:

**"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 fiscal year 2007-2008 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. The fiscal year 2008-2009 salary increases provided in this act are to be effective July 1, 2008, 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, 2008.

Payroll checks issued to employees ~~after July 1, 2007,~~ which represent payment of services provided prior to ~~July 1, 2007,~~ ~~these increases shall not be eligible for salary increases provided for in this act.~~ This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

"SECTION 28.15.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2007-2008 and fiscal year 2008-2009 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~~ For the 2007-2008 fiscal year, 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. For the 2008-2009 fiscal year, permanent, full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the greater of the one thousand one hundred dollar (\$1,100) or two and seventy-five hundredths percent (2.75%) annual increase provided by this act."

## **OFFICE OF STATE PERSONNEL TO PERFORM LABOR MARKET ANALYSIS OF CERTAIN POSITIONS**

**SECTION 26.15.(a)** The Office of State Personnel shall conduct a labor market analysis of the Administrative Support positions in the Department of Transportation to determine whether current employees are compensated appropriately relative to market rates for similar positions. If appropriate, the Office of State Personnel shall recommend to the State Personnel Commission a Salary Range Revision or establishment of a Special Minimum Rate, as those terms are defined in the State Personnel Manual. The Office of State Personnel shall report its findings and any actions of the State Personnel Commission to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the 2009 legislative session.

**SECTION 26.15.(b)** The Office of State Personnel shall conduct a labor market analysis of the Information Technology and Law Enforcement positions in the Department of Transportation to determine whether current employees are compensated appropriately relative to labor market rates for similar positions. This study shall be based upon employees' competency assessments made at the time these positions were Career Banded or on the employees' date of hire, if later, and shall not include an analysis of "career progression adjustments" that could be made under current policy due to additional skills/competencies demonstrated by an employee subsequent to their initial competency assessment. The Office of State Personnel shall report its findings to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the 2009 legislative session.

**SECTION 26.15.(c)** The Office of State Personnel shall conduct an analysis of the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services proposal to increase salaries



of Health Care Technicians, Developmental Disability Trainers, and Youth Program Assistants based upon the establishment of defined skill and competency sets and employees' subsequent demonstration of those skills and competencies. This analysis shall determine whether the Division's goals can be accomplished through current State Personnel Policy regulating "Reallocations." If so, the Office of State Personnel shall so advise the Division of Mental Health and assist them by timely processing any reallocation requests. The Office of State Personnel shall report its findings and actions to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the 2009 legislative session.

**SECTION 26.15.(d)** The Office of State Personnel shall conduct a classification study of Statewide Information Technology Procurement positions within the Office of Information Technology to ensure that the Office retains and recruits the most qualified personnel with the necessary knowledge, skills, and abilities to carry out its duties under G.S. 147-33.95 in the procurement of large, complex systems such as MMIS+ and the Integrated Tax Administration System (ITAS). By the convening of the 2009 General Assembly, the Office of State Personnel shall report to the Appropriations Committees of the House of Representatives and the Senate and to the Joint Legislative Committee on Information Technology on the findings of the study, any related actions of the State Personnel Commission, and any related salary increases or adjustments based upon the study.

**TEACHER SALARY SCHEDULES**

**SECTION 26.16.(a)** Effective for the 2008-2009 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 26.16.(b)** The following monthly salary schedules shall apply for the 2008-2009 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.

2008-2009 Monthly Salary Schedule		
"A" Teachers		
Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,085	N/A
2	\$3,129	N/A
3	\$3,264	\$3,656
4	\$3,404	\$3,812
5	\$3,538	\$3,963
6	\$3,667	\$4,107
7	\$3,771	\$4,224
8	\$3,819	\$4,277
9	\$3,868	\$4,332
10	\$3,918	\$4,388
11	\$3,967	\$4,443
12	\$4,018	\$4,500
13	\$4,069	\$4,557
14	\$4,122	\$4,617
15	\$4,176	\$4,677
16	\$4,231	\$4,739

17	\$4,286	\$4,800
18	\$4,345	\$4,866
19	\$4,403	\$4,931
20	\$4,461	\$4,996
21	\$4,523	\$5,066
22	\$4,584	\$5,134
23	\$4,650	\$5,208
24	\$4,714	\$5,280
25	\$4,779	\$5,352
26	\$4,845	\$5,426
27	\$4,913	\$5,503
28	\$4,984	\$5,582
29	\$5,055	\$5,662
30	\$5,153	\$5,771
31+	\$5,255	\$5,886

2008-2009 Monthly Salary Schedule  
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,347	N/A
1	\$3,394	N/A
2	\$3,442	N/A
3	\$3,590	\$4,021
4	\$3,744	\$4,193
5	\$3,892	\$4,359
6	\$4,034	\$4,518
7	\$4,148	\$4,646
8	\$4,201	\$4,705
9	\$4,255	\$4,766
10	\$4,310	\$4,827
11	\$4,364	\$4,888
12	\$4,420	\$4,950
13	\$4,476	\$5,013
14	\$4,534	\$5,078
15	\$4,594	\$5,145
16	\$4,654	\$5,212
17	\$4,715	\$5,281
18	\$4,780	\$5,354
19	\$4,843	\$5,424
20	\$4,907	\$5,496
21	\$4,975	\$5,572
22	\$5,042	\$5,647
23	\$5,115	\$5,729
24	\$5,185	\$5,807
25	\$5,257	\$5,888
26	\$5,330	\$5,970
27	\$5,404	\$6,052
28	\$5,482	\$6,140
29	\$5,561	\$6,228
30	\$5,668	\$6,348
31+	\$5,781	\$6,475

**SECTION 26.16.(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 26.16.(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 26.16.(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 26.16.(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 26.16.(g)** Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

**SECTION 26.16.(h)** As used in this section, the term "teacher" shall also include instructional support personnel.

## **SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE**

**SECTION 26.17.(a)** Effective for the 2008-2009 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 26.17.(b)** The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2008-2009 fiscal year, commencing July 1, 2008, is as follows:

### 2008-2009 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	\$3,781	-	-	-	-
5	\$3,931	-	-	-	-
6	\$4,074	-	-	-	-
7	\$4,189	-	-	-	-
8	\$4,243	\$4,243	-	-	-
9	\$4,298	\$4,298	-	-	-
10	\$4,353	\$4,353	\$4,408	-	-
11	\$4,408	\$4,408	\$4,464	-	-
12	\$4,464	\$4,464	\$4,521	\$4,579	-
13	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
14	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
15	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
16	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
17	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
18	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
19	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
20	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
21	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
22	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
23	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
24	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
25	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
26	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
27	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
28	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
29	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
30	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
31	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
32	-	\$5,956	\$6,075	\$6,197	\$6,321
33	-	-	\$6,197	\$6,321	\$6,447
34	-	-	\$6,321	\$6,447	\$6,576
35	-	-	-	\$6,576	\$6,708
36	-	-	-	\$6,708	\$6,842
37	-	-	-	-	\$6,979

2008-2009 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	\$4,828	-	-	-
15	\$4,891	-	-	-
16	\$4,956	\$5,025	-	-
17	\$5,025	\$5,092	\$5,237	-
18	\$5,092	\$5,166	\$5,310	\$5,383
19	\$5,166	\$5,237	\$5,383	\$5,458
20	\$5,237	\$5,310	\$5,458	\$5,537
21	\$5,310	\$5,383	\$5,537	\$5,617
22	\$5,383	\$5,458	\$5,617	\$5,725
23	\$5,458	\$5,537	\$5,725	\$5,839
24	\$5,537	\$5,617	\$5,839	\$5,956
25	\$5,617	\$5,725	\$5,956	\$6,075
26	\$5,725	\$5,839	\$6,075	\$6,197
27	\$5,839	\$5,956	\$6,197	\$6,321

28	\$5,956	\$6,075	\$6,321	\$6,447
29	\$6,075	\$6,197	\$6,447	\$6,576
30	\$6,197	\$6,321	\$6,576	\$6,708
31	\$6,321	\$6,447	\$6,708	\$6,842
32	\$6,447	\$6,576	\$6,842	\$6,979
33	\$6,576	\$6,708	\$6,979	\$7,119
34	\$6,708	\$6,842	\$7,119	\$7,261
35	\$6,842	\$6,979	\$7,261	\$7,406
36	\$6,979	\$7,119	\$7,406	\$7,554
37	\$7,119	\$7,261	\$7,554	\$7,705
38	\$7,261	\$7,406	\$7,705	\$7,859
39	-	\$7,554	\$7,859	\$8,016
40	-	\$7,705	\$8,016	\$8,176
41	-	-	\$8,176	\$8,340

**SECTION 26.17.(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 26.17.(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 26.17.(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 26.17.(f)** Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

**SECTION 26.17.(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 26.17.(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 26.17.(i)** During the 2008-2009 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 26.18.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2008-2009 fiscal year, beginning July 1, 2008.

School Administrator I	\$3,309	\$6,207
School Administrator II	\$3,508	\$6,583
School Administrator III	\$3,724	\$6,984
School Administrator IV	\$3,874	\$7,262
School Administrator V	\$4,030	\$7,556
School Administrator VI	\$4,275	\$8,013
School Administrator VII	\$4,447	\$8,336

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

**SECTION 26.18.(b)** The monthly salary ranges that follow apply to public school superintendents for the 2008-2009 fiscal year, beginning July 1, 2008.

Superintendent I	\$4,720	\$8,843
Superintendent II	\$5,011	\$9,377
Superintendent III	\$5,316	\$9,948
Superintendent IV	\$5,642	\$10,552
Superintendent V	\$5,988	\$11,196

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 26.18.(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 26.18.(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 26.18.(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 26.18.(f)** The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%), commencing July 1, 2008. 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 26.19.(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 the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) commencing July 1, 2008.

**SECTION 26.19.(b)** Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2007-2008 and who continue their employment for fiscal year 2008-2009 by providing an annual salary increase for employees of the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%).

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

**SECTION 26.19.(c)** The State Board of Education may adopt salary ranges for noncertified personnel to support increases of the greater of one thousand one hundred dollars (\$1,100) or two and seventy-five hundredths percent (2.75%) for the 2008-2009 fiscal year.

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

**SECTION 26.20.** Effective July 1, 2008, any permanent personnel employed on July 1, 2008, and paid at the top of the principal and assistant principal salary schedule shall receive a onetime bonus equivalent to two percent (2%).

Effective July 1, 2008, any permanent certified personnel employed on July 1, 2008, and paid on the teacher salary schedule with 31+ years of experience shall receive a onetime bonus equivalent to one and eight-tenths percent (1.8%). Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

#### **NO PENALTY FOR TEACHERS TAKING ONE DAY OF PERSONAL LEAVE**

**SECTION 26.21.(a)** G.S. 115C-302.1(d) reads as rewritten:

"(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be

accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using up to one day of personal leave per year shall receive full salary less the required substitute deduction. Teachers using more than one day per year shall receive full salary less the required substitute deduction. As used in this subsection, 'teachers' means classroom teachers and media specialists who require a substitute."

**SECTION 26.21.(b)** This section expires June 30, 2009.

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

**SECTION 26.22.** Section 28.19(c) of S.L. 2007-323 reads as rewritten:

**"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%)~~ eight and fourteen hundredths percent (8.14%) – Teachers and State Employees; (ii) ~~twelve and eighty three hundredths percent (12.83%)~~ thirteen and fourteen hundredths percent (13.14%) – 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."

#### **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 26.23.(a)** G.S. 135-5 is amended by adding a new subsection to read:

"(rrr) From and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2008, the retirement



allowance to or on account of beneficiaries whose retirement commenced after July 1, 2007, but before June 30, 2008, 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, 2007, and June 30, 2008."

**SECTION 26.23.(b)** G.S. 135-65 is amended by adding a new subsection to read:

"(cc) From and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008. Furthermore, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2007, but before June 30, 2008, 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, 2007, and June 30, 2008."

**SECTION 26.23.(c)** G.S. 120-4.22A is amended by adding a new subsection to read:

"(w) In accordance with subsection (a) of this section, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2008, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008. Furthermore, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2008, but before June 30, 2008, 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, 2008, and June 30, 2008."

## **INCLUDE THE DIRECTOR OF THE OFFICE OF INDIGENT DEFENSE SERVICES AS A MEMBER OF THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM**

**SECTION 26.24.(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, the Director of Indigent Defense Services, and clerk of superior court, within the General Court of Justice."

**SECTION 26.24.(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 after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that ~~date~~date; and for the Director of Indigent Defense Services who is serving on July 1, 2008, and those who become Director of Indigent Defense Services 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, or the Director of Indigent Defense Services on or after July 1, 2008, shall be determined solely in accordance with the provisions of this Article."

**SECTION 26.24.(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, or public ~~defender-defender~~, or the Director of Indigent Defense Services.
- (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.
- (6b) "Director of Indigent Defense Services" shall mean the Director of Indigent Defense Services as provided for in G.S. 7A-498.6.
- (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, clerk of superior court, ~~or public defender-defender~~, or the Director of Indigent Defense Services 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, district attorney, public defender, the Director of Indigent Defense Services, 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 26.24.(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, the Director of Indigent Defense Services, 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 26.24.(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;
  - (4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, 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.~~ July 1, 2007;
  - (7) The Director of Indigent Defense Services on July 1, 2008; and
  - (8) All persons who become the Director of Indigent Defense Services or reenter service as the Director of Indigent Defense Services after July 1, 2008.

- (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, public defender, the Director of Indigent Defense Services, or clerk of superior court, or
  - (2) His retirement under the provisions of the Retirement System, or
  - (3) His death."

**SECTION 26.24.(f)** G.S. 135-58(a5) reads as rewritten:

"(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, but before July 1, 2008, 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 26.24.(g)** G.S. 135-58 is amended by adding a new subsection to

read:

"(a6) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, 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, public defender, or the Director of Indigent Defense Services;
- (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 26.24.(h)** G.S. 135-56 is amended by adding a new subsection to

read:

"(i) On and after July 1, 2008, the creditable service of a member who is the Director of Indigent Defense Services 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 the Director of Indigent Defense Services beginning July 1, 2004, that was creditable in the previous system immediately prior to July 1, 2008. The accumulated contributions, creditable service, and reserves, if any, of a member as the Director of Indigent Defense Services beginning July 1, 2004, 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."

**SECTION 26.24.(i)** Notwithstanding the provisions of G.S. 135-28.1, G.S. 135-70.1, or any other law, any member covered by this section shall not be eligible to transfer any remaining creditable service from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System until the member has contributed to the Consolidated Judicial System for a period of five years beginning July 1, 2008.

**SECTION 26.24.(j)** Notwithstanding any other law, the retirement allowance of any member covered by this section shall be calculated using an Average Final Compensation determined as of June 30, 2008, even though service beginning July 1, 2004, was transferred from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System.

**INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

**SECTION 26.25.** 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 seven dollars (\$167.00)~~ one hundred seventy dollars (\$170.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2007,~~ July 1, 2008, receive a pension of ~~one hundred sixty seven dollars (\$167.00)~~ one hundred seventy dollars (\$170.00) 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 seven dollars (\$167.00)~~ one hundred seventy dollars (\$170.00) 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 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 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."

**PART XXVII. CAPITAL APPROPRIATIONS**

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 27.1.** There is appropriated from the General Fund for the 2008-2009 fiscal year the following amounts for capital improvements:

<b>Capital Improvements – General Fund</b>	<b>2008-2009</b>
Department of Administration	
North Carolina Freedom Monument Phase I Planning	\$450,000
Capital Area Visitors Center and Parking Garage Planning	2,600,000
Department of Agriculture and Consumer Services	
Governor James B. Hunt Horse Complex – Horse Barn	900,000
Motor Fuels/Metrology Laboratory Planning	300,000
Veterinary Lab System Study	620,000
Department of Commerce	
Wanchese Seafood Industrial Park – Capital Improvements	605,700
Department of Crime Control and Public Safety	
Butner Training Site Land Buffer – Phase II	126,200
Butner Training Site Sewer Extension and Latrine Replacement	245,430
Master Facilities Planning Statewide – Phase II	300,300
Siler City Armory Rehabilitation Addition and Alteration	929,600
Department of Environment and Natural Resources	
Water Resources Development Projects	20,000,000
Zoo Africa Pavilion Planning	600,000
Department of Justice	
SBI Buildings 17 & 18 Addition	1,792,006
University of North Carolina System	
Appalachian State University – College of Nursing and Health Sciences Building Planning	4,200,000
Elizabeth City State University – School of Aviation Complex Planning and Site Development	1,500,000
Fayetteville State University – Teaching Education and General Classroom Building Planning	4,272,110
North Carolina Agricultural and Technical State University Millennium Campus Joint Primary Data Center	1,852,016
North Carolina School of Science and Mathematics Discovery Center Planning and Site Development	7,250,000

North Carolina State University Engineering Complex Planning	14,400,000
University of North Carolina – Board of Governors Upper Coastal Plain Higher Education Center Planning	1,000,000
University of North Carolina at Asheville – Replace Carmichael Hall & University Lecture Hall Planning	1,100,000
University of North Carolina at Chapel Hill Biomedical Research Imaging Center	35,000,000
Carolina North Phase I and Replacement Law School Planning	11,500,000
Morehead Planetarium Renovation/Expansion Planning	1,800,000
University of North Carolina at Charlotte Science Building Planning	2,400,000
University of North Carolina at Pembroke – Information Commons Building Planning	2,000,000
University of North Carolina at Wilmington – Allied Health and Human Sciences Building Planning	4,320,000
Western Carolina University – Education and Allied Professions Building Planning	4,018,700
Winston-Salem State University Sciences and General Classroom Building Planning	3,000,000
<b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$129,082,062</b>

#### **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

**SECTION 27.2.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

<b>Name of Project</b>	<b>2008-2009</b>
(1) Wilmington Harbor Deepening	\$ 1,000,000
(2) Wilmington Harbor Maintenance	500,000
(3) Morehead City Harbor Maintenance	0
(4) B. Everett Jordan Water Supply Storage	200,000
(5) Dredging Contingency Fund	3,619,000
(6) Deep Creek Structure 5-D (Yadkin County)	5,444,000
(7) North Carolina Beach and Inlet Management Plan	250,000
(8) Neuse River Basin Study	33,000
(9) Manteo (Shallowbag Bay) Channel Maintenance	100,000
(10) Currituck Sound Water Management Study	50,000
(11) Planning Assistance to Communities	100,000
(12) Bogue Banks Beach Protection	120,000
(13) West Onslow Beach (Topsail Beach, Pender County)	0
(14) Belhaven Harbor Feasibility Study	15,000
(15) Princeville Flood Control	0
(16) Surf City – N. Topsail Beach Protection (Pender County)	0
(17) North Carolina International Terminal	500,000



(18)	AIWW Dredging	3,119,000
(19)	State-Local Projects	2,000,000
(20)	Swan Quarter Dike Project (Hyde County)	250,000
(21)	Aquatic Plant Control, Statewide and Lake Gaston	200,000
(22)	Aquatic Weed Program Storage Facility	100,000
(23)	Dillsboro Dam Removal	400,000
(24)	Topsail Beach Emergency Nourishment	2,000,000

**TOTALS** **\$20,000,000**

**SECTION 27.2.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2008-2009 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 2008-2009.
- (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 2009-2010 fiscal year.

**SECTION 27.2.(c)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

### **REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

**SECTION 27.3.(a)** Of the funds in the Reserve for Repairs and Renovations for the 2008-2009 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 27.3.(b)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in University residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the University's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports 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.

**SECTION 27.3.(c)** The Energy Efficiency 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 2008-2009 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, 2009.

**SECTION 27.3.(d)** Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section:

- (1) \$6,615,500 shall be used for Mattamuskeet Lodge renovations.
- (2) \$2,600,000 shall be used for the Museum of History Chronology Exhibit.
- (3) \$1,225,000 shall be used for plans and specifications to renovate the Department of Agriculture and Consumer Services' main office building in Raleigh.
- (4) \$1,300,000 shall be used to renovate the North Carolina Museum of Forestry.
- (5) \$1,000,000 shall be used to renovate Charlotte Hawkins Brown State Historic Site.
- (6) \$2,700,000 shall be allocated to the Energy Efficiency Reserve created in subsection (c) of this section.

Notwithstanding subsection (a) of this section, the Office of State Budget and Management may allocate or use the funds allocated to it in subsection (a) of this section for the projects enumerated in this subsection without consulting with the Joint Legislative Commission on Governmental Operations.

**SECTION 27.3.(e)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, \$2,300,000 shall be allocated to the Energy Efficiency Reserve created in subsection (c) of this section. Notwithstanding subsection (a) of this section, the Board of Governors may allocate these funds without consulting with the Joint Legislative Commission on Governmental Operations.

**NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

**SECTION 27.4.(a)** The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources:

<b>Name of Project</b>	<b>Amount of Non-General Fund Funding Authorized for 2008-2009</b>
Department of Agriculture and Consumer Services	
Piedmont Research Station – Grain Storage Facility Renovation	\$ 400,000
Raleigh Farmers Market – Capital Improvements	900,000
Research Stations – Irrigation System Renovation	200,000
Senator Bob Martin Eastern Agricultural Center – Capital Improvements	500,000
State Fair – Campground	6,341,601
State Fair – Infrastructure Improvements	500,000
State Fair – Pond Improvements	500,000
Tidewater Research Station – Phase II of Headhouse/Greenhouse Facility Renovation	750,000
Triad Farmers Market – Capital Improvements	3,000,000
WNC Agricultural Center – New Vision Plan	900,000
Department of Correction	
Broughton Correctional Center – Laundry Steam Plant	1,400,000
Umstead Correctional Center – Laundry Steam Plant	1,322,965
Wayne Correctional Center – Chase Laundry Steam Plant	1,368,926

Department of Crime Control and Public Safety	
NC National Guard – Armory Improvements	8,402,273
NC National Guard – Asheville Field Maintenance Shop	3,743,000
NC National Guard – Camp Butner Training Site – Cantonment Complex	15,617,000
NC National Guard – Fixed Wing Hanger Complex – Morrisville	6,466,000
Department of Cultural Resources	
Museum of Art – Enhanced Landscaping	7,500,000
USS North Carolina Battleship Memorial – Phase 3 Renovations	1,977,000
Department of Environment and Natural Resources	
Bladen Lakes State Forest – Shop Building	943,800
Forest Resources – Region 2 Training Building	460,500
Department of Transportation	
Statewide Transportation Operations Center	7,650,000
Wildlife Resources Commission	
Armstrong Hatchery – Lower Raceway Renovation	1,725,000
Boating Access Area Improvements	2,800,000
Centennial Campus Center for Wildlife Education – Exhibit Completion	200,000
Centennial Campus Center for Wildlife Education – Heat and Humidity Controls	6,000
Chowan Bridge Fishing Pier and Boating Access	2,000,000
Hampstead – Waterfront Access Marine Industry Fund	10,000,000
Land Acquisitions – State Game Lands	62,660,000
Manns Harbor – Waterfront Access Marine Industry Fund	5,750,000
Marion Depot – Drainage Repairs	200,000
McKinney Lake Hatchery – Kettle Replacement	1,955,000
New Coldwater Fish Hatchery	7,900,000
New Construction Depot	500,000
Outer Banks Center for Wildlife Education – Repairs and Improvements	223,000
Outer Banks Center for Wildlife Education – Teaching Facility	700,000
Pisgah Center for Wildlife Education – Gift Shop Extension	200,000
Pisgah Center for Wildlife Education – Outdoor Exhibit	450,000
Pisgah Center for Wildlife Education – Repairs and Improvements	148,000
Pisgah Center for Wildlife Education – Storage Building	150,000
Pisgah Center for Wildlife Education – Teaching Facility	564,905
Pisgah Center for Wildlife Education – Teaching Facility Upfit and Pavilion	280,000
Rhodes Pond Dam Repairs	500,000
Sneads Ferry – Waterfront Access Marine Industry Fund	6,500,000
Sunset Harbor – Waterfront Access Marine Industry Fund	950,000
Swan Lake – Waterfront Access Marine Industry Fund	1,700,000
Table Rock Hatchery – New Building	575,000
Table Rock Hatchery – Office Building and Workshop	345,000
Watha Fish Hatchery – Residence Replacement	707,250
<b>TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED</b>	<b>\$180,532,220</b>

**SECTION 27.4.(b)** From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2008-2009 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 27.4.(c)** Of the funds previously authorized to be used for the construction of a frozen dough manufacturing facility at Maury Correctional Institution, the Department of Correction may use one million five hundred thousand dollars (\$1,500,000) to upfit a general industry operation at Tabor Correctional Institution.

#### **STUDY RELOCATION OF HIGHWAY PATROL TRAINING FACILITIES**

**SECTION 27.5.** The Department of Crime Control and Public Safety, in consultation with the Department of Administration, shall study suitable locations all across this State outside of Raleigh for a relocation of the Highway Patrol's Garner Road complex and shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Committees and to the Chairs of the House Appropriations Subcommittee on Capital no later than February 1, 2009.

#### **ACCESS TO DRY CLEANING SOLVENT CLEANUP FUND FOR GREEN SQUARE PROJECT**

**SECTION 27.6.** Of the funds appropriated in this act to the Department of Environment and Natural Resources, Environmental Management Commission, Dry-Cleaning Solvent Cleanup Fund, the sum of up to two million dollars (\$2,000,000) may be transferred to the Green Square Project capital fund to cover the costs associated with remediation of dry cleaning contamination on the Green Square Complex Site.

#### **CHRONOLOGY EXHIBIT ON FIRST FLOOR OF NC MUSEUM OF HISTORY**

**SECTION 27.7.** The Department of Cultural Resources may use all of the funds appropriated in this act and in Section 29.1 of S.L. 2007-323 for the North Carolina Museum of History Chronology Exhibit to make capital improvements necessary to ensure that the entire exhibit is located on the first floor of the Museum.

#### **DESIGN AND CONSTRUCTION OF NORTH CAROLINA FREEDOM MONUMENT**

**SECTION 27.7A.** The Department of Administration shall contract with North Carolina Freedom Monument Project, Inc., a nonprofit corporation, for the design and construction of the North Carolina Freedom Project. Notwithstanding G.S. 143-64.31 through 143-64.34 and G.S. 143-135.26, North Carolina Freedom Monument Project, Inc., shall select the designer and consultant for the project.

#### **BIOMEDICAL RESEARCH IMAGING CENTER**

**SECTION 27.7B.(a)** Chapter 116 of the General Statutes is amended by adding a new section to read:

**"§ 116-29.5. Biomedical Research Imaging Center.**

The General Assembly finds that the construction of the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill is a vital component of the State's efforts to improve the health and wellness of its citizens. Therefore, there is appropriated from the General Fund to the Board of Governors of The University of North Carolina the following sums for the corresponding fiscal year to be used for the planning and construction of the Biomedical Research Imaging Center:

**Fiscal Year**  
2009-2010  
2010-2011

**Amount:**  
\$172,000,000  
\$45,000,000"

**SECTION 27.7B.(b)** It is the intent of the General Assembly that the 2009 Regular Session of the 2009 General Assembly authorize sufficient debt financing to complete the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill.

**SECTION 27.7B.(c)** Subsection (a) of this section expires if legislation becomes law on or before June 30, 2009, that authorizes sufficient debt financing to complete the Biomedical Research Imaging Center at the University of North Carolina at Chapel Hill, as requested by the Board of Governors of The University of North Carolina.

#### **TRANSFER OF PRAIRIE RIDGE LAND TO DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**SECTION 27.7C.** The land currently allocated to the Department of Administration and used for the Prairie Ridge Ecostation for Wildlife and Learning is hereby reallocated to the Department of Environment and Natural Resources.

#### **SPECIAL INDEBTEDNESS PROJECTS**

**SECTION 27.8.(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 sixty-nine million dollars (\$69,000,000) to finance the capital facility costs of completing a School of Dentistry building at East Carolina University and no more than 10 satellite dental clinics across the State. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of sixty million dollars (\$60,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (2) In the maximum aggregate principal amount of thirty-six million eight hundred thousand dollars (\$36,800,000) to finance the capital facility costs of completing a family medicine building at East Carolina University. No more than a maximum aggregate amount of sixteen million six hundred thousand dollars (\$16,600,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
- (3) In the maximum aggregate principal amount of eighteen million dollars (\$18,000,000) to finance the capital facility costs of completing a School of Education building at Elizabeth City State University. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of fifteen million dollars (\$15,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (4) In the maximum aggregate principal amount of two million four hundred thirty-eight thousand dollars (\$2,438,000) to finance the

- capital improvement costs of acquiring land and constructing capital facilities for a horse park in Rockingham County for North Carolina Agricultural and Technical State University.
- (5) In the maximum aggregate principal amount of twenty million four hundred ninety thousand dollars (\$20,490,000) to finance the capital facility costs of completing a general classroom building at North Carolina Agricultural and Technical State University. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
  - (6) In the maximum aggregate principal amount of twenty-four million five hundred thousand dollars (\$24,500,000) to finance the capital facility costs of completing a nursing building at North Carolina Central University. No more than a maximum aggregate amount of six million dollars (\$6,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of seventeen million dollars (\$17,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
  - (7) In the maximum aggregate principal amount of eleven million one hundred thousand dollars (\$11,100,000) to finance the capital facility costs of completing a central storage facility at the North Carolina School of the Arts.
  - (8) In the maximum aggregate principal amount of twelve million nine hundred thousand dollars (\$12,900,000) to finance the capital facility costs of completing a film school production facility at the North Carolina School of the Arts. No special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of two million dollars (\$2,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010. No more than a maximum aggregate amount of seven million nine hundred thousand dollars (\$7,900,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011.
  - (9) In the maximum aggregate principal amount of one hundred nine million one hundred thousand dollars (\$109,100,000) to finance the capital facility costs of completing the Centennial Campus library at North Carolina State University. No more than a maximum aggregate amount of forty-nine million dollars (\$49,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of sixty-eight million one hundred thousand dollars (\$68,100,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010. No more than a maximum aggregate amount of one hundred million one hundred thousand dollars (\$100,100,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011.
  - (10) In the maximum aggregate principal amount of four million dollars (\$4,000,000) for the capital facility costs of completing the 4-H Campuses at North Carolina State University.
  - (11) In the maximum aggregate principal amount of sixty-nine million dollars (\$69,000,000) to finance the capital facility costs of completing a School of Dentistry expansion at the University of North Carolina at Chapel Hill. No special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. 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, 2010. No more than a maximum aggregate amount of sixty-one million dollars (\$61,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2011.
- (12) In the maximum aggregate principal amount of fifty-seven million two hundred eighteen thousand dollars (\$57,218,000) to finance the capital facility costs of completing the Energy Production Infrastructure Center at the University of North Carolina at Charlotte. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of thirty-two million two hundred eighteen thousand dollars (\$32,218,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
  - (13) In the maximum aggregate principal amount of forty-two million six hundred seventy thousand dollars (\$42,670,000) to finance the capital facility costs of completing an academic classroom and office building at the University of North Carolina at Greensboro. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
  - (14) In the maximum aggregate principal amount of ten million dollars (\$10,000,000) to finance the capital facility costs of installing fire sprinklers in The University of North Carolina System residence halls.
  - (15) In the maximum aggregate principal amount of twenty-five million dollars (\$25,000,000) to finance the capital improvement costs of acquiring State land throughout The University of North Carolina System.
  - (16) In the maximum aggregate principal amount of thirty-four million dollars (\$34,000,000) to finance the capital improvement costs of purchasing State judicial facilities located at 901 Corporate Drive, Raleigh, NC, and more particularly described as Phase Two, Tract A of Raleigh Corporate Center consisting of 17.28 acres and as shown on the map recorded in Map book 1987, page 720, and Map book 1990, page 576, of the Wake County Register of Deeds.
  - (17) In the maximum aggregate principal amount of forty-five million one hundred seventy thousand dollars (\$45,170,000) to finance the capital facility costs of completing a health care and mental health facility at the North Carolina Correctional Institute for Women. No more than a maximum aggregate amount of twenty-seven million dollars (\$27,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
  - (18) In the maximum aggregate principal amount of thirteen million ten thousand dollars (\$13,010,000) to finance the capital facility costs of completing a minimum security addition at Scotland Correctional Institution. No more than a maximum aggregate amount of six million dollars (\$6,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
  - (19) In the maximum aggregate principal amount of eighteen million nine hundred fifty thousand dollars (\$18,950,000) to finance the capital facility costs of completing a medium security addition at Bertie



Correctional Institution. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of fourteen million dollars (\$14,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.

- (20) In the maximum aggregate principal amount of thirteen million ten thousand dollars (\$13,010,000) to finance the capital facility costs of completing a minimum security addition at Tabor Correctional Institution. No more than a maximum aggregate amount of six million dollars (\$6,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of ten million dollars (\$10,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (21) In the maximum aggregate principal amount of eighteen million nine hundred fifty thousand dollars (\$18,950,000) to finance the capital facility costs of completing a medium security addition at Lanesboro Correctional Institution. No more than a maximum aggregate amount of seven million dollars (\$7,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009. No more than a maximum aggregate amount of fourteen million dollars (\$14,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2010.
- (22) In the maximum aggregate principal amount of two million nine hundred twenty-five thousand dollars (\$2,925,000) to finance the capital facility costs of completing Phase I of the CSS Neuse State Historic Site.
- (23) In the maximum aggregate principal amount of seven million dollars (\$7,000,000) to finance the capital facility costs of completing Port of Morehead City Berth Improvements and Phase I of Port of Wilmington Berth 8 Improvements.
- (24) In the maximum aggregate principal amount of three million seven hundred thousand dollars (\$3,700,000) to finance the capital facility costs of completing a Southeastern North Carolina Agriculture Center Pavilion.
- (25) In the maximum aggregate principal amount of eight million one hundred thousand dollars (\$8,100,000) to finance the capital facility costs of Department of Agriculture and Consumer Services capital improvements. Sales proceeds shall be allocated between the projects in the following manner:

<b>Project</b>	<b>Allocation of Sales Proceeds</b>
Bathroom and truckshed expansion at The Western North Carolina Farmers' Market	\$650,000
Davis Arena renovation and expansion at The Western North Carolina Agricultural Center	\$7,450,000

- (26) In the maximum aggregate principal amount of four million three hundred three thousand nine hundred forty-four dollars (\$4,303,944) to finance the capital facility costs of completing an oyster hatchery.

- (27) In the maximum aggregate principal amount of two million seven hundred thousand dollars (\$2,700,000) to finance the capital improvement costs of completing an expansion and renovation to the polar bear exhibit at the North Carolina Zoo.
- (28) In the maximum aggregate principal amount of fifty million dollars (\$50,000,000) to finance the capital improvement costs of acquiring State park lands and conservation areas for the Land for Tomorrow initiative in the Department of Environment and Natural Resources. Proceeds shall be allocated to support the conservation priorities of the One North Carolina Naturally program.

**SECTION 27.8.(b)** Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of S.L. 2005-276 and Section 2.1 of S.L. 2006-146, reads as rewritten:

**"SECTION 1.1.** In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of the following projects. The table below provides the maximum principal amounts. The first column is the aggregate maximum principal amount. The second column is the maximum portion of this amount that can be issued or incurred before July 1, 2005. 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 cost of these projects.

<b>Aggregate Maximum</b>	<b>Maximum before 7/1/05</b>	<b>Project</b>
\$180,000,000	\$110,000,000	Acquiring, constructing, and equipping a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.
60,000,000	30,000,000	Acquiring, constructing, and equipping the North Carolina Cardiovascular Diseases Institute at East Carolina University.
35,000,000	25,000,000	Acquiring, constructing, and equipping a Bioinformatics Center at the University of North Carolina at Charlotte.
28,000,000	25,000,000	Acquiring, constructing, and equipping a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the facility.
35,000,000	25,000,000	Acquiring, constructing, and equipping a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.
10,000,000	10,000,000	Land acquisition, site preparation, engineering, architectural, and other consulting services, and construction for the Southeastern North Carolina Nursing Education and Research Center at Fayetteville State University.

10,000,000	10,000,000	Site preparation, engineering, architectural, and other consulting services and the construction of a research building on the joint Millennial Campus of North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro.
10,000,000	10,000,000	Land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a Nursing and Allied Health Building at the University of North Carolina at Pembroke.
10,000,000	10,000,000	To Western Carolina University for land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a building for Western Carolina University and the Mountain Area Health Education Consortium for the North Carolina Center for Health and Aging to be operated as a consortium among Western Carolina University, the University of North Carolina at Asheville, and the Mountain Area Health Education Consortium.
<del>10,000,000</del>	<u>11,500,000</u>	10,000,000 Land acquisition, site preparation, engineering, architectural, and other consulting services, and construction of a Center for Design Innovation in the Piedmont Triad Research Park to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts.

**TOTAL:**  
~~\$388,000,000~~ \$389,500,000 ~~\$265,000,000~~

**SECTION 27.8.(c)** Section 23.12(a) of S.L. 2006-66 reads as rewritten:

**"SECTION 23.12.(a)** In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of ~~forty million dollars (\$40,000,000)~~ forty-five million one hundred thirty thousand dollars (\$45,130,000) to finance the costs of constructing new buildings and pavilions and renovating existing buildings at the North Carolina Museum of Art. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the costs of constructing and renovating the project described in this subsection."

**SECTION 27.8.(d)** Section 29.13(a)(11) of S.L. 2007-323 reads as rewritten:

"(11) In the maximum aggregate principal amount of ~~eighteen million seven hundred eight thousand dollars (\$18,708,000)~~ twenty-eight million five hundred seven thousand dollars (\$28,507,000) 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)~~ fourteen million seven hundred ninety-nine thousand

dollars (\$14,799,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009."

**SECTION 27.8.(e)** This section is effective when it becomes law.

## **TWO-THIRDS BONDS ACT OF 2008**

**SECTION 27.9.(a)** Short Title. – This section may be cited as the "Two-Thirds Bonds Act of 2008."

**SECTION 27.9.(b)** Findings and Determinations. – It is the intent and purpose of the General Assembly by this section to provide for the issuance of general obligation bonds or notes of the State in order to provide funds for the cost of State capital facilities.

**SECTION 27.9.(c)** Definitions. – The following definitions apply in this section unless the context otherwise requires:

- (1) Bonds. – Bonds issued under this section.
- (2) Cost. – The term includes all of the following:
  - a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving State capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a State capital facility.
  - b. The cost of engineering, architectural, and other consulting services as may be required.
  - c. Administrative expenses and charges.
  - d. The cost of providing personnel to ensure effective project management.
  - e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants and related costs of bond and note issuance, to the extent and as determined by the State Treasurer.
  - f. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any bond or note or related documents, interest before and during construction or acquisition of a State capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
  - g. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of any bond or note.
  - h. The cost of reimbursing the State for any payments made for any cost described in this subdivision.
  - i. Any other costs and expenses necessary or incidental to the purposes of this section.
- (3) Credit facility. – An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, such agreement providing for prompt payment of all or any part of the

principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.

- (4) Notes. – Notes issued under this section.
- (5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:
  - a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible.
  - b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time.
  - c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.
- (6) State. – The State of North Carolina, including any State agency.
- (7) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

**SECTION 27.9.(d)** Authorization of Bonds and Notes. – The State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell at one time or from time to time general obligation bonds of the State to be designated "State of North Carolina General Obligation Bonds," with any additional designations as may be determined, or notes of the State, in the aggregate principal amount of one hundred seven million dollars (\$107,000,000), this amount being not in excess of two-thirds of the amount by which the State's outstanding indebtedness was reduced during the biennium ended June 30, 2008, for the purpose of providing funds, with any other available funds, for the purposes authorized by this section.

If the one hundred seven million dollars (\$107,000,000) maximum principal amount of bonds and notes authorized by this section shall be in excess of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the biennium ended June 30, 2008, then the maximum amount of bonds and notes authorized in this section is reduced by such excess.

**SECTION 27.9.(e)** Uses of Bond and Note Proceeds. – The proceeds of bonds and notes shall be used for financing the cost of State capital facilities as provided in this section. Any additional moneys which may be received by grant from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any State capital facilities authorized by this section may be placed by the State Treasurer in a separate fund or funds and shall be disbursed, to the extent permitted by the terms of the grant, without regard to any limitations imposed by this section.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for the cost of State capital facilities, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this section is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this section shall be disbursed for the purposes provided in this

section upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.

The Office of State Budget and Management shall provide semiannual reports to the Joint Legislative Oversight Committee on Capital Improvements, the Chairs of the Senate and House of Representatives Appropriation Committees, and the Fiscal Research Division on the expenditure of moneys authorized by this section. The reports shall continue until the completion of the projects provided for in this section.

**SECTION 27.9.(f)** Allocation of Proceeds. – The proceeds of bonds and notes shall be allocated and expended for paying the cost of the Green Square Project, Department of Environment and Natural Resources. The projected allocation may be increased to reflect the availability of other funds, including contingency funds, income earned on the investment of bond and note proceeds, and the proceeds of any grants. The Director of the Budget may, when the Director determines it is in the best interest of the State to do so, use any excess funds, as determined by the Director, to increase the allocation of the project. The Office of State Budget and Management shall provide semiannual reports to the Joint Legislative Oversight Committee on Capital Improvements, the Chairs of the Senate and House of Representatives Appropriation Committees, and the Fiscal Research Division as to any changes in projects and allocations made under this subsection.

**SECTION 27.9.(g)** Issuance of bonds and notes. –

- (1) Terms and conditions. – Bonds or notes may bear a date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than or greater than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.
- (2) Signatures; form and denomination; registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State, or a facsimile of the Seal shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. Bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign any bond or note, although at the date of the bond or note such persons may not have been such officers. The form and denomination of bonds

- or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this section.
- (3) Manner of sale; expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than or greater than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.
- (4) Notes; repayment. –
- a. By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:
1. For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds;
  2. For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;
  3. For the renewal of any loan evidenced by notes authorized in this section;
  4. For the purposes authorized in this section; and
  5. For refunding bonds or notes as authorized in this section.
- b. Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this section. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.
- (5) Refunding bonds and notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this section. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any

expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

- (6) Tax exemption. – Bonds and notes shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance or gift taxes, income taxes on the gain from the transfer of bonds or notes, and franchise taxes. The interest on bonds or notes is not subject to taxation as income.
- (7) Investment eligibility. – Bonds and notes are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.
- (8) Faith and credit. – The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State expressly reserves the right to amend any provision of this section to the extent it does not impair any contractual right of a bond owner.
- (9) Other agreements. – The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest-rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with issuance, incurrence, carrying, or securing of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond or note issue under this section as the State Treasurer considers necessary.

**SECTION 27.9.(h)** Variable Rate Demand Bonds and Notes. – In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

- (1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not



required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;

- (2) Be additionally supported by a credit facility;
- (3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;
- (4) Bear interest at a rate or rates that may vary for any period of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and
- (5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

**SECTION 27.9.(i)** Interpretation of Section. –

- (1) Additional method. – The foregoing sections of this section shall be deemed to provide an additional and alternative method for the doing of the things authorized under it and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.
- (2) Statutory references. – References in this section to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to such sections, Chapters, or acts as they may be amended from time to time by the General Assembly.
- (3) Broad construction. – This section, being necessary for the health and welfare of the people of the State, shall be broadly construed to effect the purposes thereof.
- (4) Inconsistent provisions. – Insofar as the provisions of this section are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this section shall be controlling.
- (5) Severability. – If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

**SECTION 27.9.(j)** Effective Date. – This section is effective when it becomes law.

## **PART XXVIII. TAX LAW CHANGES**

### **IRC UPDATE**

**SECTION 28.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

- "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2007,~~ May 1, 2008, including any provisions enacted as of that date which become effective either before or after that date."

**SECTION 28.1.(b)** Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 1, 2007, that increase North Carolina taxable income for the 2007 taxable year become effective for taxable years beginning on or after January 1, 2008.

**SECTION 28.1.(c)** G.S. 105-130.5(a)(15) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

..  
(15) ~~The~~ For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%

....  
**SECTION 28.1.(d)** G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

..  
(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service after December 31, 2007, but before January 1, 2009. In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 for property placed in service during that period, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the deduction amount allowed in the 2007 taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage under this subdivision is eighty-five percent (85%).

....  
**SECTION 28.1.(e)** G.S. 105-134.6(c)(8) reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

..  
(8) ~~The~~ For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table

below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%

SECTION 28.1.(f) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

(8a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service after December 31, 2007, but before January 1, 2009. In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 for property placed in service for that period, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the deduction amount allowed in the 2007 taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage under this subdivision is eighty-five percent (85%).

SECTION 28.1.(g) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

(21a) In each of the taxpayer's first five taxable years beginning on or after January 1, 2009, an amount equal to twenty percent (20%) of the amount added to taxable income in taxable year 2008 as accelerated depreciation under subdivision (a)(15a) of this section.

SECTION 28.1.(h) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

(17a) In each of the taxpayer's first five taxable years beginning on or after January 1, 2009, an amount equal to twenty percent (20%) of the

amount added to taxable income in taxable year 2008 as accelerated depreciation under subdivision (c)(8a) of this section.

.....  
" **SECTION 28.1.(i)** Subsections (c) through (h) of this section are effective for taxable years beginning on or after January 1, 2008. The remainder of this section is effective when it becomes law.

#### **EXTEND CREDIT FOR RESEARCH AND DEVELOPMENT**

**SECTION 28.2.(a)** G.S. 105-129.51(b) reads as rewritten:

"(b) This Article is repealed for taxable years beginning on or after January 1, ~~2009-2014.~~"

**SECTION 28.2.(b)** This section is effective when it becomes law.

#### **EXTEND LOW-INCOME HOUSING CREDIT**

**SECTION 28.3.(a)** G.S. 105-129.45 reads as rewritten:

"§ 105-129.45. **Sunset.**

This Article is repealed effective January 1, ~~2010-2015.~~ The repeal applies to developments to which federal credits are allocated on or after January 1, ~~2010-2015.~~"

**SECTION 28.3.(b)** This section is effective when it becomes law.

#### **EXTEND MILL REHABILITATION TAX CREDIT**

**SECTION 28.4.(a)** G.S. 105-129.70 reads as rewritten:

"§ 105-129.70. **Definitions.**

The following definitions apply in this Article:

- (1) Certified historic structure. – Defined in section 47 of the Code.
- (2) Certified rehabilitation. – Defined in G.S. 105-129.36.
- (3) Cost certification. – The certification obtained by the State Historic Preservation Officer from the taxpayer of the amount of the qualified rehabilitation expenditures or the rehabilitation expenses incurred with respect to a certified rehabilitation of an eligible site.
- (3a) Development tier area. – Defined in G.S. 143B-437.08.
- (4) Eligibility certification. – The certification obtained from the State Historic Preservation Officer that the applicable facility comprises an eligible ~~site, site and that the rehabilitation is a certified rehabilitation.~~
- (5) Eligible site. – A site located in this State that satisfies all of the following conditions:
  - a. It was used as a manufacturing facility or for purposes ancillary to manufacturing, as a warehouse for selling agricultural products, or as a public or private utility.
  - b. It is a certified historic structure or a State-certified historic structure.
  - c. It has been at least eighty percent (80%) vacant for a period of at least two years immediately preceding the date the eligibility certification is made.
  - d. ~~The cost certification documents that the qualified rehabilitation expenditures for a site for which a taxpayer is allowed a credit under section 47 of the Code or the rehabilitation expenses for a site for which the taxpayer is not allowed a credit under section 47 of the Code exceed three million dollars (\$3,000,000) for the site as a whole.~~
- (6) Repealed by Session Laws 2006-252, s. 2.22, effective January 1, 2007.
- (7) Pass-through entity. – Defined in G.S. 105-228.90.
- (8) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.

- (9) Rehabilitation expenses. – Defined in G.S. 105-129.36.
- (10) State-certified historic structure. – Defined in G.S. 105-129.36.
- (11) State Historic Preservation Officer. – Defined in G.S. 105-129.36."

**SECTION 28.4.(b)** G.S. 105-129.71(a) reads as rewritten:

"(a) Credit. – A taxpayer who is allowed a credit under section 47 of the Code for making qualified rehabilitation expenditures of at least three million dollars (\$3,000,000) with respect to a certified rehabilitation of an eligible site is allowed a credit equal to a percentage of the expenditures that qualify for the federal credit. The credit may be claimed in the year in which the eligible site is placed into service. When the eligible site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the qualified rehabilitation expenditures associated with the phase placed into service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. The amount of the credit is as follows:

- (1) For an eligible site located in a development tier one or two area, determined as of the date of the eligibility certification, the amount of the credit is equal to forty percent (40%) of the qualified rehabilitation expenditures.
- (2) For an eligible site located in a development tier three area, determined as of the date of the eligibility certification, the amount of the credit is equal to thirty percent (30%) of the qualified rehabilitation expenditures."

**SECTION 28.4.(c)** G.S. 105-129.72(a) reads as rewritten:

"(a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses of at least three million dollars (\$3,000,000) with respect to a certified rehabilitation of an eligible site is allowed a credit equal to a percentage of the rehabilitation expenses. The entire credit may not be taken for the taxable year in which the property is placed in service, but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. When the eligible site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the rehabilitation expenses associated with the phase placed into service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. For an eligible site located in a development tier one or two area, determined as of the date of the eligibility certification, the amount of the credit is equal to forty percent (40%) of the rehabilitation expenses. No credit is allowed for a site located in a development tier three area."

**SECTION 28.4.(d)** G.S. 105-129.75 reads as rewritten:

**"§ 105-129.75. Sunset.**

This Article expires January 1, 2011, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date.~~for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2011.~~"

**SECTION 28.4.(e)** This section is effective for taxable years beginning on or after January 1, 2008.

**EXTEND SUNSET FOR STATE PORTS TAX CREDIT**

**SECTION 28.5.(a)** G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – 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 taking a credit allowed in this section.
- (2) The total amount of charges assessed for the taxable year.

- (3) The amount of the charges attributable to imports.
- (4) The amount of the charges attributable to exports.
- ~~(3)~~(5) The total cost to the General Fund of the credits taken."

**SECTION 28.5.(b)** G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2009~~-2014."

**SECTION 28.5.(c)** G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – 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 taking a credit allowed in this section.
- (2) The total amount of charges assessed for the taxable year.
- (3) The amount of the charges attributable to imports.
- (4) The amount of the charges attributable to exports.
- ~~(3)~~(5) The total cost to the General Fund of the credits taken."

**SECTION 28.5.(d)** G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2009~~-2014."

**SECTION 28.5.(e)** This section is effective when it becomes law.

### **EXEMPT DISASTER ASSISTANCE DEBIT SALES**

**SECTION 28.6.(a)** G.S. 105-164.13 is amended by adding a new subdivision to read:

"(58) Tangible personal property purchased with a client assistance debit card issued for disaster assistance relief by a State agency or a federal agency or instrumentality."

**SECTION 28.6.(b)** This section becomes effective August 1, 2008, and applies to purchases made on or after that date.

### **CLOSE FRANCHISE TAX LOOPHOLES BY REQUIRING A LIMITED LIABILITY COMPANY THAT ELECTS TO BE TREATED AS A CORPORATION AND A CAPTIVE REIT TO PAY FRANCHISE TAX**

**SECTION 28.7.(a)** G.S. 105-114(b)(2) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

- ...
- (2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company that elects to be taxed as a ~~C Corporation~~ corporation under the Code, but does not otherwise include a limited liability company.

**SECTION 28.7.(b)** G.S. 105-114.1(a)(5) reads as rewritten:

"(5) Noncorporate limited liability company. – A limited liability company that does not elect to be taxed as a ~~C Corporation~~ corporation under the Code."

**SECTION 28.7.(c)** G.S. 105-125(b) reads as rewritten:

"(b) Certain Investment Companies. —~~A corporation doing business in North Carolina that qualifies as a "regulated investment company" under section 851 of the Code or as a "real estate investment trust" under section 856 of the Code and elects for~~

~~federal income tax purposes to be treated as a "regulated investment company" or as a "real estate investment trust,"~~ A corporation doing business in North Carolina that meets one or more of the following conditions may, in determining its basis for franchise tax, deduct the aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental agencies, or ~~governments~~ governments:

- (1) A regulated investment company. – A regulated investment company is an entity that qualifies as a regulated investment company under section 851 of the Code.
- (2) A REIT, unless the REIT is a captive REIT. – The terms 'REIT' and 'captive REIT' have the same meanings as defined in G.S. 105-130.12."

**SECTION 28.7.(d)** This section is effective for taxable years beginning on or after January 1, 2009.

## **PUBLICLY TRADED PARTNERSHIPS**

**SECTION 28.8.(a)** G.S. 105-154 reads as rewritten:

### **"§ 105-154. Information at the source returns.**

(a) Repealed by Session Laws 1993, c. 354, s. 14.

(b) Information Returns of Payers. – A person who is a resident of this State, has a place of business in this State, or has an employee, an agent, or another representative in any capacity in this State shall file an information return as required by the Secretary if the person directly or indirectly pays or controls the payment of any income to any taxpayer. The return shall contain all information required by the Secretary. The filing of any return in compliance with this section by a foreign corporation is not evidence that the corporation is doing business in this State.

(c) Information Returns of Partnerships. – A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, and the adjustments required by this Part. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall specify the part of each person's distributive share of the net income that represents corporation dividends. The information return shall be signed by one of the partners under affirmation in the form required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return.

(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under G.S. 105-134.2(a)(3). The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or

estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection.

(e) Publicly Traded Partnership. – The information return and payment requirements under this section are modified as follows for a publicly traded partnership that is described in section 7704(c) of the Code:

(1) The information return required under subsection (c) of this section is limited to partners whose distributive share of the partnership's net income during the tax year was more than five hundred dollars (\$500.00).

(2) The payment requirements under subsection (d) of this section do not apply."

**SECTION 28.8.(b)** This section is effective for taxable years beginning on or after January 1, 2008.

### **INCREASE EARNED INCOME TAX CREDIT TO FIVE PERCENT**

**SECTION 28.9.(a)** G.S. 105-151.31(a) reads as rewritten:

"(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%)~~ five percent (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."

**SECTION 28.9.(b)** This section is effective for taxable years beginning on or after January 1, 2009.

### **EXTEND SUNSET FOR SMALL BUSINESS EMPLOYEE HEALTH BENEFITS**

**SECTION 28.9A.(a)** G.S. 105-129.16E(d) reads as rewritten:

"(d) Sunset. – This section expires for taxable years beginning on or after January 1, ~~2009~~ 2010."

**SECTION 28.9A.(b)** This section is effective when it becomes law.

### **PROVIDE A PROPERTY TAX EXCLUSION FOR HONORABLY DISCHARGED DISABLED VETERANS AND THEIR SURVIVING SPOUSES**

**SECTION 28.11.(a)** G.S. 105-275(21) is repealed.

**SECTION 28.11.(b)** Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-277.1C. Disabled veteran property tax homestead exclusion.**

(a) Exclusion. – A permanent residence owned and occupied by an owner who is a North Carolina resident and who is an honorably discharged disabled veteran or the unmarried surviving spouse of an honorably discharged disabled veteran is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The first forty-five thousand dollars (\$45,000) of appraised value of the residence is excluded from taxation. An owner who receives an exclusion under this section may not receive other property tax relief.

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

(1) Disabled veteran. – A veteran who, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, receives benefits under 38 U.S.C. § 2101 or has a veteran's disability certification.

(2) Owner. – Defined in G.S. 105-277.1.

(3) Permanent residence. – Defined in G.S. 105-277.1.



- (4) Property tax relief. – Defined in G.S. 105-277.1.
- (5) Veteran. – A veteran of any branch of the Armed Forces of the United States.
- (6) Veteran's disability certification. – A certification by the United States Department of Veterans Affairs or another federal agency that a veteran has a permanent total disability that is service-connected.

(c) Temporary Absence. – An owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(d) Ownership by Spouses. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the requirements of this section.

(e) Other Multiple Owners. – This subsection applies to co-owners who are not husband and wife. Each co-owner of a permanent residence must apply separately for the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and none of the co-owners qualifies for the exclusion allowed under G.S. 105-277.1, each co-owner is entitled to the full amount of the exclusion allowed under this section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and one or more of the co-owners qualify for the exclusion allowed under G.S. 105-277.1, each co-owner who qualifies for the exclusion allowed under this section is entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed under this section and the exclusion allowed under G.S. 105-277.1.

(f) Application. – An application for the exclusion allowed under this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the exclusion is claimed. An applicant for an exclusion under this section must establish eligibility for the exclusion by providing a copy of the veteran's disability certification or evidence of benefits received under 38 U.S.C. § 2101."

**SECTION 28.11.(c)** G.S. 105-277.1(a) reads as rewritten:

"(a) Exclusion. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of twenty five thousand dollars (\$25,000) or fifty percent (50%) of the appraised value of the residence. An owner who receives an exclusion under this section may not receive other property tax relief.

A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

- (1) Is at least 65 years of age or totally and permanently disabled.
- (2) Has an income for the preceding calendar year of not more than the income eligibility limit.
- (3) Is a North Carolina resident."

**SECTION 28.11.(d)** G.S. 105-277.1(b)(3a) reads as rewritten:

"(3a) Property tax relief. – The property tax homestead exclusion provided in this ~~section~~ or section, the property tax homestead circuit breaker

provided in ~~G.S. 105-277.1B~~.G.S. 105-277.1B, or the disabled veteran property tax homestead exclusion provided in G.S. 105-277.1C."

**SECTION 28.11.(e)** G.S. 105-277.1(d) reads as rewritten:

"(d) ~~Multiple Ownership. Ownership by Spouses.~~ – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. ~~When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed the exclusion amount provided in this section.~~ section."

**SECTION 28.11.(f)** G.S. 105-277.1(e) reads as rewritten:

"(e) ~~Other Multiple Owners.~~ – ~~An owner who qualifies for both kinds of property tax relief may elect the property tax homestead circuit breaker under G.S. 105-277.1B instead of the property tax homestead exclusion provided in this section. When property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the property tax homestead circuit breaker in order for the property tax homestead circuit breaker to be allowed instead of the property tax homestead exclusion. This subsection applies to co-owners who are not husband and wife. Each co-owner of a permanent residence must apply separately for the exclusion allowed under this section.~~

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and none of the co-owners qualifies for the exclusion allowed under G.S. 105-277.1C, each co-owner is entitled to the full amount of the exclusion allowed under this section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and one or more of the co-owners qualify for the exclusion allowed under G.S. 105-277.1C, each co-owner who qualifies for the exclusion under this section is entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed under this section and the exclusion allowed under G.S. 105-277.1C."

**SECTION 28.11.(g)** G.S. 105-282.1(a)(2)c. reads as rewritten:

"c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.1C, 105-277.10, 105-277.13, 105-278."

**SECTION 28.11.(h)** G.S. 105-277.1C, as enacted by S.L. 2008-35, is recodified as G.S. 105-277.1D. The Revisor of Statutes is authorized to correct any reference or citation in the General Statutes to any portion of S.L. 2008-35 that is recodified or amended by this section by deleting incorrect references and substituting correct references.

**SECTION 28.11.(i)** The catch line of G.S. 105-277.1 reads as rewritten:

"§ ~~105-277.1. Property-Elderly or disabled property tax homestead exclusion.~~"

**SECTION 28.11.(j)** Subsection (h) of this section is effective when it becomes law. The remainder of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2009.

## **SALES TAX HOLIDAY FOR CERTAIN ENERGY STAR RATED APPLIANCES**

**SECTION 28.12.(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:

...  
(8g) Energy Star qualified product. – A product that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label."

**SECTION 28.12.(b)** Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.13D. Sales and use tax holiday for Energy Star qualified products.**

(a) The taxes imposed by this Article do not apply to the Energy Star qualified products listed in this section if sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday. The qualified products are:

- (1) Clothes washers.
- (2) Freezers and refrigerators.
- (3) Central air conditioners and room air conditioners.
- (4) Air-source heat pumps and geothermal heat pumps.
- (5) Ceiling fans.
- (6) Dehumidifiers.
- (7) Programmable thermostats.

(b) The exemption allowed by this section does not apply to the following:

- (1) The sale of a product for use in a trade or business.
- (2) The rental of a product."

**SECTION 28.12.(c)** G.S. 105-467(b) reads as rewritten:

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

**SECTION 28.12.(d)** The second paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws reads as rewritten:

"The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use tax ~~holiday~~ holidays contained in G.S. 105-164.13C and G.S. 105-164.13D apply with equal force and like manner to the local sales tax authorized to be imposed and levied under this division. The county shall have no authority, with respect to the local sales and use tax imposed under this division, to change, alter, add, or delete any exemptions or exclusions contained under G.S. 105-164.13."

**SECTION 28.12.(e)** This section is effective when it becomes law and applies to sales made on or after that date.

#### **SET INSURANCE REGULATORY FEE**

**SECTION 28.13.(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 2008 calendar year.

**SECTION 28.13.(b)** This section is effective when it becomes law.

#### **SET REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 28.14.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2008.

**SECTION 28.14.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2008-2009 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 28.14.(c)** This section becomes effective July 1, 2008.

#### **SMALL BUSINESS PROTECTION ACT**

**SECTION 28.16.(a)** The General Assembly makes the following findings:

- (1) The following areas of the sales and use tax laws are the areas for which the Department of Revenue receives the most questions from taxpayers:
  - a. The rate of tax that applies to food and prepared food.
  - b. The distinction between a retailer and a performance contractor.
  - c. The distinction between a service that is necessary to complete the sale of tangible personal property, and therefore taxable, and a service that is incidental to the sale of tangible personal property, and therefore not taxable.
  - d. The determination of whether a person is a manufacturer.
- (2) These areas of the sales and use tax laws have been the subject of legislative changes in recent years.
- (3) Small businesses have fewer resources to devote to resolving the complexities of the sales and use tax laws than large businesses have and, therefore, may be at a disadvantage with respect to compliance issues in complex areas and changing areas.
- (4) Assessments against a small business for inadvertent noncompliance in these complex areas may threaten the viability of the small business.
- (5) The sales and use tax laws are not intended to place the viability of small businesses in jeopardy.
- (6) A study of these complex areas is needed to determine how to make the laws in these areas clearer and to reduce the compliance burden.

**SECTION 28.16.(b)** Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-244.2. Reduction of certain sales tax assessments against small businesses.**

**(a) Reduction. – The Secretary must reduce an assessment against a small business for State and local sales and use taxes and waive any penalties imposed as part of the assessment when the assessment is made as the result of an audit of the small business by the Department and all of the following apply:**

- (1) The gross receipts of the business for the calendar year preceding the year in which the audit period begins, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars (\$1,800,000).**

- (2) The business remitted to the Department all the sales and use taxes it collected during the audit period.
- (3) The business had not been told by the Department in a prior audit to collect sales and use taxes in the circumstance that is the basis of the assessment, as reflected in the written audit comments of the prior audit.
- (4) The business made a good faith effort to comply with the sales and use tax laws and the assessment is based on the incorrect application of one of the following complex areas of these laws:
  - a. The rate of tax that applies to prepared food.
  - b. The distinction between a retailer and a performance contractor.
  - c. The distinction between a service that is necessary to complete the sale of tangible personal property, and is therefore taxable, and a service that is incidental to the sale of tangible personal property, and is therefore not taxable.
  - d. The determination of whether a person is a manufacturer.

(b) Amount. – The amount by which a sales and use tax assessment against a small business must be reduced under this section is a percentage of the assessment. The percentage is determined by the average monthly gross receipts of the business for the calendar year for which annual gross receipts are determined under subdivision (a)(1) of this section. A reduction of an assessment under this section and the waiver of penalties imposed as part of the assessment apply only to the amount of an assessment attributable to the incorrect application of one of the complex areas of the law listed in subdivision (a)(4) of this section.

The following table sets out the applicable percentage reductions of an assessment:

<u>Average Monthly Gross Receipts of Business Over</u>	<u>Average Monthly Gross Receipts Up To</u>	<u>Percentage Reduction</u>
-0-	\$50,000	98%
\$50,000	\$100,000	95%
\$100,000	\$150,000	90%

- (c) Application. – This section applies to the following:
- (1) A proposed assessment that is pending on July 15, 2008.
  - (2) An assessment that becomes collectible under G.S. 105-241.22 on or after July 15, 2008.
  - (3) An assessment that meets all of the following conditions:
    - a. It became collectible under G.S. 105-241.22 before July 15, 2008, or was identified in a notice of final assessment issued under former G.S. 105-241.1 before July 15, 2008.
    - b. It is not paid as of July 15, 2008.
    - c. If it had been paid within six months after it became collectible under G.S. 105-241.22 or was identified in a notice of final assessment issued under former G.S. 105-241.1, a timely claim for refund could be filed under G.S. 105-241.7 for a refund of the assessment.
  - (4) A claim for refund filed in accordance with G.S. 105-241.7 for a refund of an assessment.

(d) Expiration. – This section expires January 1, 2010. The expiration applies to an assessment that becomes collectible under G.S. 105-241.22 on or after the expiration date and to a claim for refund filed on or after the expiration date for a refund of an assessment paid before the expiration date."

**SECTION 28.16.(c)** Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-258.2. Taxpayer conversations.**

(a) Scope. – This section applies to a conversation that is conducted by telephone or in person, is between a taxpayer and an employee of the Department, and occurs at an

office of the Department if the conversation is in person. It does not apply to a conversation that occurs at a presentation, a conference, or another forum.

(b) Documentation. – The Secretary must document advice given to a taxpayer in a conversation with that taxpayer when the taxpayer gives the Secretary the taxpayer's identifying information, asks the Secretary about the application of a tax to the taxpayer in specific circumstances, and requests that the Secretary document the advice in the taxpayer's records. The documentation may be an entry in the account record of the taxpayer or by another method determined by the Secretary. The documentation must set out the date of the conversation, the question asked, and the advice given."

**SECTION 28.16.(d)** G.S. 105-258.2, as enacted by this act, is amended by adding a new subsection to read:

"(c) Sales Tax Inquiries. – The Secretary must document advice given in a conversation with a person who is not registered as a retailer or a wholesale merchant under Article 5 of this Chapter when the person gives the Secretary the person's name and address, describes a business in which the person is engaged, asks if the person is required to be registered under Article 5 of this Chapter, and requests that the Secretary document the advice. The Secretary must keep a record of the person's inquiry that sets out the date of the conversation, the person making the inquiry, the business described in the conversation, and the advice given."

**SECTION 28.16.(e)** G.S. 105-264 reads as rewritten:

**"§ 105-264. Effect of Secretary's interpretation of revenue laws.**

(a) Interpretation. – It is the duty of the Secretary to interpret all laws administered by the Secretary. The Secretary's interpretation of these laws shall be consistent with the applicable rules.

An rules. An interpretation by the Secretary is prima facie correct. When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive on the law, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation. If the Secretary changes an interpretation, a taxpayer who relied on it before it was changed is not liable for any penalty or additional assessment on any tax that accrued before the interpretation was changed and was not paid by reason of reliance upon the interpretation.

(b) Advice. – If a taxpayer requests ~~in writing~~ specific advice from the Department and receives erroneous advice in response ~~erroneous written advice, response~~, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent that the following conditions are all satisfied:

- (1) ~~the~~ The advice was reasonably relied upon by the taxpayer ~~and the taxpayer.~~
- (2) The penalty or additional assessment did not result from the taxpayer's failure to provide adequate or accurate information.
- (3) The Department provided the advice in writing or the Department's records establish that the Department provided erroneous verbal advice.

(c) Revised Interpretations. – This section does not prevent the Secretary from changing an interpretation and it does not prevent a change in an interpretation from applying on and after the effective date of the change."

**SECTION 28.16.(f)** G.S. 105-237.1 reads as rewritten:

**"§ 105-237.1. Compromise of liability.**

(a) Authority. – The Secretary of Revenue, with the approval of the Attorney General, is ~~authorized to compromise the amount of liability of any taxpayer for taxes due under Subchapter I, V, or VIII of this Chapter or under Article 3 of Chapter 119 of the General Statutes and to accept in full settlement of the liability a lesser amount than that asserted to be due when in the opinion of the Secretary and the Attorney General the compromise settlement is in the best interest of the State. When made other than in~~

~~the course of litigation in the courts of the State on an appeal from an administrative determination or in a civil action brought to recover from the Secretary, the basis for the compromise must also conform to the conditions set out in this section. The compromise settlement may be made only after a final administrative or judicial determination of the liability of the taxpayer.~~

~~A compromise settlement may be made only if one or more of the following findings is made:~~may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

- (1) There is a reasonable doubt as to the amount of the liability of the taxpayer under the law and the facts.
- (2) The taxpayer is insolvent and the Secretary probably could not otherwise collect an amount equal to or in excess of the amount offered in compromise. A taxpayer is considered insolvent only in one of the following circumstances:
  - a. It is plain and indisputable that the taxpayer is clearly insolvent and will remain so in the reasonable future.
  - b. The taxpayer has been determined to be insolvent in a judicial proceeding.
- (3) Collection of a greater amount than that offered in compromise is improbable, and the funds or a substantial portion of the funds offered in the settlement come from sources from which the Secretary could not otherwise collect.
- (4) A federal tax assessment arising out of the same facts has been compromised with the federal government on the same or a similar basis as that proposed to the State and the Secretary could probably not collect an amount equal to or in excess of that offered in compromise.
- (5) Collection of a greater amount than that offered in compromise would produce an unjust result under the circumstances.

~~For the purposes of this section a taxpayer may be considered insolvent only if (i) there is an established status of insolvency by either a judicial declaration of a status necessarily or ordinarily involving insolvency or by a legal proceeding in which the insolvency of the taxpayer would ordinarily be determined or made evident or (ii) it is plain and indisputable that the taxpayer is clearly insolvent and will remain so in the reasonable future. Whenever a compromise is made by the Secretary pursuant to this section and the unpaid amount of the tax assessed is one hundred dollars (\$100.00) or more, the Secretary shall place on file in the office of the Secretary a written opinion, signed by the Secretary and the Attorney General, setting forth the amount of tax or additional tax assessed, the amount actually paid in accordance with the terms of the compromise, and a summary of the facts and reasons upon which acceptance of the compromise is based.~~

~~(b) Written Statement. Whenever an assessment of taxes or additional taxes is based upon an action of the federal government in making an assessment of taxes and the federal assessment is subsequently settled, compromised or adjusted, the Secretary may, in his discretion, settle, compromise or adjust the State's tax assessment upon the same basis as the federal settlement, compromise or adjustment. When the Secretary compromises a tax liability under this section and the amount of the liability is at least one thousand dollars (\$1,000), the Secretary must make a written statement that sets out the amount of the liability, the amount accepted under the compromise, a summary of the facts concerning the liability, and the findings on which the compromise is based. The Secretary must sign the statement and keep a record of the statement. If the compromise settles a dispute that is in litigation, the Secretary must obtain the approval of the Attorney General before accepting the compromise, and the Attorney General must sign the statement describing the compromise.~~

**SECTION 28.16.(g)** The Department of Revenue is directed to establish a plan to record telephone calls received at the Department's Taxpayer Assistance Center and to implement this plan by July 1, 2010. The plan shall, at a minimum, provide for recording calls for the purpose of training and evaluation with respect to customer service and quality control measures. The Department may retain up to seven hundred thousand dollars (\$700,000) of the amount collected under Article 5 of Chapter 105 of the General Statutes in fiscal year 2008-2009 for this purpose, and this amount is appropriated to the Department for this purpose. Amounts not used in fiscal year 2008-2009 for this purpose do not revert but remain available to the Department for this purpose until the system is implemented.

**SECTION 28.16.(h)** The Revenue Laws Study Committee shall study the issues listed in this Section and report on the study, including any recommendations or legislative proposals, to the 2009 General Assembly.

- (1) The taxation of services necessary to complete the sale of tangible personal property and standards for distinguishing between a service that is taxable as one that is necessary to complete the sale and a service that is incidental to the sale of tangible personal property.
- (2) The applicability of the sales and use tax to performance contracts and standards for distinguishing between performance contractors and retailers.
- (3) The distinction between food and prepared food under the sales and use tax laws and whether to eliminate this distinction by applying a uniform, revenue-neutral rate to all food.

**SECTION 28.16.(i)** The Department of Revenue shall make a report to the Revenue Laws Study Committee on customer service improvement initiatives conducted by the Department. The report is due prior to the convening of the 2009 General Assembly and shall address, at a minimum, the following issues:

- (1) A review of the Department's efforts to ensure that inquiries on complicated tax matters are handled or reviewed by appropriate personnel within the Department.
- (2) A review of the Department's efforts to provide accurate and timely information regarding changes in tax law resulting from legislative changes, court decisions, or revised interpretations.
- (3) A review of the Department's outreach efforts designed to assist taxpayers, particularly small business taxpayers, in complying with the State's tax laws.
- (4) A review of the Department's efforts to ensure that taxpayers are informed of their right to request written advice from the Department upon which they may reasonably rely.
- (5) A review of the Department's plan to record telephone calls at the Department's Taxpayer Assistance Center.

**SECTION 28.16.(j)** Subsection (c) of this section becomes effective January 1, 2009. Subsection (d) of this section becomes effective July 1, 2009. The remainder of this section is effective when it becomes law.

## **MODIFY ESTATE TAX LAW**

**SECTION 28.17.(a)** G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section is the amount of the state death tax credit that, as of December 31, 2001, would have been allowed under section 2011 of the Code against the federal taxable estate. The tax may not exceed the amount of federal estate tax due under the Code. The federal taxable estate and the amount of the federal estate tax due are determined without taking into account the deduction for state death taxes allowed under Section 2058 of the Code and the credits allowed under sections 2011 through 2015 of the Code.



If any property in the estate is located in a state other than North Carolina, the amount of tax payable depends on whether the decedent was a resident of this State at death. If the decedent was a resident of this State at death, the amount of tax due under this section is reduced by the lesser of the amount of the death tax paid the other state or an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of the estate that has a tax situs in another state and the denominator of which is the value of the decedent's gross estate. If the decedent was not a resident of this State at death, the amount of tax due under this section is an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of real property that is located in North Carolina plus the gross value of any personal property that has a tax situs in North Carolina and the denominator of which is the value of the decedent's gross estate. For purposes of this section, the gross value of property is its gross value as finally determined in the federal estate tax proceedings."

**SECTION 28.17.(b)** This section is effective when it becomes law and applies retroactively to the estates of decedents for which the statute of limitations for claiming a refund had not expired as of December 28, 2007. A personal representative of an estate for which the statute of limitations had not expired as of December 28, 2007, may file a claim for refund under G.S. 105-241.7.

## **REPEAL GIFT TAX LAW**

**SECTION 28.18.(a)** Article 6 of Chapter 105 of the General Statutes is repealed.

**SECTION 28.18.(b)** G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

(5) Negligence. –

- a. Finding of negligence. – For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the negligence.
- b. Large individual income tax deficiency. – In the case of individual income tax, if a taxpayer understates taxable income, by any means, by an amount equal to twenty-five percent (25%) or more of gross income, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. For purposes of this subdivision, "gross income" means gross income as defined in section 61 of the Code.
- c. Other large tax deficiency. – In the case of a tax other than individual income tax, if a taxpayer understates tax liability by twenty-five percent (25%) or more, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency.
- d. No double penalty. – If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.
- e. ~~Inheritance and gift Estate tax deficiencies.~~ – This subdivision does not apply to ~~inheritance, estate, and gift estate tax~~ deficiencies that are the result of valuation understatements."

**SECTION 28.18.(c)** G.S. 105-263 reads as rewritten:

**"§ 105-263. Extensions of time for filing a report or return.**

The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax ~~return, return or an income tax return, or a gift tax return~~ does not extend the time for paying the tax due or the time when a penalty attaches for

failure to pay the tax. An extension of time for filing a report or any return other than a franchise tax ~~return, return or~~ an income tax ~~return, or a gift tax~~ return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a report or return extends the time for paying the tax expected to be due with the report or return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the report or return to the date the tax is paid."

**SECTION 28.18.(d)** G.S. 105-241.10 reads as rewritten:

**"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-32.8, 105-130.20, 105-159, 105-160.8, or 105-163.6A, ~~or 105-197.1~~, as appropriate. The limitations are:

- (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.
- (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

**SECTION 28.18.(e)** This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute repealed by this act before the effective date of its repeal; nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

**SECTION 28.18.(f)** This section becomes effective January 1, 2009, and applies to gifts made on or after that date.

**STATE SALES TAX EXEMPTION FOR BAKED GOODS SOLD BY ARTISAN BAKERIES**

**SECTION 28.19.(a)** G.S. 105-164.13B(a) is amended by adding a new subdivision to read:

"(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the food is included in one of the subdivisions in this subsection. The following food items are subject to tax:

- (1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1, 2005.
- (2) Dietary supplements.
- (3) Food sold through a vending machine.
- (4) Prepared ~~food~~, food, other than bakery items sold without eating utensils by an artisan bakery. The term 'bakery item' includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the following requirements:
  - a. It derives over eighty percent (80%) of its gross receipts from bakery items.
  - b. Its annual gross receipts, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars (\$1,800,000).
- (5) Soft drinks.
- (6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1, 2004.
- (7) Candy."

**SECTION 28.19.(b)** This section becomes effective January 1, 2009, and applies to sales made on or after that date.

**PROHIBIT TAX ON INTERIOR DESIGN SERVICES**

**SECTION 28.20.(a)** 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:

...  
(59) Interior design services provided in conjunction with the sale of tangible personal property."

**SECTION 28.20.(b)** This section becomes effective August 1, 2008.

**1% \$80 EXCISE TAX ON MACHINERY REFURBISHERS**

**SECTION 28.21.(a)** G.S. 105-187.51B reads as rewritten:

"§ 105-187.51B. **Tax imposed on certain ~~recyclers and~~ recyclers, research and development companies, companies, and industrial machinery refurbishing companies.**

- (a) Tax. – A privilege tax is imposed on the following:
- (1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:
    - a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.
    - b. Port and dock facilities.
    - c. Rail equipment.
    - d. Material handling equipment.
  - (2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
    - a. Is capitalized by the company for tax purposes under the Code.
    - b. Is used by the company in the research and development of tangible personal property.
    - c. Would be considered mill machinery or mill machinery parts or accessories 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.
  - (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.
  - (4) An industrial machinery refurbishing company that is included in industry group 811310 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 repairing or refurbishing 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 by the industry or plant to manufacture tangible personal property.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

**SECTION 28.21.(b)** This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

**CLARIFY 501(c)(3) SALES TAX REFUND**

**SECTION 28.22.(a)** G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity:

- (1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, Article 2 of Chapter 131E of the General Statutes.
- (2) Educational institutions not operated for profit. An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
  - a. Community Improvement and Capacity Building.
  - b. Public and Societal Benefit.
  - c. Mutual and Membership Benefit.
- (3) ~~Churches, orphanages, and other charitable or religious institutions and organizations not operated for profit.~~
- (4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.

Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity.

A hospital that is not allowed a refund under this subsection of sales and use taxes paid on its direct purchases of tangible personal property is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work.

The refunds allowed under this subsection for certain nonprofit entities and for medicines and drugs purchased by hospitals do not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c).

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 for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15."

**SECTION 28.22.(b)** This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

### **EXTEND AVIATION FUEL REFUNDS**

**SECTION 28.23.(a)** G.S. 105-164.14(a1) reads as rewritten:

"(a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the calendar year for which the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in subsection (a) of this section. This subsection is repealed for purchases made on or after January 1, ~~2009-2011.~~"

**SECTION 28.23.(b)** G.S. 105-164.14(l) reads as rewritten:

"(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purposes of this subsection, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed for purchases made on or after ~~January 1, 2009-January 1, 2011.~~"

**SECTION 28.23.(c)** This section is effective when it becomes law.

### **EXPAND FILM INDUSTRY CREDIT AND EXTEND SUNSET**

**SECTION 28.24.(a)** G.S. 105-130.47 reads as rewritten:

**"§ 105-130.47. Credit for qualifying expenses of a production company.**

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

- (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
- (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
- (3) Production company. – Defined in G.S. 105-164.3.
- (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount in excess of one million dollars (\$1,000,000) paid to a highly compensated individual:
  - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or

more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.

b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.

c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.

(5) Related member. – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year.

(c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming the credit allowed by this section. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, the credit allowed under this section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

(e) 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. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Limitations. – The amount of credit allowed under this section with respect to a production that is a feature film may not exceed seven million five hundred thousand dollars (\$7,500,000). No credit is allowed under this section for any production that satisfies one of the following conditions:

- (1) It is political advertising.
- (2) It is a television production of a news program or live sporting event.
- (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- (4) It is a radio production.

(g) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary of Revenue. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Secretary may consult with the North Carolina Film Office of the Department of Commerce and the regional film commissions in order to determine the amount of qualifying expenses.

(h) Report. – 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 location of sites used in a production for which a credit was claimed.

- (2) The qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits claimed.
- (4) The total cost to the General Fund of the credits claimed.
- (i) Repealed by Session Laws 2006-220, s. 2, effective for taxable years beginning on or after January 1, 2007.
- (j) ~~Sunset.~~—NC Film Office. – To claim a credit under this section, a taxpayer must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of the taxpayer's intent to claim the production tax credit. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division. For productions that have production credits, a taxpayer claiming a credit under this section must acknowledge in the production credits both the North Carolina Film Office and the regional film office responsible for the geographic area in which the filming of the production occurred.
- (k) ~~Sunset.~~ – This section is repealed for qualifying expenses occurring on or after January 1, 2010-2014."

**SECTION 28.24.(b)** G.S. 105-151.29 reads as rewritten:

**"§ 105-151.29. Credit for qualifying expenses of a production company.**

- (a) Definitions. – The following definitions apply in this section:
  - (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
  - (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
  - (3) Production company. – Defined in G.S. 105-164.3.
  - (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount paid in excess of one million dollars (\$1,000,000) to a highly compensated individual:
    - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.
    - b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.
    - c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.
  - (5) Related member. – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year.

(c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming the credit allowed by this section. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, the credit allowed under this section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

(e) 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. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Limitations. – The amount of credit allowed under this section with respect to a production that is a feature film may not exceed seven million five hundred thousand dollars (\$7,500,000). No credit is allowed under this section for any production that satisfies one of the following conditions:

- (1) It is political advertising.
- (2) It is a television production of a news program or live sporting event.
- (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- (4) It is a radio production.

(g) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary of Revenue. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Secretary may consult with the North Carolina Film Office of the Department of Commerce and the regional film commissions in order to determine the amount of qualifying expenses.

(h) Report. – 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 location of sites used in a production for which a credit was claimed.
- (2) The qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits claimed.
- (4) The total cost to the General Fund of the credits claimed.

(i) **(Repealed effective for taxable years beginning on and after January 1, 2007)** No Double Benefit. – A taxpayer may not claim a credit under this section for qualifying expenses for which it claimed a deduction under the Code. A taxpayer that claims a credit provided under this section must adjust taxable income as provided in G.S. 105-134.6(c)(9).



(j) ~~Sunset.~~—NC Film Office. – To claim a credit under this section, a taxpayer must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of the taxpayer's intent to claim the production tax credit. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division. For productions that have production credits, a taxpayer claiming a credit under this section must acknowledge in the production credits both the North Carolina Film Office and the regional film office responsible for the geographic area in which the filming of the production occurred.

(k) ~~Sunset.~~ – This section is repealed for qualifying expenses occurring on or after January 1, ~~2010~~.2014."

**SECTION 28.24.(c)** This section is effective for taxable years beginning on or after January 1, 2008.

## **EXPAND RENEWABLE ENERGY TAX CREDIT**

**SECTION 28.25.(a)** G.S. 105-129.16H reads as rewritten:

**"§ 105-129.16H. Credit for donating funds to a nonprofit organization or unit of State or local government to enable the nonprofit or government unit to acquire renewable energy property.**

(a) Credit. – A taxpayer who donates money to a tax-exempt nonprofit organization or a unit of State or local government for the purpose of providing funds for the organization or government unit to construct, purchase, or lease renewable energy property is allowed a credit under this section if the ~~nonprofit organization uses the donation~~ is used for its intended purpose. A tax-exempt nonprofit organization is an organization that is exempt from tax under section 501(c)(3) of the Code.

The amount of the credit allowed in this section is the taxpayer's share of the credit the nonprofit organization or the unit of State or local government could claim under G.S. 105-129.16A if the nonprofit organization or government unit were subject to tax. The taxpayer's share of the credit is calculated by dividing the taxpayer's donation by the cost of the renewable energy property constructed, purchased, or leased by the nonprofit organization or government unit and placed in service during the taxable year and then multiplying this percentage by the amount of the credit the nonprofit organization or government unit could claim if it were subject to tax. A taxpayer must take the credit allowed by this section in the year in which the property is placed in service. The installment requirements in G.S. 105-129.16A for nonresidential property do not apply to the credit allowed in this section.

(b) Records. – A nonprofit organization or a unit of State or local government must keep a record of all donations it receives for the purpose of providing funds for the organization to construct, purchase, or lease renewable energy property and of the amount of the donations used for this purpose. If a nonprofit organization or government unit places renewable energy property in service that is purchased in whole or in part from donations made for this purpose, the nonprofit organization or government unit must give each taxpayer who made a donation a statement setting out the amount of the credit for which the taxpayer qualifies under this section. The statement must describe the renewable energy property placed in service and state the cost of the property, the amount of the credit the nonprofit organization or government unit could claim under G.S. 105-129.16A if it were subject to tax, and the taxpayer's share of the credit allowed in this section. If the donations made for the renewable energy property exceed the cost of the property, the nonprofit organization or government unit must prorate each taxpayer's share of the credit. The sum of the credits allowed under this section to taxpayers who make donations to a nonprofit organization or a government unit may not exceed the amount of the credit the nonprofit organization or government unit could claim under G.S. 105-129.16A if it were subject to tax.

(c) No Double Benefit. – A taxpayer who claims a credit under this section based on a donation to a nonprofit organization or a unit of State or local government is not allowed to deduct this donation as a charitable contribution."

**SECTION 28.25.(b)** G.S. 105-130.5(a)(20) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...  
(20) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H."

**SECTION 28.25.(c)** G.S. 105-134(c)(5b) reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...  
(5b) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H."

**SECTION 28.25.(d)** G.S. 105-259(b)(38) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...  
(38) To verify with a nonprofit organization or a unit of State or local government information relating to eligibility for a credit under G.S. 105-129.16H."

**SECTION 28.25.(e)** This section is effective for taxable years beginning on or after January 1, 2008.

## **INCREASE QUALIFIED BUSINESS VENTURE TAX CREDIT CAP**

**SECTION 28.26.(a)** G.S. 105-163.012(b) reads as rewritten:

"(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for investments made in a calendar year may not exceed ~~seven million dollars (\$7,000,000)~~ seven million five hundred thousand dollars (\$7,500,000). The Secretary of Revenue shall calculate the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a calendar year exceeds this maximum amount, the Secretary shall allow a portion of the credits claimed by allocating the maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer."

**SECTION 28.26.(b)** This section is effective for investments made on or after January 1, 2008.

## **TAX DEDUCTION FOR THE SALE OF A MANUFACTURED HOME COMMUNITY TO MANUFACTURED HOMEOWNERS.**

**SECTION 28.27.(a)** G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...  
(24) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a

group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3."

**SECTION 28.27.(b)** G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

...

(19) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3."

**SECTION 28.27.(c)** G.S. 42-14.3 reads as rewritten:

**"§ 42-14.3. Notice of conversion of manufactured home communities.**

(a) In the event that an owner of a manufactured home community (defined as a parcel of land, whether undivided or subdivided, that has been designed to accommodate at least five manufactured homes) intends to convert the manufactured home community, or any part thereof, to another use that will require movement of the manufactured homes, the owner of the manufactured home community shall give each owner of a manufactured home and the North Carolina Housing Finance Agency notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy. Failure to give notice to each manufactured home owner as required by this section is a defense in an action for possession. The respective rights and obligations of the community owner and the owner of the manufactured home under their lease shall continue in effect during the notice period.

(b) Notwithstanding subsection (a) of this section, if a manufactured home community is being closed pursuant to a valid order of any unit of State or local government, the owner of the community shall be required to give notice of the closure of the community to each resident of the community and the North Carolina Housing Finance Agency within three business days of the date on which the order is issued."

**SECTION 28.27.(d)** Subsections (a) and (b) of this section are effective for taxable years beginning on or after January 1, 2008, and expire for taxable years beginning on or after January 1, 2015. The remainder of this section is effective when it becomes law.

## **PROCEDURE FOR TAX CLASS ACTIONS**

**SECTION 28.28.(a)** G.S. 1A-1, Rule 23, is amended by adding a new subsection to read:

"(d) Tax Class Actions. – In addition to all of the requirements set out in this rule, a class action seeking the refund of a State tax paid due to an alleged unconstitutional statute may be brought and maintained only as provided in G.S. 105-241.18."

**SECTION 28.28.(b)** Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-241.18. Class actions.**

(a) Authority. – A class action against the State for the refund of a tax paid may be maintained only on the grounds of an alleged unconstitutional statute and only if the requirements of Rule 23 of the North Carolina Rules of Civil Procedure and the requirements of this section are met. For purposes of this section, a class action commences upon the later of the following:

- (1) The date a complaint is filed in accordance with G.S. 105-241.17 alleging the existence of a class pursuant to Rule 23 of the North Carolina Rules of Civil Procedure.
- (2) The date a complaint filed in accordance with G.S. 105-241.17 is amended to allege the existence of a class.

(b) Class. – To serve as a class representative of a class action brought under this section, a taxpayer must comply with all of the conditions in G.S. 105-241.17 and the taxpayer's claims must be typical of the claims of the class members. A taxpayer who is not a class representative is eligible to become a member of a class if the taxpayer could have filed a claim for refund under G.S. 105-241.7 as of the date the class action commenced or as of a subsequent date set by the court, whether or not the taxpayer actually filed a claim for refund as of that date. An eligible class member who is not a class representative and who indicates a desire to be included in the class in accordance with the procedure approved by the court under subsection (c) of this section is not required to follow the procedures in G.S. 105-241.11 through G.S. 105-241.17 for the administrative and judicial review of a request for refund or a proposed denial of a request for refund.

(c) Procedure. – To become a member of a class action brought under this section, an eligible taxpayer must affirmatively indicate a desire to be included in the class in response to a notice of the class action. If the court so orders, the Department must provide to a class representative a list of names and last known addresses of all taxpayers who are readily determinable by the Department and who are eligible to become a member of the class. The court must approve the content of a notice of a class action, the method for distributing the notice, and the procedure by which an eligible taxpayer affirmatively indicates a desire to be included in the class. The class representative must advance the costs of notifying eligible taxpayers of the class action.

(d) Statute of Limitations. – The statute of limitations for filing a claim for refund of tax paid due to an alleged unconstitutional statute is tolled for a taxpayer who is eligible to become a member of a class action. The tolling begins on the date the class action is commenced. For a taxpayer who does not join the class, the tolling ends when the taxpayer does not affirmatively indicate a desire to be included in the class within the time and in accordance with the procedure approved by the court under subsection (c) of this section. For a taxpayer who joins the class, the tolling ends when a court enters any of the following in the class action:

- (1) A final order denying certification of the class.
- (2) A final order decertifying the class.
- (3) A final order dismissing the class action without an adjudication on the merits.
- (4) A final judgment on the merits.

(e) Effect on Nonparticipating Taxpayers. – A taxpayer who does not become a member of a class may file and prosecute a claim for refund, if the statute of limitations has not otherwise expired for filing the claim, or may contest a pending assessment in accordance with the procedures in G.S. 105-241.11 through G.S. 105-241.17. Except as otherwise provided in this subsection, the effect of an adjudication in a class action on a nonparticipating taxpayer's claim for refund or contest of an assessment is governed by the normal rules relating to claim preclusion and issue preclusion.

If a final judgment on the merits is entered in a class action in favor of the class, the following applies to an eligible taxpayer who did not become a member of the class:

- (1) The taxpayer is not entitled to receive any monetary relief awarded to the class on account of taxes previously paid by the taxpayer.
- (2) If the taxpayer has been assessed for failure to pay the tax at issue in the class action and the taxpayer has not paid the assessment, then the assessment is abated.
- (3) The taxpayer is relieved of any future liability for the tax that is the subject of the class action."

**SECTION 28.28.(c)** G.S. 105-241.19 reads as rewritten:

**"§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.**

The remedies in G.S. 105-241.11 through G.S. ~~105-241.17-105-241.18~~ set out the exclusive remedies for disputing the denial of a requested refund, a taxpayer's liability for a tax, or the constitutionality of a tax statute. Any other action is barred. Neither an action for declaratory judgment, an action for an injunction to prevent the collection of a tax, nor any other action is allowed."

**SECTION 28.28.(d)** This section becomes effective October 1, 2008, and applies to actions filed on or after that date.

## **PART XXIX. FEES**

### **FEE INCREASE FOR DOMESTIC VIOLENCE PROGRAMS**

**SECTION 29.1.(a)** G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of ~~fifty five dollars (\$55.00)~~seventy-five dollars (\$75.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State ~~Treasurer for~~Treasurer, who shall deposit fifty-five dollars (\$55.00) to the North Carolina Fund for Displaced Homemakers established under ~~G.S. 143B-394.10~~G.S. 143B-394.10 and twenty dollars (\$20.00) to the Domestic Violence Center Fund established under G.S. 50B-9. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

**SECTION 29.1.(b)** This section becomes effective July 20, 2008.

### **ADJUST SECURITIES FILING FEES**

**SECTION 29.3.(a)** G.S. 78A-31(a)(4) reads as rewritten:

**"§ 78A-31. Notice filings for securities covered under federal law.**

(a) The Administrator, by rule or order, may require the filing of any of the following documents with regard to a security covered under section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)):

...  
(4) A notice filing pursuant to this section shall expire on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. A notice filing of the offer of securities covered under federal law that are to be offered for a period in excess of one year shall be renewed annually by payment of a renewal fee of ~~two hundred fifty dollars (\$250.00)~~two thousand dollars (\$2,000) and by filing any documents and reports that the Administrator may by rule or order require consistent with this section. The renewal shall be effective upon the expiration of the prior notice period.

...  
**SECTION 29.3.(b)** This section becomes effective July 20, 2008.

### **NEWBORN SCREENING FEE CHANGES**

**SECTION 29.4.(a)** G.S. 130A-125(c) reads as rewritten:

"(c) A fee of ~~fourteen dollars (\$14.00)~~nineteen dollars (\$19.00) applies to a laboratory test performed by the State Public Health Laboratory of Public Health performed pursuant to this section. ~~Fees collected shall remain in the Department to be used to offset the cost of the Newborn Screening Program. The fee for a laboratory test is a departmental receipt of the Department and shall be used to offset the cost of the Newborn Screening Program.~~"

**SECTION 29.4.(b)** This section becomes effective July 20, 2008.

### **HEALTH CARE FACILITY CONSTRUCTION PROJECT FEE INCREASES**

**SECTION 29.5.(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 provided in this section. In no event may a fee imposed under this section exceed two hundred thousand dollars (\$200,000) for any single 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.

(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
0	5,000	\$1,500 plus \$0.25 per square foot
5,000	10,000	\$3,000 plus \$0.25 per square foot
10,000	20,000	\$4,500 plus \$0.45 per square foot
20,000	NA	\$6,000 plus \$0.45 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
2,000	NA	\$500.00 plus \$0.25 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
2,000	NA	\$400.00 plus \$0.25 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
0	5,000	\$750.00 plus \$0.25 per square foot
5,000	10,000	\$1,500.00 plus \$0.25 per square foot
10,000	20,000	\$2,250.00 plus \$0.45 per square foot
20,000	NA	\$3,000.00 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
2,000	NA	\$350.00 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	\$200.00	\$225.00 flat fee
ICFR Group Homes	\$300.00	\$350.00 flat fee
Group Homes: 1-3 beds	\$100.00	\$125.00 flat fee
Group Homes: 4-6 beds	\$200.00	\$225.00 flat fee
Group Homes: 7-9 beds	\$250.00	\$275.00 flat fee
Other residential:		
More than 9 beds	\$250.00	\$275.00 plus \$0.75
		\$0.15 per square foot of project space."

**SECTION 29.5.(b)** This section becomes effective July 20, 2008.

**CHANGES TO ASBESTOS CONTAINING MATERIAL REMOVAL PERMIT FEES FOR DEMOLITION PROJECTS**

**SECTION 29.6.(a)** G.S. 130A-450 reads as rewritten:

"§ 130A-450. **Asbestos containing material removal permit fees.**

An applicant for an asbestos containing material removal permit is subject to a fee payable to the Department. The fee is a departmental receipt of the Department and must be used to offset the cost of The Department shall establish and collect an application fee for asbestos containing material removal permits to support the asbestos hazard management program. An applicant for a permit must indicate whether the asbestos is to be removed as part of a renovation or a demolition. The If the asbestos is to be removed as part of a renovation, the fee is the amount set by the Department and shall may not exceed one percent (1%) of the contracted price or twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed, whichever is greater. If the asbestos is to be removed as part of a demolition, the fee is the greater of the following, not to exceed one thousand five hundred dollars (\$1,500):

- (1) One percent (1%) of the contracted price.
- (2) An amount set by the Department not to exceed twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed."

**SECTION 29.6.(b)** This section becomes effective July 20, 2008.

**INCREASE REGISTRATION FEE FOR DEEDS OF TRUST AND MORTGAGES FOR FLOODPLAIN MAP USE**

**SECTION 29.7.(a)** G.S. 161-10(a) reads as rewritten:

"(a) Except as otherwise provided in G.S. 161-11.1 or 161-11.2, this Article, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- (1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages. – For registering or filing any deed of trust or mortgage, whether written, printed, or typewritten, the fee shall be ~~twelve dollars (\$12.00)~~ twenty-two dollars (\$22.00) for the first page plus three dollars (\$3.00) for each additional page or fraction thereof.

When a deed of trust or mortgage is presented for registration that contains one or more additional instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. A deed of trust or mortgage contains one or more additional instruments if such additional instrument or instruments has or have different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone. For recording records of satisfaction, or the cancellation of record by any other means, of deeds of trust or mortgages, there shall be no fee."

**SECTION 29.7.(b)** Article 1 of Chapter 161 is amended by adding a new section to read:

**"§ 161-11.3. Fees for floodplain mapping.**

Ten dollars (\$10.00) of each fee collected by the register of deeds for registering or filing a deed of trust or mortgage pursuant to G.S. 161-10(a)(1a) must be forwarded by the register of deeds to the county finance officer, who must forward the funds to the Department of Crime Control and Public Safety to be credited to the Floodplain Mapping Fund established under G.S. 143-215.56A. The county finance officer must forward the funds to the Department on a monthly basis."

**SECTION 29.7.(c)** Part 6 of Article 21 of Chapter 143 is amended by adding a new section to read:

**"§ 143-215.56A. Floodplain Mapping Fund.**

The Floodplain Mapping Fund is established as a special revenue fund. The Fund consists of the fees credited to it under G.S. 161-11.3. Revenue in the fund may be used only to offset the Department's cost in preparing floodplain maps and performing its other duties under this Part."

**SECTION 29.7.(d)** This section becomes effective October 1, 2008, and applies to deeds of trust and mortgages registered or filed on or after that date.

**ESTABLISH STATE COURT FACILITY FEE FOR PHONE SYSTEM**

**SECTION 29.8.(a)** G.S. 7A-304(a) is amended by adding a new subdivision to read:

"(2a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

**SECTION 29.8.(b)** G.S. 7A-305(a) is amended by adding a new subdivision to read:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

**SECTION 29.8.(c)** G.S. 7A-306(a) is amended by adding a new subdivision to read:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

**SECTION 29.8.(d)** G.S. 7A-307(a) is amended by adding a new subdivision to read:

"(1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund."

**SECTION 29.8.(e)** G.S. 7A-343.2 reads as rewritten:

**"§ 7A-343.2. Court Information Technology Fund.**

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a ~~nonreverting, interest-bearing~~ special revenue ~~account~~ fund. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest ~~Interest~~ and other investment income earned by the Fund ~~shall be credited~~ accrues to it. The fund consists of the following revenues:

(1) All moneys collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5 shall be remitted to the State Treasurer and held in this Fund. G.S. 7A-49.5.

(2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse phone systems. ~~Moneys in the Fund shall~~ All other monies in the fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.



(c) Report. – The Director ~~shall~~must report by August 1 and February 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public ~~Safety~~Safety. The report must include the following:

- (1) ~~on all moneys collected and deposited in~~ Amounts credited in the preceding six months to the Fund.
- (2) Amounts expended in the preceding six months from the Fund and the purposes of the expenditures.
- (3) ~~Proposed and on the proposed expenditure of expenditures of those the collected during the preceding six months funds."~~

**SECTION 29.8.(f)** Section 14.16 of S.L. 2007-323 is repealed.

**SECTION 29.8.(g)** Subsections (a) through (e) of this section become effective July 20, 2008, and apply to all costs assessed and collected on or after that date. The remainder of this section becomes effective July 1, 2008.

### **RESCUE SQUAD WORKERS' RELIEF FUND**

**SECTION 29.9.(a)** G.S. 58-88-30 reads as rewritten:

**"§ 58-88-30. Administration costs.**

The Association shall withhold ~~ten percent (10%)~~twelve percent (12%) from the money received pursuant to G.S. 20-183.7(c) for the administration of the Fund. The Commissioner of Insurance shall withhold two percent (2%) from the money received pursuant to G.S. 20-183.7(c) for the administration of the Fund."

**SECTION 29.9.(b)** This section becomes effective October 1, 2008.

### **AGENT LICENSING FEE CORRECTION AND CLARIFICATION**

**SECTION 29.10.(a)** G.S. 58-33-125 reads as rewritten:

**"§ 58-33-125. Fees.**

(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster .....	\$75.00
Adjuster, crop hail only .....	20.00
Agent appointment cancellation (paid by insurer) .....	10.00
Agent appointment, individual .....	<del>20.00</del> <u>10.00</u>
Agent appointment, Medicare supplement and long-term care, individual .....	10.00
<del>Agent appointment, Medicare supplement and long-term care, nonindividual .....</del>	<del>20.00</del>
Agent, overseas military .....	20.00
Broker, nonresident .....	50.00
Broker, resident .....	50.00
Business entity .....	100.00
Limited representative .....	20.00
Limited representative cancellation (paid by insurer) .....	10.00
Motor vehicle damage appraiser .....	75.00
Surplus lines licensee, corporate .....	100.00
Surplus lines licensee, individual .....	50.00

~~These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner.~~

(b) Whenever a temporary license is issued under this Article, the fee shall be at the same rate as provided in subsection (a) of this section; and any amounts so paid for a temporary license may be credited against the fee required for an appointment by the sponsoring company.

(c) Any person who is not registered-licensed and who is required by law or administrative rule to secure a license shall, upon application for registration-licensing, pay to the Commissioner a fee of fifty dollars (\$50.00). If additional licensing for other kinds of insurance is requested, a fee of fifty dollars (\$50.00) shall be paid to the Commissioner upon application for registration-licensing for each additional kind of insurance.

In addition to the fees prescribed by this subsection, any person applying for a supplemental license to sell Medicare supplement and long-term care insurance policies shall pay an additional fee of fifty dollars (\$50.00) upon application for registration-licensing for those kinds of insurance.

(d) The requirement for an examination, prelicensing education, continuing education, or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations who solicit and sell only those kinds of insurance specified in G.S. 58-7-75(5)d for such-those companies or associations.

(e) A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection.

(f) Repealed by Session Laws 2007-507, s. 7, effective January 1, 2008, and applicable to fees or charges due, and actions occurring, on or after that date.

(g) All fees prescribed by this section are nonrefundable. The fees in subsection (a) of this section are in lieu of any other license fees. The fee for an individual agent appointment under subsection (a) of this section applies to each license.

(h) Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer are payable to the Commissioner when billed. Billing of insurers for renewal fees must be on an annual basis. The frequency for billing insurers for other licensing and appointment fees is determined by the Commissioner and may be daily, monthly, or quarterly. An electronic payment made through the NAIC or an affiliate of NAIC is considered a payment to the Commissioner."

**SECTION 29.10.(b)** This section becomes effective January 1, 2009, and applies to fees billed on or after that date.

## **PART XXX. MISCELLANEOUS PROVISIONS**

### **STATE BUDGET ACT APPLIES**

**SECTION 30.1.** 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 30.2.(a)** The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated July 3, 2008, 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, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 30.2.(b)** The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2008-2009 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the 2008-2009 budget to the General Assembly in May 2008 in the documents "The North Carolina State Budget Recommended Adjustments 2008-2009" and "Governor's Recommended Budget Governmental and Proprietary Funds and Selected Component Units 2008-2009" for the 2008-2009 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

**SECTION 30.2.(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 2008-2009**

**SECTION 30.3.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2008-2009 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2008-2009 fiscal year.

### **EFFECT OF HEADINGS**

**SECTION 30.4.** 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.

### **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

**SECTION 30.4A.(a)** Except where expressly repealed or amended by this act, the provisions of S.L. 2007-145 and S.L. 2007-323 remain in effect.

**SECTION 30.4A.(b)** Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2008-2009 fiscal year in S.L. 2007-145 and S.L. 2007-323 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

### **SEVERABILITY CLAUSE**

**SECTION 30.5.** 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 30.6.** Except as otherwise provided, this act becomes effective July 1, 2008.  
In the General Assembly read three times and ratified this the 8<sup>th</sup> day of July, 2008.

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Charlie S. Dannelly  
Deputy 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 \_\_\_\_\_, 2008